

Bond Case Briefs

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UTILITIES - NEW YORK

New York State Elec. & Gas Corp. v. County of Chemung

Supreme Court, Appellate Division, Third Department, New York - March 31, 2016 - N.Y.S.3d - 137 A.D.3d 1550 - 2016 WL 1248642 - 2016 N.Y. Slip Op. 02507

Corporation, which provided natural gas to residential and commercial customers in town and village, brought action against county, town and village, seeking compensatory damages for repairing service laterals in town and village, and permanent injunction requiring defendants to prevent further damage to corporation's laterals.

The Supreme Court, Chemung County, dismissed action. Corporation appealed.

The Supreme Court, Appellate Division, held that:

- Action was limited to 39 laterals identified in notices of claim, and did not permit inclusion of approximately 800 additional properties alleged in complaint;
- Corporation's claims seeking compensatory damage due to interference with its laterals were time-barred; but
- Corporation's claims based on defendants' failure to maintain its sewer and water mains were timely;
- Corporation stated trespass and public and private nuisance claims;
- Corporation's constitutional taking or inverse condemnation claims were precluded; and
- Corporation was not entitled to permanent injunctive relief.

Corporation, which provided natural gas to residential and commercial customers in town and village, was not entitled to permanent injunctive relief requiring county, town and village to prevent further damage to its natural gas service laterals, as corporation had repaired damaged laterals, and action was supported by basic premise that county, town and village had no authority to interfere with corporation's facilities.