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Metropolitan Edison Company v. City of Reading

Supreme Court of Pennsylvania - June 20, 2017 - A.3d - 2017 WL 2655101

Electricity service provider brought action against city, alleging that negligence of city's employees during excavation led to collapse of provider's conduit bank.

Following bench trial, the Court of Common Pleas entered judgment in favor of provider. City appealed. The Commonwealth Court reversed. City filed petition for allowance of appeal.

The Supreme Court of Pennsylvania held that utility service facilities exception to governmental immunity under Political Subdivision Tort Claims Act applied to provider's claim, abrogating *Miller v. Pa. Dep't of Transp.*, 690 A.2d 818, and *DeTurk v. South Lebanon Township*, 116 Pa.Cmwlth. 557, 542 A.2d 213.

Utility service facilities exception to governmental immunity under Political Subdivision Tort Claims Act applied to electricity service provider's negligence claim against city arising from collapse of provider's conduit bank in area in which city was performing excavation work. unstable dirt and soil existed in excavation hold resulting in lack of ground support for conduit bank, city had notice of dangerous condition and understood risk of collapse of bank, and city failed to take necessary remedial measures to protect against dangerous condition of facilities in advance of subsequent collapse of bank.

Under the utility service facilities exception to immunity under the Political Subdivision Tort Claims Act, the focus must be on whether the injuries alleged were caused by a dangerous condition which derived from, originated from, or had its source in the local agency's utility service facility and located within its right-of-way, not on the genesis of the dangerous condition. It must also be established that the local agency had sufficient advance notice, or could reasonably be charged with notice under the circumstances, of the dangerous condition, and the foreseeable risks presented by those dangerous conditions to permit it to take timely remedial measures; abrogating *Miller v. Pa. Dep't of Transp.*, 690 A.2d 818, and *DeTurk v. South Lebanon Township*, 116 Pa.Cmwlth. 557, 542 A.2d 213.