

Bond Case Briefs

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PUBLIC UTILITIES - OHIO

Lycourt-Donovan v. Columbia Gas of Ohio, Inc.

Supreme Court of Ohio - September 13, 2017 - N.E.3d - 2017 WL 4097808 - 2017 -Ohio-7566

Owners of residential properties sought judicial review of Public Utilities Commission's order in favor of gas utility, in proceeding brought by owners challenging utility's discontinuation of service upon discovery of excessive concentrations of natural gas on the properties.

The Supreme Court of Ohio held that:

- Gas utility did not abandon service, within meaning of statutes governing abandonment by a public utility;
- Gas utility did not violate statute governing level of service required by a public utility; and
- Commission properly placed burden of proof on owners.

Gas utility did not abandon service to residential properties, within meaning of statutes governing abandonment, by discontinuing service after discovering excessive concentrations of natural gas on the properties. Utility repeatedly affirmed its intention to restore service once the gas issue was remedied, utility had a continuing obligation to provide service upon remediation, and probative evidence supported the Public Utilities Commission's determination that utility intended to reestablish service upon completion of remedial measures.

Gas utility did not violate statute governing the services utility was required to provide by acting unreasonably in failing to communicate its reconnection standards to owners of residential properties after utility discontinued service upon discovery of excessive concentrations of natural gas on the properties; no authority supported proposition that such failure constituted a violation of the statute, but rather the failure to communicate reconnection standards was only one factor of several considered by the Public Utilities Commission, and owners did not challenge the other factors taken into account by the Commission.

Public Utilities Commission properly placed the burden of proof on residential property owners in their proceeding challenging gas utility's discontinuation of service upon discovery of excessive concentrations of natural gas on the properties; gas utility did not abandon service to the properties by discontinuing service, so that utility had no obligation to file an abandonment proceeding at which utility would have had the burden of proof, but instead the case was properly treated as a complaint proceeding at which owners had burden of proof.