

Bond Case Briefs

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EMINENT DOMAIN - MISSISSIPPI

City of Gulfport v. Dedeaux Utility Company, Inc.

Supreme Court of Mississippi - February 15, 2018 - So.3d - 2018 WL 897694

Following second remand of city's condemnation action against utility, the Special Court of Eminent Domain entered judgment on jury verdict awarding \$8,063,981 to utility. Parties appealed.

The Supreme Court affirmed in part, reversed in part, and remanded for the limited purpose of determining a reasonable rate of interest and issuance of an order for payment of that interest. On remand, the Special Court of Eminent Domain found that utility was entitled to an average rate of return of 7.75%.

The Supreme Court of Mississippi, en banc, held that evidence was insufficient to support trial court's finding that the rate of return for the Public Employees' Retirement System (PERS) would be the rate of interest applied to utility's judgment.

In eminent domain proceedings in which city took utility property, evidence was insufficient to support trial court's finding that the rate of return for the Public Employees' Retirement System (PERS) would be the rate of interest applied to utility's judgment, as opposed to market rates of interest; the trial court was mandated by the Supreme Court with the task of determining the applicable interest rate due utility, and then with entering an order requiring payment of that interest, but after receiving argument from both parties, the trial court ignored the only properly admitted evidence, and instead considered PERS documents it had procured and considered sua sponte, and then used those documents to set an interest rate.