

Bond Case Briefs

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PUBLIC UTILITIES COMMISSION - MARYLAND

Board of County Commissioners of Washington County v. Perennial Solar, LLC

Court of Special Appeals of Maryland - November 15, 2018 - A.3d - 2018 WL 5993859

Board of county commissioners and aggrieved residents appealed from decision of board of zoning appeals approving application for special exception and variance to construct a solar panel farm.

The Circuit Court dismissed with instruction that the board of zoning appeals vacate its decision. Board of county commissioners and aggrieved residents appealed.

The Court of Special Appeals held that:

- State law impliedly preempted local zoning regulation of solar energy generating systems (SEGS) that required certificates of public convenience and necessity (CPCN), and
- Applicant was subject to the jurisdiction of the Public Services Commission (PSC).

State law impliedly preempted local zoning regulation of solar energy generating systems (SEGS) that required certificates of public convenience and necessity (CPCN); statute defining the nature and extent of the Public Services Commission's (PSC) regulatory powers and responsibilities detailed the application process required to construct an electric generating system which required a CPCN, and granted the PSC broad authority to determine whether and where a SEGS may be constructed and operated, and no PSC rule or order required compliance with local zoning ordinances as a precondition for obtaining a CPCN.

Applicant for special exception and variance to construct a solar energy generating system (SEGS) was subject to the jurisdiction of the Public Services Commission (PSC), even though it was not a public service company; PSC's jurisdiction was not limited to public service companies only, and for purposes of the PSC law, applicant was a "person" seeking to construct a generating station, and thus, subject to PSC jurisdiction.