

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - DISTRICT OF COLUMBIA**

### **Apartment and Office Building Association of Metropolitan Washington v. Public Service Commission of District of Columbia**

**District of Columbia Court of Appeals - March 7, 2019 - A.3d - 2019 WL 1066004**

Real estate organization sought judicial review of orders of Public Service Commission, which approved a plan to place six electric feeder lines underground and denied organization's motion for reconsideration.

The Court of Appeals held that:

- Res judicata precluded the Court of Appeals from reconsidering Commission's discretion;
- Electric Company Infrastructure Improvement Financing Act (ECIIFA) does not violate Home Rule Act; and
- Organization's due process rights were not violated by Commission declining to hold evidentiary hearing.

Res judicata precluded Court of Appeals from reconsidering whether Public Service Commission had discretion to address subsidization issues when allocating costs to place electric feeder lines underground, despite contention that language from previous Court of Appeals opinion was dictum; Court of Appeals was asked in prior case to remand so Commission could determine impact of amended Electric Company Infrastructure Improvement Financing Act (ECIIFA), and Court held in prior case that ECIIFA was clear and Commission could not depart from allocation formula set forth in statute.

The provisions of Electric Company Infrastructure Improvement Financing Act (ECIIFA) regarding allocation of the costs of undergrounding electricity power lines do not violate the Home Rule Act.

Due process rights of real estate organization were not violated by Public Service Commission declining to hold evidentiary hearing on organization's challenge to Commissions plan to allocate costs to place electric feeder lines underground; alleged issues of rate shock, customer transfers in true-up process, and feeder selection methodology were not disputes of fact but more in nature of policy concerns that had been previously litigated, and issue of General Services Administration's (GSA) directive to federal agencies not to pay undergrounding charges was not followed by those agencies, which resulted in no "shortfall" in collections.