

Bond Case Briefs

Municipal Finance Law Since 1971

EMINENT DOMAIN - ARIZONA

City of Surprise v. Arizona Corporation Commission

Supreme Court of Arizona - March 28, 2019 - P.3d - 2019 WL 1389031

City brought a special action alleging that Arizona Corporation Commission acted without jurisdiction in entering an order requiring water utility to apply for Commission approval of city's proposed condemnation of utility's assets, including the right to water from a water supply resource project.

The Supreme Court of Arizona held that:

- Acceptance of special action jurisdiction was appropriate;
- Commission's indirect assertion of regulatory authority over city was sufficient injury to provide city with standing; and
- Commission lacked statutory authority to regulate city's proposed condemnation.

Supreme Court's acceptance of special action jurisdiction, pursuant to city's request, was appropriate in case arising from Arizona Corporation Commission entry of an order requiring water utility to apply for Commission approval of city's proposed condemnation of utility's assets, including water rights from a water supply resource project; city could not presently appeal the Commission's order because it was not a party to the administrative proceedings, and city had no other means to challenge the Commission's actions.

Arizona Corporation Commission's indirect assertion of regulatory authority over city, via an order requiring water utility to apply for Commission approval of city's proposed condemnation of utility's assets, including water rights from a water supply resource project, was sufficient injury to provide city with standing to challenge the order via a special action.

Arizona Corporation Commission's statutory authority to approve the sale or disposition of a public service corporation's assets did not give the Commission power to require water utility to apply for Commission approval of city's proposed condemnation of utility's assets, including water rights from a water supply resource project; statute did not expressly include transfers through condemnation proceedings, condemnations were not included by the statutory phrase "or otherwise dispose of," and city had express statutory authorization to condemn public utilities.