

Bond Case Briefs

Municipal Finance Law Since 1971

PUBLIC UTILITIES - GEORGIA

Diverse Power, Inc. v. City of LaGrange, Georgia

United States Court of Appeals, Eleventh Circuit - August 20, 2019 - F.3d - 2019 WL 3928624

Electric utility brought action under Sherman Act and Clayton Act alleging that city ordinance requiring new homes or businesses in developments outside city limits to install gas appliances in order to receive water service from city constituted unlawful tying arrangement.

United States District Court for the Northern District of Georgia denied city's motion to dismiss based on state-action immunity, and city filed interlocutory appeal.

The Court of Appeals held that city was not entitled to state-action immunity.

City's use of its water monopoly to increase its share of energy market was not inherent, logical, or ordinary result of legislative scheme permitting city to provide water service, and thus city was not entitled to state-action immunity from liability under federal antitrust laws in action alleging that city ordinance requiring new homes or businesses in developments outside city limits to install gas appliances in order to receive water service from city constituted unlawful tying arrangement.