

Bond Case Briefs

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PUBLIC UTILITIES - SOUTH CAROLINA

Commissioners of Public Works of the City of Laurens v. City of Fountain Inn

Supreme Court of South Carolina - September 18, 2019 - S.E.2d - 2019 WL 4463434

City's commission of public works brought action against neighboring city, seeking declaratory judgment that it had established designated service area in unincorporated area between cities, and injunction prohibiting neighboring city from providing natural gas service to customers in industrial park in that designated service area.

Following bench trial, the Circuit Court determined that neighboring city could not provide natural gas service in designated service area established by city. Neighboring city appealed. The Court of Appeals affirmed. Neighboring city's petition for writ of certiorari was granted.

The Supreme Court held that:

- County, as governing body of unincorporated area, never certified city as authorized, exclusive natural gas provider in designated service area, and
- City's exclusive provision of natural gas service to unincorporated area for more than 20 years did not create designated service area.

Statute providing that municipalities may furnish their services to areas outside their corporate limits by contract, except within the designated service area of another, "as certified by the governing body thereof," requires that the governing body of the designated service certify the area is one in which the particular service is being provided or is budgeted or funds have been applied for by the purported exclusive provider, and it does not permit a municipality or municipal service provider to unilaterally anoint a designated service area outside the city's boundaries.

City's exclusive provision of natural gas service to unincorporated area between cities for more than 20 years did not create designated service area in which neighboring city was unauthorized to furnish natural gas service by contract, even if contours of purported designated service area were established by reference to map that was informally agreed to by city and neighboring city, where governing body of unincorporated area did not certify it as designated service area.