

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **TAX - RHODE ISLAND**

### **ACP Land, LLC v. Rhode Island Public Utilities Commission**

**Supreme Court of Rhode Island - June 1, 2020 - A.3d - 2020 WL 2829552**

Owners and operators of solar energy systems and wind turbines petitioned for review of Public Utilities Commission (PUC) order that approved interconnection tax which electric and gas utility charged owners and operators to interconnect to utility's power distribution system and then paid to IRS as contributions in aid of construction.

The Supreme Court held that:

- Utility was reasonable in believing that it owed an interconnection tax to IRS, and
- PUC order comported with parties' settlement with respect to escrow or refund of tax funds.

As reasonably determined by Public Utilities Commission (PUC), electric and gas utility was reasonable in believing that it owed interconnection tax to IRS as contributions in aid of construction, which utility passed along to owners and operators of solar energy systems and wind turbines to interconnect to utility's power distribution system, where IRS notice relating to possible safe harbor from interconnection tax for power generators connecting to a distribution system was not clear when read as a whole, utility hired nationally-recognized accounting firm to analyze IRS notice, accounting firm produced opinion that IRS notice was not clear, and, in a private letter ruling six months before release of notice, IRS had reached a conclusion opposite to that claimed by owners and operators.

Public Utilities Commission (PUC) order approving interconnection tax that electric and gas utility reasonably charged wind and solar power generators and paid to the IRS comported with parties' settlement with respect to escrow or refund of tax funds, where, under settlement agreement, utility agreed to hold tax funds in escrow until a decision was made by PUC and not by IRS, PUC determined that utility was reasonable in continuing to charge an interconnection tax, and PUC order did not provide for a refund of collected taxes to generators.