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PUBLIC UTILITIES - OHIO

In re Complaint of Wingo v. Nationwide Energy Partners, L.L.C.

Supreme Court of Ohio - December 9, 2020 - N.E.3d - 2020 WL 7233638 - 2020 -Ohio- 5583

Customer who purchased water, sewer, and electric services from a submetering company sought judicial review of a decision of the Public Utilities Commission concluding that the Commission lacked jurisdiction.

The Supreme Court held that test used by Commission improperly deviated from the relevant statutory language, abrogating *In re the Commission's Investigation of Submetering in the State of Ohio*, 2016 WL 11541704, and *In re the Commission's Investigation of Submetering in the State of Ohio*, 2017 WL 4484334.

Modified version of a test applied by the Public Utilities Commission to determine whether it had jurisdiction over claims asserted by a customer against a company that provided submetering services, from which the customer purchased water, sewer, and electric services, improperly deviated from the statute describing the companies subject to the Commission's jurisdiction; the test went beyond considerations of whether the utility-resale activities of the company were ancillary to another business, focusing on how much profit the reseller made and whether a consumer was charged more than she would have been under default-service-tariff rates, which was an inquiry that had nothing to do with the statutory language; abrogating *In re the Commission's Investigation of Submetering in the State of Ohio*, 2016 WL 11541704, and *In re the Commission's Investigation of Submetering in the State of Ohio*, 2017 WL 4484334.