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PUBLIC UTILITIES - OHIO

In re Application of Suburban Natural Gas Company

Supreme Court of Ohio - September 21, 2021 - N.E.3d - 2021 WL 4269964 - 2021-Ohio-3224

Public gas utility filed application with the Public Utilities Commission of Ohio (PUCO) for a rate increase to cover costs of a pipeline extension. PUCO approved the rate increase and denied consumers' application for a rehearing. Consumers appealed.

The Supreme Court held that:

- As a matter of first impression, assessing whether property is “useful” for purposes of determining a public utility’s rate base requires finding that the property be beneficial in rendering service for the convenience of the public as of the date certain, and
- PUCO misapplied the used-and-useful test when it looked beyond the date certain and determined that utility’s investment in the pipeline extension was prudent rather than useful, as justification for rate increase.

Whether something is used and useful, for purposes of determining a public utility’s rate base, must be measured as of the date certain, not at some speculative unspecified point in time; thus, a public utility is not entitled to include in the rate-base valuation property not actually used or useful in providing its public service, no matter how useful the property may have been in the past or may yet be in the future.

The Public Utilities Commission of Ohio (PUCO) misapplied the used-and-useful test for determining public gas utility’s rate base when it looked beyond the date certain and determined that utility’s investment in a pipeline extension was prudent rather than useful, such that there would be a rate increase so that utility customers would have to pay for it; used-and-useful test required measurement of the usefulness of the pipeline as of a the date certain, but the PUCO speculated about the pipeline extension’s potential for saving time and money in the long run and looked beyond the date certain to find the extension useful.