

Bond Case Briefs

Municipal Finance Law Since 1971

PUBLIC UTILITIES - SOUTH DAKOTA

Ehlebracht v. Crowned Ridge Wind II, LLC

Supreme Court of South Dakota - March 23, 2022 - N.W.2d - 2022 WL 869874 - 2022 S.D. 19

Neighboring residents appealed decision of Public Utilities Commission (PUC) granting permit to construct large-scale wind energy farm.

The Circuit Court affirmed. Residents appealed.

The Supreme Court held that:

- Statute granting PUC the authority to promulgate rules regarding the permitting and construction of wind-energy facilities, in combination with statute setting out legislative finding that it was necessary to ensure that the location, construction, and operation of energy facilities would produce minimal adverse effects, did not create obligation for PUC to promulgate specific rules defining “minimal adverse effects” associated with proposed wind-energy projects;
- To extent that PUC was required to ensure that proposed project would produce minimal adverse effects, it sufficiently did so;
- Residents failed to state claim for equal-protection violation;
- PUC’s issuance of permit was not the de facto grant of an easement over residents’ property;
- Issuance of permit was not a per se taking of residents’ property;
- Residents failed to state claim for taking based on consequential-damages theory; and
- Issuance of permit, which had effect of foreclosing any future nuisance claim by residents for permitted activity, did not constitute a compensable taking.