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PUBLIC UTILITIES - PENNSYLVANIA

City of Lancaster v. Pennsylvania Public Utility Commission

Commonwealth Court of Pennsylvania - October 11, 2022 - A.3d - 2022 WL 6572195

Municipalities filed petition for review against Public Utility Commission (PUC) challenging constitutionality of regulation that mandated outdoor gas meter locations but permitted natural gas distribution companies (NGDC's) to consider indoor gas meter locations when meter was within building in a locally designated historical district.

The Commonwealth Court sustained PUC's preliminary objection to petition's count alleging regulation violated state constitutional provision governing natural resources, but overruled PUC's preliminary objection to count challenging regulation as unconstitutional as an improper delegation of PUC's authority to private parties. Municipalities filed application seeking summary relief as to remaining count.

The Commonwealth Court held that regulation improperly vested absolute discretion in NGDCs, and thus was an unconstitutional delegation of legislative authority.

Regulation, that generally required gas meters to be placed outside building but allowed inside meter location to be considered when building was located in historic district, improperly vested absolute discretion in natural gas distribution companies (NGDCs) as to whether to require that a gas meter be located inside or outside of historic building, such that regulation was without adequate standards to guide and restrain exercise of authority delegated from Public Utility Commission (PUC) to NGDCs, and thus regulation was unconstitutional delegation of legislative authority; regulation lacked formal procedure to challenge NGDC's decision, NGDCs were not required to give reasons for decision, and regulation contained no presumption of maintaining gas meter's current location.