

Bond Case Briefs

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PUBLIC UTILITIES - CALIFORNIA

Kerman Telephone Co. v. Public Utilities Commission

**Court of Appeal, Fifth District, California - August 7, 2023 - Cal.Rptr.3d - 2023 WL 5445535
- 2023 Daily Journal D.A.R. 8823**

Rural telephone companies filed petition for writ of review challenging Public Utilities Commission's decision penalizing companies for allegedly violating Commission rule prohibiting misleading filings by not disclosing full amount of rural telephone bank (RTB) stock redemption proceeds to determine ratemaking treatment of gain on redemption, and denying rehearing.

The Court of Appeal held that companies did not have fair notice under due process clause that disclosure of full amount of RTB stock redemption proceeds was required.

Public Utilities Commission's rate case resolutions, requiring rural telephone companies to file application with Commission when companies redeemed any rural telephone bank (RTB) stock to determine the ratemaking treatment of gain on redemption, did not give companies fair notice that companies were required to disclose full amount of RTB stock redemption proceeds, and therefore Commission's decision penalizing companies for violating Commission rule prohibiting misleading filings by not disclosing the full amount of redemption proceeds violated due process, where resolutions did not expressly require companies to disclose the full amount of redemption proceeds in the application.

Public Utilities Commission's decision on gains on sale that Commission issued about a year before rural telephone companies filed application with Commission, pursuant to Commission's rate case resolutions, upon companies' redemption of rural telephone bank (RTB) stock, did not give companies a basis to infer that they had an obligation to disclose the full amount of RTB stock redemption proceeds, and therefore Commission's decision penalizing companies for violating Commission rule prohibiting misleading filings by not disclosing the full amount of redemption proceeds violated due process, where Commission determined in its gains-on-sale decision that all gains and losses from the sale of public utility property that was never in rate base, which included RTB stock in issue, should accrue to the shareholders.