

Bond Case Briefs

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PUBLIC UTILITIES - SOUTH CAROLINA

Daufuskie Island Utility Company, Inc. v. South Carolina Office of Regulatory Staff

Supreme Court of South Carolina - August 30, 2023 - S.E.2d - 2023 WL 5597905

Water and wastewater utility sought review of Public Service Commission's (PSC) order that granted utility 39% of the additional revenue that it requested in its application.

The Supreme Court reversed. On remand, the PSC disallowed certain rate case expenses. Utility appealed. The Supreme Court reversed and remanded. On remand, the PSC rejected request for reparations surcharge. Utility appealed.

The Supreme Court held that PSC lacked authority to grant reparations surcharge.

Public Service Commission (PSC) lacked authority to grant reparations surcharge to water and wastewater utility for period between prior orders during which no bond by utility was in effect before parties reached settlement agreement entitling utility to its rate increase; utility's sole remedy was statute permitting utility to put requested rates into effect under bond during appeal, utility wishing to protect itself against ills of regulatory lag was limited to statutory remedies which did not include a reparations surcharge, and allowing utility to collect reparations surcharge following successful appeal would entirely obviate need for utility to ever secure appellate bond or make other arrangements, thus placing all risk on ratepayers and none on the utility.