EMINENT DOMAIN - VIRGINIA

Norfolk Southern Railway Company v. State Corporation Commission

Supreme Court of Virginia - May 22, 2025 - S.E.2d - 2025 WL 1461804

Railroad appealed decision of the State Corporation Commission which rejected railroad's challenge to the constitutionality of a state statute permitting broadband providers to install fiber optic cables across the railroad's property.

The Supreme Court held that taking was not for a "public use," and thus the statute was unconstitutional as applied.

For-profit broadband service provider's installation of fiber optic cables across railroad's right of way, pursuant to statute permitting broadband service providers to install fiber optic cables across railroad property, was not for a "public use," and thus the statute was unconstitutional as applied; taking was by a private company for a private use, even if the public benefited from the taking.

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