
PUBLIC UTILITIES - VIRGINIA

Zinner v. Washington Gas Light Company

Court of Appeals of Virginia, Fairfax - July 1, 2025 - S.E.2d - 2025 WL 1799975

Natural gas local distribution company petitioned for certiorari review of county board of zoning appeals' (BZA) determination that a proposed high-pressure natural gas pipeline under road in landowners' neighborhood was a transmission line that required a special exception under zoning ordinance, and company also filed separate action seeking declaratory judgment that state law preempted zoning ordinance as applied to pipeline.

The Fairfax Circuit Court affirmed BZA's finding that landowners had standing, reversed BZA's determination that a special exception was required, and dismissed declaratory judgment action as moot. Landowners and company each appealed, and appeals were consolidated.

The Court of Appeals held that:

- One landowner had standing via loss of driveway access during workday for up to a week during pipeline construction;
- Proposed pipeline was a distribution line exempt from requirement of a special exception for transmission lines;
- Special exception did not require a distribution line to be a low-pressure line connected directly to customers' homes;
- Doctrine of judicial restraint precluded consideration of whether company's entire system qualified as exempt distribution lines;
- Circuit court properly declined to defer to BZA's interpretation of zoning ordinance;
- Declaratory judgment action was moot; and
- Capable-of-repetition exception to mootness doctrine did not apply.

Proposed high-pressure natural gas pipeline under road in neighborhood was a "distribution line" and not a "transmission line," and thus the pipeline was exempt from requirement of a special exception under county zoning ordinance; pipeline was not connected to a gathering line, storage facility, or large-volume customer that was not down-stream from a distribution center, natural gas company that sought pipeline was a local distribution company that only delivered gas to ultimate consumers of gas, company did not produce or resell gas, company would not operate pipeline at pressures that exceed threshold for designating it a transmission line, and company had not and would not voluntarily designate pipeline as a transmission line.

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