
PUBLIC UTILITIES - PENNSYLVANIA

FirstEnergy Pennsylvania Electric Company v. Pennsylvania Public Utility Commission

Supreme Court of Pennsylvania - January 8, 2026 - A.3d - 2026 WL 61600

Incumbent local exchange carrier (ILEC) and electric utility sought review of order of Public Utility Commission (PUC), No. C-2020-3019347 denying ILEC's petition for partial reconsideration of PUC order determining that utility charged ILEC unlawfully high pole attachment rates pursuant to joint user agreements (JUA) as compared to rates that utility charged competitive local exchange carriers (CLEC) pursuant to pole license agreements, and ordering utility to reduce ILEC's rates and issue refunds to ILEC.

The Commonwealth Court affirmed. ILEC's and electric utility's petitions for leave to appeal were granted and they appealed.

The Supreme Court held that:

- Challenger to pole attachment rates under joint use agreements bore burden of establishing rate was unjust or unreasonable;
- PUC was not required to apply federal law once it chose to reverse preempt regulation of pole attachments;
- PUC did not have any statutory authority to enact presumptive maximum just and reasonable pole attachment rate in favor of ILECs; and
- Federal Communications Commission presumptive maximum rate could be evidence of unreasonableness in attachment rate proceedings before PUC, but it could not function as presumption.

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