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PUBLIC UTILITIES - COLORADO

Public Service Company of Colorado v. Outdoor Design Landscaping LLC

Supreme Court of Colorado - January 26, 2026 - P.3d - 2026 WL 192103 - 2026 CO 6

Landscaper brought personal injury action against customer and power company, alleging that customer had hired landscaping company to decorate her spruce tree with Christmas lights, and that when landscaper was hanging lights on the tree, he was electrically shocked by power line, causing him to fall and fracture his spine, which caused permanent paralysis.

Power company filed third-party complaint, joining landscaping company as a third-party defendant, alleging that landscaping company's failure to notify power company in advance of the work violated the High Voltage Safety Act (HVSA).

The District Court granted power company's motion for summary judgment against landscaper pursuant to tariff and granted in part and denied in part power company's motion for summary judgment pursuant to HVSA. Parties appealed.

The Court of Appeals affirmed in part, reversed in part, vacated in part, and remanded. Landscaping company and power company filed petitions for certiorari review, which were granted.

The Supreme Court held that:

- Public Utility Commission (PUC) did not have authority to approve tariff limiting the liability of utilities to non-customers;
- Landscaper was not a "person" subject to HVSA's notification requirement; and
- Landscaping company's violation of HVSA's notification requirement obligated it to indemnify power company.

Public Utility Commission (PUC) did not have authority, under article of constitution vesting authority in PUC and statute governing PUC's regulation of rates, to approve tariff limiting liability of utilities to non-customers, and thus tariff stating that power company "shall not be held liable for injury to persons caused by its lines when contacted or interfered with by trees" unless lines were "in a defective condition," did not apply to landscaper's personal injury action against power company, alleging that when he was hanging lights on tree, he was shocked by power line; nothing in constitution or statute granted PUC authority to limit utility's liability to non-customers, and absent indication of intent to grant authority, it was appropriate to resolve doubt against authority.