

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Delby B. Pool v. Greater Harrison County Public Service District

821 S.E.2d 14 (W. Va. 2018) · No. No. 18-0280 · Decided November 5, 2018

SUMMARY

The Supreme Court of Appeals of West Virginia reviewed whether the Public Service Commission had jurisdiction over a proposed rate increase by the Greater Harrison County Public Service District. The court held that customers receiving both water and sewer services may be counted separately for each utility when determining whether the district has at least 4,500 customers. Because the district exceeded that threshold, the court affirmed dismissal of the complaint for lack of PSC ratemaking jurisdiction.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Armstead; Justice Walker; Justice Hutchison; Justice Jenkins; Justice Paul T. Farrell, sitting by temporary assignment
JURISDICTION	West Virginia
DECIDED	November 5, 2018
DOCKET	No. 18-0280
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the West Virginia Public Service Commission's dismissal of Pool's complaint challenging a public service district's sewer-rate increase and the PSC's conclusion that it lacked ratemaking jurisdiction.
STANDARD OF REVIEW	Statutory and administrative-rule interpretation is reviewed de novo. Review of a PSC order examines whether the Commission exceeded its statutory jurisdiction and powers, whether adequate evidence supports its findings, and whether the substantive result is proper.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Delby B. Pool v. Greater Harrison County Public Service District

TOPICS

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QUESTIONS PRESENTED

1. Whether the PSC properly interpreted West Virginia Code §§ 16-13A-9(a)(2) and 24-2-4a to permit a public service district providing combined water and sewer services to count a single entity as two customers for purposes of the 4,500-customer jurisdictional threshold.
2. Whether the PSC had ratemaking jurisdiction over the District's proposed rate increase.

HOLDINGS

1. When the PSC determines whether a public service district providing water and sewer utility services has at least 4,500 customers under West Virginia Code §§ 16-13A-9(a)(2) and 24-2-4a(a), it may count an entity receiving combined services as two separate customers: one water-utility customer and one sewer-utility customer.
2. Because the District had more than 4,500 customers under the permissible counting method, the PSC lacked jurisdiction to consider Pool's challenge to the District's rate increase.

KEY QUOTATIONS

“When the Public Service Commission assesses whether a public service district that provides water and sewer utility services has “at least 4,500 customers,” as set forth in West Virginia Code §§ 16-13A-9(a)(2) [2018] and 24-2-4a(a) [2015], the Commission may count any one entity receiving combined water and sewer services as two separate customers – that is, the entity may be counted as one customer of the water utility and as one customer of the sewer utility” (at 12)

“The primary object in construing a statute is to ascertain and give effect to the intent of the Legislature.” (at 10)

“A statute is enacted as a whole with a general purpose and intent, and each part should be considered in connection with every other part to produce a harmonious whole.” (at 10-11)

FACTUAL BACKGROUND

The Greater Harrison County Public Service District operates separate water and sewer utilities and provides combined services to some customers. After the District proposed a sewer-rate increase, Pool argued that the District had only 4,010 customers because recipients of both services should be counted once. The District counted those recipients once as water customers and once as sewer customers, producing a total of 5,547 customers. The PSC adopted that method and dismissed Pool's complaint for lack of ratemaking jurisdiction.

PROCEDURAL HISTORY

The Greater Harrison County Public Service District proposed a sewer-rate increase, which the Harrison County Commission approved. Pool filed a complaint with the PSC, arguing that the District had fewer than 4,500 customers and therefore required PSC approval of the rate increase. The PSC dismissed the complaint for lack of jurisdiction after counting customers receiving combined water and sewer services separately, and the Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Appalachian Power Co. v. State Tax Department of West Virginia, 195 W. Va. 573, 466 S.E.2d 424 (1995)
- Monongahela Power Co. v. Public Service Commission, 166 W. Va. 423, 276 S.E.2d 179 (1981)
- Central West Virginia Refuse, Inc. v. Public Service Commission of West Virginia, 190 W. Va. 416, 438 S.E.2d 596 (1993)
- Smith v. State Workmen's Compensation Commissioner, 159 W. Va. 108, 219 S.E.2d 361 (1975)
- State ex rel. Holbert v. Robinson, 134 W. Va. 524, 59 S.E.2d 884 (1950)
- State ex rel. Hardesty v. Aracoma-Chief Logan No. 4523, Veterans of Foreign Wars, 147 W. Va. 645, 129 S.E.2d 921 (1963)
- Security National Bank & Trust Co. v. First West Virginia Bancorp, Inc., 166 W. Va. 775, 277 S.E.2d 613 (1981)
- Petition of Snuffer, 193 W. Va. 412, 456 S.E.2d 493 (1995)
- Bowen v. Georgetown University Hospital, 488 U.S. 204, 109 S. Ct. 468, 102 L. Ed. 2d 493 (1988)
- West Virginia Health Care Cost Review Authority v. Boone Memorial Hospital, 196 W. Va. 326, 472 S.E.2d 411 (1996)