SUPREME COURT OF TEXAS

Data Foundry, Inc. v. City of Austin, Texas

No. 19-0475, Supreme Court of Texas (April 9, 2021)

SUMMARY

Data Foundry, Inc. v. City of Austin, Texas, 620 S.W.3d 387 (Tex. 2021): A ratepayer challenging municipal utility rates as unreasonable, excessive, discriminatory, or confiscatory has standing based on the concrete financial injury of being required to pay allegedly illegal rates, even if other ratepayers suffer the same injury. The Texas Supreme Court rejected prior case law requiring a ratepayer to allege an injury distinct from other ratepayers, holding that the personal obligation to pay an allegedly improper rate satisfies the particularized-injury requirement for standing. The court also held that issues of exclusive jurisdiction and exhaustion of administrative remedies were not properly before the court of appeals on a Rule 91a motion that was granted solely on standing grounds, and remanded all claims for further development.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Rebeca A. Huddle
JURISDICTION	Texas
DECIDED	April 9, 2021
DOCKET	19-0475
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	On Petition for Review from the Court of Appeals for the Fourteenth District of Texas
STANDARD OF REVIEW	The court reviews the trial court's ruling on a Rule 91a motion de novo, and standing is a question of law reviewed de novo.
PRECEDENTIAL VALUE	Published
PARTIES	Data Foundry, Inc. v. City of Austin, Texas

TOPICS

standing · subject matter jurisdiction · municipal law · administrative law · statutory interpretation

PRACTICE AREAS

Civil Procedure | Municipal Law | Administrative Law

QUESTIONS PRESENTED

1. Whether Data Foundry alleged a particularized injury sufficient to confer standing to challenge the City's electric utility rates.
2. Whether the court of appeals properly dismissed Data Foundry's claims challenging the rates as unreasonable and excessive on the ground that the City has exclusive jurisdiction over unbundling decisions.
3. Whether the court of appeals properly affirmed the dismissal of Data Foundry's discrimination claims on the ground that they had no basis in law.

HOLDINGS

1. A ratepayer who alleges that it must pay an allegedly illegal rate suffers a concrete and particularized injury sufficient to establish standing, even if other ratepayers suffer the same injury. Financial harm from paying allegedly unreasonable, excessive, discriminatory, or confiscatory rates is a particularized injury.
2. The exclusive jurisdiction issue is distinct from standing and was not properly before the court of appeals because the trial court did not rule on it and the record was not developed. The court of appeals erred in affirming the dismissal of those claims on that basis.
3. The court of appeals erred in affirming the dismissal of the discrimination claims because the trial court did not rule on that ground and the City did not assert alternative grounds for affirmance. The issue was not properly before the court of appeals.

KEY QUOTATIONS

> *"We have adopted the federal requirements for standing as set forth by the United States Supreme Court in Lujan v. Defenders of Wildlife, 504 U.S. 555 (1992). See Heckman, 369 S.W.3d at 154–55. To maintain standing, a plaintiff must show: (1) an injury in fact that is both concrete and particularized and actual or imminent, not conjectural or hypothetical; (2) that the injury is fairly traceable to the defendant's challenged action; and (3) that it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision."* (6)

> *"To the extent that Tuck or Schenker (or any other decision) may be read as holding that a utility ratepayer cannot establish standing to sue unless it alleges an injury different from that of other ratepayers, beyond its personal obligation to pay a rate that it claims is improper, we disapprove of those cases as inconsistent with our standing jurisprudence."* (10)

> *"By alleging it was required to pay a rate for electric services to Austin Energy that was unreasonable, excessive, discriminatory, and confiscatory, Data Foundry's petition satisfied the standing requirement of a particularized injury."* (11)

FACTUAL BACKGROUND

The City of Austin, through its city council, sets the rates that Austin Energy, a municipally owned electric utility, charges to residents. Data Foundry, an internet service provider, purchases electricity from Austin Energy and alleges that the rates set by the City are illegal, unreasonable, excessive, discriminatory, confiscatory, and constitute an illegal tax. Data Foundry participated in the rate-making hearing process before the city council, which ultimately rejected its arguments and passed an ordinance establishing new rates. Data Foundry then sued the City in district court seeking declaratory and injunctive relief.

PROCEDURAL HISTORY

The trial court granted the City's motion to dismiss under Texas Rule of Civil Procedure 91a on the ground that Data Foundry lacked standing because it failed to allege a particularized injury. The court of appeals reversed the trial court's standing determination but affirmed the dismissal of some claims on the ground that the City had exclusive jurisdiction over unbundling decisions and that Data Foundry failed to state a discrimination claim. Both parties petitioned for review to the Texas Supreme Court.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

We reverse the court of appeals' judgment in part and affirm in part, and we remand all of Data Foundry's claims to the trial court for further proceedings.

CASES CITED

- Lujan v. Defenders of Wildlife, 504 U.S. 555 (1992)
- Heckman v. Williamson County, 369 S.W.3d 137 (Tex. 2012)
- Spokeo, Inc. v. Robins, 136 S. Ct. 1540 (2016)
- South Texas Water Authority v. Lomas, 223 S.W.3d 304 (Tex. 2007)
- San Antonio Independent School District v. City of San Antonio, 550 S.W.2d 262 (Tex. 1976)
- Schenker v. City of San Antonio, 369 S.W.2d 626 (Tex. App.—San Antonio 1963, writ ref'd n.r.e.)
- City of Texarkana v. Wiggins, 246 S.W.2d 622 (Tex. 1952)
- Tuck v. Texas Power & Light Co., 543 S.W.2d 214 (Tex. App.—Austin 1976, writ ref'd n.r.e.)
- Pike v. Texas EMC Management, LLC, 610 S.W.3d 763 (Tex. 2020)
- Forest Oil Corp. v. El Rucio Land & Cattle Co., 518 S.W.3d 422 (Tex. 2017)
- Cash America International Inc. v. Bennett, 35 S.W.3d 12 (Tex. 2000)
- DaimlerChrysler Corp. v. Inman, 252 S.W.3d 299 (Tex. 2008)
- Andrade v. NAACP of Austin, 345 S.W.3d 1 (Tex. 2011)
- Coastal Liquids Transportation, L.P. v. Harris County Appraisal District, 46 S.W.3d 880 (Tex. 2001)
- Nootsie, Ltd. v. Williamson County Appraisal District, 925 S.W.2d 659 (Tex. 1996)

- San Antonio Conservation Society v. City of San Antonio, 250 S.W.2d 259 (Tex. App.—Austin 1952, writ ref'd)
- Hazelwood v. City of Cooper, 87 S.W.2d 776 (Tex. App.—Texarkana 1935, writ ref'd)
- Jenkins v. City of Cooper, 87 S.W.2d 778 (Tex. App.—Texarkana 1935, writ ref'd)
- Texas Association of Business v. Texas Air Control Board, 852 S.W.2d 440 (Tex. 1993)
- Valley Forge Christian College v. Americans United for Separation of Church & State, 454 U.S. 464 (1982)
- Whitmore v. Arkansas, 495 U.S. 149 (1990)
- Warth v. Seldin, 422 U.S. 490 (1975)