

SUPREME COURT OF TEXAS

In re Southwestern Bell Telephone Company, L.P.

235 S.W.3d 619 (Tex. 2007) · No. No. 05-0951 · Decided August 31, 2007

SUMMARY

The Supreme Court of Texas held that the Public Utility Commission has exclusive jurisdiction over customers' claims challenging Southwestern Bell's collection of a Texas Universal Service Fund surcharge. The Court concluded that the regulatory scheme under the Public Utility Regulatory Act authorized the Commission to resolve the claims and order refunds, and it conditionally granted mandamus relief directing the trial court to dismiss the core claims for lack of subject-matter jurisdiction.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Chief Justice Jefferson
JURISDICTION	Texas
DECIDED	August 31, 2007
DOCKET	No. 05-0951
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Southwestern Bell sought mandamus relief from the Supreme Court of Texas after the Hidalgo County district court denied its plea to the jurisdiction and the court of appeals denied mandamus relief. The plea asserted that the Public Utility Commission of Texas had exclusive jurisdiction over the plaintiffs' claims concerning Southwestern Bell's collection of a Texas Universal Service Fund surcharge.
STANDARD OF REVIEW	Whether an agency has exclusive jurisdiction is a question of law reviewed de novo. Mandamus requires a clear abuse of discretion and no adequate remedy by appeal, subject to an exception when allowing a trial court to proceed would disrupt the orderly processes of government because an agency has exclusive jurisdiction.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Texas; precedential.
PARTIES	Southwestern Bell Telephone Company, L.P. (relator) v. Debbie Clara Trevino, Arnoldo Benavides, Annette Muniz, Real parties in interest

TOPICS

subject matter jurisdiction

administrative law

judicial review of agency action

writ of certiorari

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PRACTICE AREAS

administrative law

telecommunications law

civil procedure

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether the Public Utility Commission of Texas has exclusive jurisdiction over the plaintiffs' core claims challenging Southwestern Bell's collection of the Texas Universal Service Fund surcharge.
2. Whether mandamus is an appropriate remedy to correct the trial court's denial of Southwestern Bell's plea to the jurisdiction.
3. Whether chapter 58's rate-cap provisions deprive the Public Utility Commission of jurisdiction over disputes concerning the Texas Universal Service Fund surcharge.
4. Whether the Supreme Court should direct the trial court to resolve jurisdiction over claims added after the jurisdictional plea.

HOLDINGS

1. The Public Utility Commission has exclusive jurisdiction over the plaintiffs' core claims challenging Southwestern Bell's Texas Universal Service Fund surcharge.
2. Mandamus is appropriate because permitting the trial court to proceed despite the PUC's exclusive jurisdiction would unlawfully appropriate agency authority, disrupt the orderly processes of government, and impose hardship through postponed appellate review.
3. Chapter 58's rate-cap provisions do not eliminate the PUC's exclusive jurisdiction over disputes concerning the Texas Universal Service Fund surcharge.

KEY QUOTATIONS

"An agency has exclusive jurisdiction when a pervasive regulatory scheme indicates that the Legislature intended for the regulatory process to be the exclusive means of remedying the problem to which the regulation is addressed." (625)

"These provisions, along with the Legislature's grant to the PUC of "exclusive original jurisdiction over the business and property of a telecommunications utility," id. § 52.002(a), establish that the Legislature granted the PUC the authority to approve a TUSF surcharge, regulate a service provider's collection of the surcharge, hear disputes between customers and service providers concerning the TUSF, and grant refunds where appropriate." (626)

FACTUAL BACKGROUND

Southwestern Bell elected incentive regulation under chapter 58 of the Public Utility Regulatory Act, which capped certain rates. After the Legislature created the Texas Universal Service Fund and directed the Public Utility Commission to administer it, the Commission approved Southwestern Bell's application to add a Texas Universal Service surcharge to customers' bills. Southwestern Bell collected the surcharge from residential customers beginning in 1999. The plaintiffs alleged that applying the surcharge to their bills effectively increased rates subject to the chapter 58 rate cap and sought a declaration and refunds.

PROCEDURAL HISTORY

Residential customers sued Southwestern Bell in Hidalgo County district court individually and on behalf of a putative class, seeking declaratory and refund relief concerning the Texas Universal Service Fund surcharge, plus attorney's fees. Southwestern Bell filed a plea to the jurisdiction, which the trial court denied; the court of appeals denied mandamus relief. After a federal removal and remand delayed proceedings, Southwestern Bell sought mandamus from the Supreme Court of Texas. The Supreme Court conditionally granted the writ as to the core claims and directed the trial court to vacate its order and dismiss those claims for lack of subject matter jurisdiction.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The trial court was directed to vacate its January 6, 2004 order denying Southwestern Bell's motion to dismiss, dismiss the core claims for lack of subject matter jurisdiction, and conduct further proceedings consistent with the opinion. The writ would issue only if the trial court failed to comply.

CASES CITED

- AT&T Communications of Texas, L.P. v. Southwestern Bell Telephone Co., 186 S.W.3d 517, 521-23, 531-32 (Tex. 2006)
- In re Entergy Corp., 142 S.W.3d 316, 320-23 (Tex. 2004)
- State v. Sewell, 487 S.W.2d 716, 719 (Tex. 1972)
- Rivercenter Associates v. Rivera, 858 S.W.2d 366, 367-68 (Tex. 1993)
- Subaru of America, Inc. v. David McDavid Nissan, Inc., 84 S.W.3d 212, 221-22 (Tex. 2002)
- Utica Lloyd's of Texas v. Mitchell, 138 F.3d 208, 210 (5th Cir. 1998)
- Housing Authority v. Valdez, 841 S.W.2d 860, 864 (Tex. App.—Corpus Christi 1992, writ denied)
- In re Perritt, 992 S.W.2d 444, 446 (Tex. 1999)
- In re Southwestern Bell Telephone Co., L.P., 226 S.W.3d 400 (Tex. 2007)
- In re E.I. DuPont de Nemours & Co., 136 S.W.3d 218, 227 (Tex. 2004)

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