

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

Southwestern Bell Telephone Co. v. Arkansas Public Service Commission

824 F.2d 672 (8th Cir. 1987) · Decided July 29, 1987

SUMMARY

The United States Court of Appeals for the Eighth Circuit held that the Arkansas Public Service Commission's disallowance of certain collectively bargained wage and benefit expenses in setting telephone rates was not preempted by the National Labor Relations Act. The court concluded that the Commission's action regulated utility rates and did not control the substantive terms of the collective bargaining agreement or impermissibly interfere with labor-management economic self-help.

CASE DETAILS

COURT	United States Court of Appeals for the Eighth Circuit
WRITING FOR THE COURT	Lay, Chief Judge; Arnold; Lay; Wollman
JURISDICTION	Federal
DECIDED	July 29, 1987
DISPOSITION	reversed
PROCEDURAL POSTURE	Southwestern Bell appealed the federal district court's declaratory judgment and permanent injunction ruling that the Arkansas Public Service Commission's disallowance of certain collectively bargained wage and benefit expenses was preempted by the National Labor Relations Act.
STANDARD OF REVIEW	The court reviewed the district court's preemption determination de novo and considered the abstention issue for abuse of discretion.
PRECEDENTIAL VALUE	Published federal appellate opinion
PARTIES	Southwestern Bell Telephone Company v. Arkansas Public Service Commission

TOPICS

- judicial review of agency action
- administrative law
- labor law
- collective bargaining
- federalism

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the federal district court should have abstained because the same federal-preemption issue was pending before the Arkansas Court of Appeals.
2. Whether the National Labor Relations Act preempted the Arkansas Public Service Commission from disallowing recovery through utility rates of wage and benefit expenses resulting from collective bargaining.

HOLDINGS

1. Abstention and exhaustion arguments are seldom applicable when a challenge asserts that a state regulatory proceeding or regulation exceeds the state's authority through federal preemption.
2. The NLRA does not preempt a state public-utility commission from determining that collectively bargained wage and benefit expenses are unreasonable for ratemaking purposes and disallowing their recovery from consumers, so long as the commission does not control the substantive terms of the collective bargaining agreement or prohibit payment of the bargained-for wages.

KEY QUOTATIONS

“Any indirect effect of the ratesetting action taken in this case, however, falls short of the kind of state interference with the labor-management relationship that Congress intended to proscribe.” (676)

FACTUAL BACKGROUND

Southwestern Bell and the Communications Workers of America negotiated a three-year labor contract establishing wages and benefits for bargaining-unit jobs. When Southwestern Bell sought a \$61 million intrastate rate increase, the Arkansas Public Service Commission found certain wage and benefit expenses disproportionately high compared with similar companies and reduced the expenses recoverable through rates. The Commission's order did not prevent Southwestern Bell from paying the collectively bargained wages; the Company stipulated that it remained obligated to pay them.

PROCEDURAL HISTORY

Southwestern Bell applied to the Arkansas Public Service Commission for an intrastate telephone-rate increase. The Commission reduced the wage and benefit expenses included in the Company's rate base after finding them unreasonable compared with comparable regional employers. Southwestern Bell challenged the Commission's action in the Arkansas Court of Appeals and then sought declaratory and injunctive relief in federal district court; the district court found NLRA preemption. The Eighth Circuit reversed. The Arkansas Court of Appeals subsequently held that the NLRA did not preempt the Commission and affirmed the Commission's order.

DISPOSITION

reversed

CASES CITED

- Middle South Energy, Inc. v. Arkansas Public Service Commission, 772 F.2d 404, 417 (8th Cir. 1985), cert. denied, 106 S. Ct. 884 (1986)
- San Diego Building Trades Council v. Garmon, 359 U.S. 236 (1959)
- Machinists v. Wisconsin Employment Relations Commission, 427 U.S. 132 (1976)
- Golden State Transportation Corp. v. City of Los Angeles, 475 U.S. 608 (1986)
- Massachusetts Nurses Association v. Dukakis, 726 F.2d 41, 45, 48 (1st Cir. 1984)
- Amalgamated Transit Union v. Byrne, 568 F.2d 1025, 1029 (3d Cir. 1977) (en banc)
- Washington State Nurses Association v. Washington State Hospital Commission, 773 F.2d 1044 (9th Cir. 1985), cert. denied, 106 S. Ct. 1637 (1986)
- Kentucky West Virginia Gas Co. v. Pennsylvania Public Utility Commission, 791 F.2d 1111, 1115 (3d Cir. 1986)
- Aluminum Co. of America v. Utilities Commission, 713 F.2d 1024, 1030 (4th Cir. 1983), cert. denied, 465 U.S. 1052 (1984)
- Burford v. Sun Oil Co., 319 U.S. 315 (1943)
- Wisconsin Department of Industry v. Gould, 475 U.S. 282 (1986)
- Southwestern Bell Telephone Co. v. Arkansas Public Service Commission, 18 Ark. App. 260, 715 S.W.2d 451 (1986)