

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY
PENNSYLVANIA
CIVIL ACTION-LAW

PR BEAVER VALLEY LIMITED
PARTNERSHIP,

Plaintiff

vs.

DUQUESNE LIGHT COMPANY,

Defendant

No. 10088 of 2008

C. GUS KWIDIS
JUDGE

2008 JUL 18 A 9:53

BY THE COURT

OPINION

J. Kwidis

July 18, 2008

This case involves the electrical service provided to the Beaver Valley Mall, Center Township, Beaver County, Pennsylvania.

On June 23, 1969, Duquesne Light Co. (DLC) agreed with the Beaver Valley Mall (BVM) to “..install, own and maintain, at its sole cost and expense, all primary cable switches and power transformers on the subject land...”, i.e., “primary lines”.

The Agreement (Plaintiff’s Ex “1”) also provided all secondary wiring, equipment and facilities in the BVM would be constructed and installed by the BVM, i.e. “secondary wiring”. DLC reimbursed BVM for the cost and expense of the “secondary wiring” and was transferred title to the secondary wiring, equipment and other electrical facilities.

On September 26, 2007, DLC gave notice to terminate the Agreement and to transfer ownership of “all facilities” to the BVM including the revised right-of-way agreements. (Plaintiff’s Ex “2”) Subsequently, DLC agreed only to terminate and

EXHIBIT 4

transfer title to the secondary lines and agreed to own and maintain the primary lines.

The BVM claims that DLC has no right to terminate under the agreement.

DLC claims that it has the right to terminate the agreement pursuant to the 1969 Electric Service Tariff, Section 9.1 ("Tariff") Fourth Revised, as justified by electric service revenues to be obtained at the BVM.

On January 9, 2008, the BVM filed a Declaratory Judgment Action requesting the Court to determine the rights of the BVM and the obligations of DLC under the original agreement of June 23, 1969.

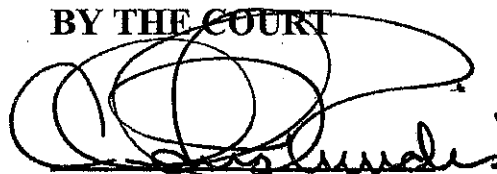
On May 2, 2008, this Court granted the Preliminary Objections filed by DLC and relinquished jurisdiction to the Public Utility Commission.

This Court relied on **Elkin v. Bell Telephone Company of Pennsylvania**, 420 A.2d 371, (1980), due to the question of the revenues of electrical service provided to the BVM and the regulations of the Public Utility Commission involving the interpretation of a tariff and the assessment of the cost of the service relative to the rate of return.

These issues are not issues with which this Court is familiar.

On these bases, this Court granted the preliminary objections of DLC and relinquished jurisdiction to the Public Utility Commission.

BY THE COURT



C. Gus Kwidis, Judge

BY THE COURT
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C. GUS KWIDIS
JUDGE