Oneida Charter Township v. City of Grand Ledge

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It has long been the case that cities would force township residents to pay more for water service than city residents, despite the fact that it may not cost any more to provide the service. That should change now, at least according to the Michigan Court of Appeals. In an opinion decided February 12, 2009, the Michigan Court of Appeals determined that MCL 123.141 required the City of Grand Ledge (the "City") to charge Oneida Charter Township (the "Township") residents the actual cost of water service, instead of double the rates charged to City residents. *Oneida Charter Township v. City of Grand Ledge*, 282 Mich App 435 (2009).

The facts of the case were undisputed. In 1980, the City and Township entered into a contract whereby the City would provide water service directly to Township residents. The contract permitted the City to charge Township residents double the rates paid by City residents and, at the time the contract was made, the rate structure complied with MCL 123.141. Just eight months after entering into the contract, the Michigan Legislature amended the language of MCL 123.141 limiting the rates that may be charged for water service. Since 1980, residents of the Township have been paying double the rates as compared to those charged to the City residents for the same service. In 2005, the Township and some of its residents sued, claiming that the double rate the city charged was unlawful pursuant to MCL 123.141, as amended.

In a case of first impression, the Court of Appeals held that the current version of MCL 123.141 provides both a general rate-charging scheme and a specific rate-charging scheme. Under the general rate scheme, the price for water service cannot exceed the actual cost of service, unless the water system is not a "contractual customer" of another water department and serves less than 1% of the population of the state. Under the specific rate scheme, the retail rate for service charged to residents of a city, village, township, or authority that is a contractual customer cannot exceed the actual cost of service.

In this case, the Court of Appeals stated that if the City were selling water service on a wholesale basis to the Township for resale by the Township to its residents, the City could have charged the Township more than the actual cost of providing the service and, in turn, the Township could only charge its customers the retail rate, which must be no more than the actual cost of providing service. However, because the Township was a contractual customer of the City, the retail rate charged by the City directly to the Township's residents could not exceed the actual cost of service pursuant to the specific rate-charging scheme of MCL 123.141(3).

Townships that have entered into agreements with other municipalities should review their agreements in light of the holding in *Oneida Charter Township v City of Grand Ledge.* Those considering such agreements should be mindful of the rate-charging structure for water service required by MCL 123.141. If you have specific questions regarding this case or its impact on your township, please feel free to contact us.