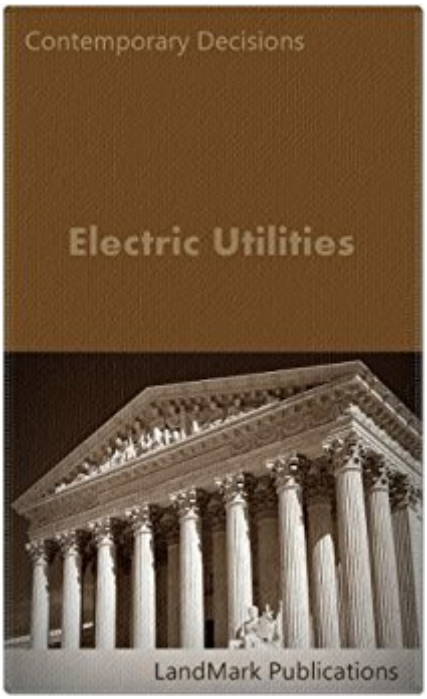
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Electric Utilities (Litigator Series)



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Synopsis

THIS CASEBOOK contains a selection of 148 U. S. Court of Appeals decisions that analyze and discuss issues surrounding the regulation of electric utilities by the federal government. The selection of decisions spans from 2005 to the date of publication. In order to attract capital investment for construction of transmission facilities, a utility must offer a risk-adjusted expected ROE [return on equity] sufficient to attract investors. See Canadian Ass'n of Petroleum Producers v. FERC, 254 F.3d 289, 293 (D.C.Cir.2001). To calculate the ROE, the Commission "measures the return enjoyed by the company's equity investors by the discounted cash flow ('DCF') model, which assumes that a stock's price is equal to the present value of the infinite stream of expected dividends discounted at a market rate commensurate with the stock's risk." Id. When a utility is not publicly traded, key values needed to calculate the ROE are missing, and the Commission must resort to more roundabout estimations, including relying on the ROEs of comparable publicly-traded companies, termed a proxy group. See Pub. Serv. Comm'n of Ky. v. FERC, 397 F.3d 1004, 1006-07 (D.C.Cir. 2005) ("Midwest ISO"); Canadian Ass'n, 254 F.3d at 293-94. Adjusting that range by applying screens to exclude unrepresentative high or low rates of return, see Canadian Ass'n, 254 F.3d at 294, the Commission assembles a zone of reasonable ROEs on which to base a utility's ROE. Pursuant to the Energy Policy Act of 2005, the Commission has also established incentive-based rate treatments to further encourage the construction of transmission facilities and replacement of aging transmission infrastructure. See 16 U.S.C. Ã Â§ 824s; Promoting Transmission Investment Through Pricing Reform, Order No. 679, 71 Fed. Reg. 43,294 (July 20, 2006), order on reh'g, Order No. 679-A, 72 Fed. Reg. 1152 (Dec. 22, 2006), order on reh'g, 119 FERC Ã Â¶ 61,062 (2007). Southern California Edison Co. v. FERC, 717 F. 3d 177 (DC Cir. 2013)

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