

Court of Appeals, State of Michigan

ORDER

In re Application of Enbridge Energy Ltd Partnership

Docket No. 310967

LC No. 00-016838

Stephen L. Borrello
Presiding Judge

William C. Whitbeck

Amy Ronayne Krause
Judges

The Court orders that the motion to dismiss this appeal filed on August 21, 2013 is GRANTED because petitioner-appellee has established that this appeal has become moot since this Court's resolution of the appeal cannot have a practical legal effect and does not involve an issue that is likely to recur yet evade judicial review. See, e.g., *Thomas M Cooley Law School v John Doe 1*, 300 Mich App 245, 254; ___ NW2d ___ (2013). This appeal is now moot because the remaining appellants have voluntarily sold their relevant property rights to petitioner-appellee in settlement agreements. Appellants' argument regarding the ability to quickly obtain such property rights in condemnation proceedings is inapposite because this appeal would not be moot if petitioner-appellee had acquired the relevant property rights by decisions in disputed condemnation proceedings rather than by settlement agreements. Rather, in such a situation, if the landowner did not wish to transfer the relevant property rights to the company pursuing the project authorized by appellee Michigan Public Service Commission (MPSC), the transfer of those rights by a decision in a condemnation proceeding could be subject to attack by an appropriate motion in the trial court or on appeal in the condemnation case if this Court held that the notice in an underlying MPSC case failed to give appropriate notice to a relevant landowner that its property rights were implicated and invalidated the relevant MPSC order in whole or in part on that ground. But that is irrelevant to the present situation in which the remaining appellants voluntarily sold the property rights in question to petitioner-appellee. Accordingly, there is no basis to conclude that the issue at hand regarding the sufficiency of the notice used by the MPSC is likely to recur yet evade judicial review because the issue could well recur in a situation in which the landowner is unwilling to agree to sell the relevant property rights in a settlement agreement.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

NOV - 5 2013

Date

Chief Clerk