# This Week in State Tax (TWIST)

August 24, 2026

## Ohio: State Supreme Court II: Taxpayer providing submetering services qualifies as a public utility subject to PUC jurisdiction

The Supreme Court of Ohio recently concluded that a company providing electricity submetering services in Ohio operated as an "electric light company," and therefore, is classified as a public utility under Ohio law. The submetering company operated a business in which it secured from apartment building landlords the exclusive rights to purchase electricity in the company's own name, install and maintain distribution and metering equipment on the properties, supply electricity to the tenants, bill tenants directly, collect payment, and disconnect service from tenants in the event of nonpayment.

A public utility provider filed a complaint with the Public Utilities Commission of Ohio (PUCO), claiming that the submetering company was unlawfully operating as a public utility. PUCO's jurisdiction extends to an "electric light company" that is "engaged in the business of supplying electricity…to consumers within this state." In its disposition of the claim, PUCO accepted the submetering company's position that the landlords, not the tenants, were the "consumers" of the electricity it provided and that the submetering company merely acted as the landlords' agent. This interpretation placed the company outside the definition of an electric light company and outside PUCO's jurisdiction. The utility provider appealed the matter to the Ohio Supreme Court.

On review, the supreme court rejected the PUCO analysis and instead applied a plain-language interpretation of the term "electric light company." In the court's view, the economic reality was that the submetering company supplied electricity to thousands of occupants whose relationship with the company mirrored the relationship between a traditional electric utility and its customers. Further, although contracts designated the submetering company as the landlords' agent, the substance of the relationship was such that the submetering company had purchased a monopoly right to resell electricity to the landlords' tenants. The company was engaging in business on its own behalf and with its own profit motive. As such, it was acting as an electric light company subject to state regulation as a public utility.

Though this case involves Ohio public utility regulation, the court's reasoning may have broader implications for others involved in submetering, an arrangement not uncommon across certain industries. To the extent Ohio tax statutes and guidance rely on public utility or electric light company status, the classification could influence certain sales and use tax exemptions and personal property taxes.

Please contact Dave Perry with questions about *In re Complaint of Ohio Power Co. v. Nationwide Energy Partners, L.L.C.*, 2026-Ohio-1406.

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