

Order

Michigan Supreme Court
Lansing, Michigan

September 11, 2009

Marilyn Kelly,
Chief Justice

138520

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

ONEIDA CHARTER TOWNSHIP,
Plaintiff,

and

DAVID M. LEE, ROBERT E. LUDLUM,
LAWRENCE J. EMERY, and JAMES BRANDT,
Plaintiffs-Appellees,

v

SC: 138520
COA: 277093
Eaton CC: 05-001588-CZ

CITY OF GRAND LEDGE,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the February 12, 2009 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and we REMAND this case to the Eaton Circuit Court for reinstatement of the March 15, 2007 order that dismissed the case with prejudice. MCL 123.141(2) exempts water departments that are not contractual customers of another water department and that serve less than 1% of the population of the state, such as the City of Grand Ledge, from the cost-based requirement of subsection (2). Contrary to the Court of Appeals ruling, that subsection does not indicate that the second sentence of MCL 123.141(2) somehow modifies or limits application of the exemption that appears in the subsequent sentence by defining "contractual customers" as *wholesale* contractual customers. Moreover, MCL 123.141(3) prohibits only "contractual customers as provided in subsection (2)" from charging retail rates in excess of the actual cost of providing service. Grand Ledge is not a contractual customer as provided in subsection (2), so subsection (3) is not applicable.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 11, 2009

Corbin R. Davis

Clerk