[J-133-2002]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

GREENE COUNTY AND GREENE COUNTY CHILDREN AND YOUTH SERVICES,	:	No. 31 WAP 2002
Appellants	:	Appeal from the Order of the Commonwealth Court entered June 13, 2001 at No. 3432 CD 1998 reversing the Order of the Court of Common Pleas of Greene County entered November 18, 1998 at No. AD 245 of 1998.
v.	:	
DISTRICT 2, UNITED MINE WORKERS OF AMERICA AND LOCAL UNION 9999, UNITED MINE WORKERS OF AMERICA,	:	778 A.2d 1259 (Pa. Cmwlth. 2001)
	:	ARGUED: September 11, 2002
Appellees	:	

CONCURRING OPINION

MR. JUSTICE NIGRO **DECIDED: JUNE 23, 2004**

I agree with the majority's application of the essence test here and write separately merely to emphasize that in my view, this Court's decision in City of Easton v. American Federation of State, County and Municipal Employees, 756 A.2d 1107 (Pa. 2000), did not wholly supplant the application of the essence test in cases in which a core function of a public employer has been implicated. Rather, as this court unanimously stated in Office of the Attorney General v. Council 13, American Federation of State, County and Municipal Employees, AFL-CIO, our decision in City of Easton "reaffirmed the deferential essence test," and simply "noted that this usual deference is tempered in a situation in which the arbitrator's interpretation of the agreement led to the governmental employer relinquishing essential control over the public enterprise . . . ." 844 A.2d 1217, 1225 (Pa. 2004)

(emphasis added); see also Maj. Op. at 13-14 (stating that "the usual degree of deference to be accorded to an arbitrator's award is moderated" in such situations) (emphasis added). Thus, like the majority here, I believe that the essence test remains applicable in cases such as this one, albeit in a slightly modified form.