SUPREME JUDICIAL COURT OF MAINE

Conservation Law Foundation v. Public Utilities Commission

2017 ME 109 (2017) · No. PUC-16-353 · Decided June 1, 2017

SUMMARY

The Maine Supreme Judicial Court reviewed the Maine Public Utilities Commission’s approval of a stipulation concerning Efficiency Maine Trust’s Third Triennial Plan for energy efficiency. The court held that the Commission reasonably interpreted and applied statutory requirements concerning regional best practices, gross and net efficiency savings, and funding for cost-effective natural gas efficiency measures. The court affirmed the Commission’s order.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Mead, J.; Saufley, C.J.; Gorman, J.; Jabar, J.; Hjelm, J.; Humphrey, J.
JURISDICTION	Maine
DECIDED	June 1, 2017
DOCKET	PUC-16-353
DISPOSITION	affirmed
PROCEDURAL POSTURE	Conservation Law Foundation appealed the Maine Public Utilities Commission's order approving a stipulation concerning Efficiency Maine Trust's Third Triennial Plan for fiscal years 2017-2019.
STANDARD OF REVIEW	The court reviews Commission decisions with great deference and determines whether the agency's conclusions are unreasonable, unjust, or unlawful in light of the record. An order will be overturned only if the Commission abused its discretion, failed to follow a legislative mandate, or violated constitutional prohibitions. For statutes administered by the Commission within its expertise, the court determines de novo whether the statute is ambiguous and, if ambiguous, reviews the Commission's construction for reasonableness; if unambiguous, the court construes it plainly.
PRECEDENTIAL VALUE	Published Maine Supreme Judicial Court opinion; precedential.
PARTIES	Conservation Law Foundation v. Public Utilities Commission, Northern Utilities, Inc., Efficiency Maine Trust

TOPICS

judicial review of agency action · administrative law · statutory interpretation · standard of review · appellate procedure

PRACTICE AREAS

administrative law · public utilities regulation · energy law · statutory interpretation

QUESTIONS PRESENTED

1. Whether the Commission violated 35-A M.R.S. § 10110(4-A)(B) by approving avoided-cost calculations and discount rates that did not exclusively use the AESC report as the regional best practice.
2. Whether the Commission violated 35-A M.R.S. § 10110(4-A) by permitting benefit-to-cost ratios for electric energy-efficiency measures to be determined on a net basis while also considering gross savings.
3. Whether the Commission violated 35-A M.R.S. §§ 10104(4) and 10111(2) by determining natural-gas maximum achievable cost-effective energy-efficiency savings using historical data rather than the Trust's future projections and by approving funding below the Trust's asserted potential.

HOLDINGS

1. The statute is ambiguous as to how the Commission must make use of regional best practices. The Commission reasonably interpreted 35-A M.R.S. § 10110(4-A)(B) to require a blended, three-part analysis considering whether calculations are reasonable, based on sound evidence, and make use of best practices across the region; it was not required to rely exclusively on the AESC report.
2. The Commission reasonably complied with 35-A M.R.S. § 10110(4-A) by considering gross savings in determining maximum achievable cost-effective savings while using net savings to screen measures funded with ratepayer dollars. The statute does not require an independent maximum-savings calculation based exclusively on gross savings.
3. The Commission did not err or abuse its discretion by basing its determination of natural-gas maximum achievable cost-effective savings on historical data and approving the stipulation rather than adopting the Trust's projections.

KEY QUOTATIONS

> *"We review decisions of the Commission with great deference only to determine whether the agency's conclusions are unreasonable, unjust or unlawful in light of the record."* (¶ 17)

> *"To interpret the statute as mandating reliance solely on a regional best practice would render superfluous the requirements that calculations be reasonable and based on sound evidence."* (¶ 24)

> *"We conclude that it was not erroneous for the Commission to base its determination of natural gas MACE on historical data rather than on future projections, and that the Commission did not abuse its discretion by approving the stipulation."* (¶ 36)

FACTUAL BACKGROUND

Efficiency Maine Trust submitted a triennial energy-efficiency plan for fiscal years 2017-2019. The plan and resulting stipulation used updated London Economics International energy-price forecasts, blended discount rates, and net and gross savings methodologies to calculate maximum achievable cost-effective energy-efficiency savings. The Commission approved the stipulation over Conservation Law Foundation's objections that it failed to use regional best practices, properly consider gross savings, and fund all cost-effective natural-gas efficiency measures.

PROCEDURAL HISTORY

Efficiency Maine Trust petitioned the Commission for approval of its Third Triennial Plan. After discovery, technical conferences, testimony, hearings, and settlement proceedings, the Commission approved a stipulation on July 6, 2016. Conservation Law Foundation timely appealed, challenging the Commission's interpretation and application of statutory requirements concerning electric and natural-gas energy-efficiency programs.

DISPOSITION

affirmed

CASES CITED

- Taylor v. Public Utilities Commission, 2016 ME 71, ¶ 5, 138 A.3d 1214
- Central Maine Power Co. v. Public Utilities Commission, 2014 ME 56, ¶ 18, 90 A.3d 451
- Office of the Public Advocate v. Public Utilities Commission, 2003 ME 23, ¶ 19, 816 A.2d 833
- Houlton Water Co. v. Public Utilities Commission, 2014 ME 38, ¶ 24, 87 A.3d 749
- Blue Yonder, LLC v. State Tax Assessor, 2011 ME 49, ¶ 10, 17 A.3d 667
- Competitive Energy Services, LLC v. Public Utilities Commission, 2003 ME 12, ¶ 18, 818 A.2d 1039
- Office of the Public Advocate v. Public Utilities Commission, 2015 ME 113, ¶ 15, 122 A.3d 959