

SUPREME COURT OF MONTANA

Gruba v. Montana Public Service Commission

2016 MT 131N (2016) · No. DA 15-0736 · Decided May 31, 2016

SUMMARY

The Montana Supreme Court affirmed dismissal of the appellants’ petition seeking interlocutory review of Montana Public Service Commission rulings concerning street-lighting tariff rates and related procedural matters. The Court held that the appellants failed to show that review of a final agency decision would not provide an adequate remedy under Section 2-4-701, MCA. The memorandum opinion was designated noncitable under the Montana Supreme Court’s Internal Operating Rules.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Jim Rice; Mike McGrath; Laurie McKinnon; Beth Baker; Patricia Cotter
JURISDICTION	Montana
DECIDED	May 31, 2016
DOCKET	DA 15-0736
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the First Judicial District Court's dismissal under Montana Rules of Civil Procedure 12(b)(1) and 12(b)(6) of a petition seeking review of Montana Public Service Commission actions, declaratory relief, compelled performance, and a temporary rate reduction.
STANDARD OF REVIEW	De novo review of the District Court's ruling on the Rule 12(b)(6) motion to dismiss; the appellants bore a heavy burden to show that review of a final agency decision would not provide an adequate remedy.
PRECEDENTIAL VALUE	Nonprecedential memorandum opinion; noncitable under Section I, Paragraph 3(c) of the Montana Supreme Court Internal Operating Rules.
PARTIES	James T. Gruba, Elizabeth Gruba, Leo G. Barsanti, Jeanne R. Barsanti v. Montana Public Service Commission

TOPICS

judicial review of agency action

interlocutory appeal

administrative law

motions to dismiss

appellate procedure

PRACTICE AREAS

administrative law

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the District Court erred by dismissing the petition seeking review of the Montana Public Service Commission's preliminary, procedural, or intermediate actions.
2. Whether the appellants established under section 2-4-701, MCA, that review of a final agency decision would not provide an adequate remedy, thereby permitting interlocutory judicial review.

HOLDINGS

1. Interlocutory judicial review under section 2-4-701, MCA, was not appropriate because the appellants failed to demonstrate that review of a final agency decision would not provide an adequate remedy.

KEY QUOTATIONS

“As a rule, “judicial review will generally only be available to a person aggrieved by a final agency decision.”” (¶ 3)

“A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy.” (¶ 3)

“Upon our de novo review, we find that the Appellants did not meet their burden to establish that such an interlocutory appeal is appropriate.” (¶ 5)

FACTUAL BACKGROUND

The appellants were plaintiffs in a proceeding alleging that Northwestern Energy charged unreasonable and unjustly discriminatory street-lighting tariff rates to Billings and Montana consumers. While the administrative proceeding remained ongoing, the Montana Public Service Commission denied several of the appellants' motions, including motions concerning class certification and amendment of testimony. The Commission had not issued a final ruling when the appellants sought judicial review and related relief in District Court.

PROCEDURAL HISTORY

The appellants challenged Northwestern Energy's street-lighting tariff rates in proceedings before the Montana Public Service Commission. After the Commission denied several motions, including motions concerning class certification and amendment of testimony, the appellants filed a petition in the First Judicial District Court. The District Court dismissed the petition and denied interlocutory review under section 2-4-701, MCA. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Williamson v. Mont. PSC, 2012 MT 32, 364 Mont. 128, 272 P.3d 71
- Wilson v. Dep't of Pub. Serv. Regulation, 260 Mont. 167, 172, 858 P.2d 368, 371 (1993)
- Kingsbury Ditch Co. v. Dep't of Natural Res. & Conservation, 223 Mont. 379, 382, 725 P.2d 1209, 1210 (1986)
- Doty v. Mont. Comm'r of Political Practices, 2007 MT 341, ¶ 9, 340 Mont. 276, 173 P.3d 700
- State v. Hall, 2006 MT 37, ¶ 10, 331 Mont. 171, 130 P.3d 601

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