SUPREME JUDICIAL COURT OF MAINE

UAH-Hydro Kennebec, L.P. v. Town of Winslow

2007 ME 65, 921 A.2d 146 · Decided March 1, 2007

SUMMARY

The Maine Supreme Judicial Court upheld the assessment of UAH-Hydro Kennebec's hydroelectric facility by the Town of Winslow. The court held that the purchase power agreement and the facility's status as a PURPA qualifying facility were relevant, inextricably intertwined value-influencing factors that could be considered in valuing the tangible property for ad valorem taxation. The assessment therefore did not constitute unjust discrimination or an illegal tax on intangible property.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Levy, J.; Alexander; Calkins; Clifford; Dana; Levy; Saufley; Silver
JURISDICTION	Maine
DECIDED	March 1, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	UAH appealed a Superior Court judgment affirming a decision of the State Board of Property Tax Review, which had upheld the Town of Winslow's assessment of UAH's hydroelectric power plant.
STANDARD OF REVIEW	The court reviewed the Board's decision directly for abuse of discretion, errors of law, and sufficient evidence. A taxpayer seeking an abatement must prove that the assessment was manifestly wrong.
PRECEDENTIAL VALUE	Published Maine Supreme Judicial Court opinion; precedential
PARTIES	UAH-Hydro Kennebec, L.P. v. Town of Winslow

TOPICS

property tax · tax · administrative law · judicial review of agency action · municipal law

PRACTICE AREAS

property taxation · municipal law · administrative law · utility regulation

QUESTIONS PRESENTED

1. Whether consideration of UAH's PURPA status and purchase power agreement in valuing its hydroelectric plant violated Maine's constitutional requirement of uniform property taxation and resulted in unjust discrimination.
2. Whether considering the value-influencing effects of the purchase power agreement in valuing the tangible hydroelectric plant constituted an illegal assessment of intangible property.
3. Whether the taxpayer proved that the assessment was manifestly wrong.

HOLDINGS

1. An assessor may consider the plant's PURPA qualifying-facility status and purchase power agreement as relevant factors in determining just value under the income method because those features distinguish the property from nonqualifying plants and reflect a presently possible, legally permissible use. Their consideration did not violate the principle of uniformity or constitute unjust discrimination.
2. Considering the purchase power agreement as an intangible feature in determining the just value of the tangible hydroelectric plant did not constitute an illegal assessment because the agreement was inextricably intertwined with the plant's current use and substantially influenced its value.
3. UAH failed to prove that the assessment was manifestly wrong because it did not establish substantial overvaluation, unjust discrimination, fraud, dishonesty, or illegality.

KEY QUOTATIONS

> *"Assessors may consider a broad range of value-influencing aspects of the property being assessed because section 701-A directs that when "determining just value, assessors must consider all relevant factors.""* (921 A.2d at 151)

> *"Because the PPA is a product of the plant's unique regulatory status as a qualifying facility under PURPA, the Board did not err in concluding that the PPA is inextricably intertwined with UAH's current use of its property."* (921 A.2d at 153)

FACTUAL BACKGROUND

UAH operated a 15.1-megawatt hydroelectric plant in Winslow under a twenty-year purchase power agreement with Central Maine Power entered into pursuant to PURPA. After deregulation caused the PPA rate to exceed open-market electricity prices, UAH retained the PPA while other qualifying facilities restructured or terminated theirs. Winslow assessed the property at $25 million, treating the plant as a PURPA qualifying facility with the PPA in place; UAH argued that the PPA was intangible property that could not be taxed and that valuation should reflect open-market electricity rates.

PROCEDURAL HISTORY

The Town assessor valued UAH's property as of April 1, 2000, at $25 million. UAH sought a tax abatement, appealed unsuccessfully to the State Board of Property Tax Review, and then obtained Superior Court review under Maine Rule of Civil Procedure 80C. The Superior Court affirmed the Board, and the Supreme Judicial Court of Maine affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- Fed. Energy Regulatory Comm'n v. Mississippi, 456 U.S. 742, 750-751, 102 S. Ct. 2126, 72 L. Ed. 2d 532 (1982)
- Ram's Head Partners, LLC v. Town of Cape Elizabeth, 2003 ME 131, 834 A.2d 916
- Yusem v. Town of Raymond, 2001 ME 61, 769 A.2d 865
- Cent. Me. Power Co. v. Town of Moscow, 649 A.2d 320, 322, 326 (Me. 1994)
- Town of Vienna v. Kokernak, 612 A.2d 870, 872 (Me. 1992)
- Erie Blvd. Hydropower, L.P. v. Town of Ephratah Bd. of Assessors, 9 A.D.3d 540, 779 N.Y.S.2d 634, 636 (N.Y. App. Div. 2004)
- Kittery Elec. Light Co. v. Assessors of Kittery, 219 A.2d 728, 734 (Me. 1966)
- Town of Sanford v. J & N Sanford Trust, 1997 ME 97, 694 A.2d 456
- Freeport-McMoran Res. Partners v. County of Lake, 12 Cal. App. 4th 634, 16 Cal. Rptr. 2d 428, 433-435 (1993)
- Goldstein v. Town of Georgetown, 1998 ME 261, 721 A.2d 180, 182
- Glenridge Development Co. v. City of Augusta, 662 A.2d 928, 931 (Me. 1995)
- Watson Cogeneration Co. v. County of Los Angeles, 98 Cal. App. 4th 1066, 120 Cal. Rptr. 2d 421, 424-425, 428 (2002)
- Turners Falls Ltd. P'ship v. Bd. of Assessors of Montague, 54 Mass. App. Ct. 732, 767 N.E.2d 629, 634-635 (2002)