

SUPREME COURT OF RHODE ISLAND

In re Providence Water Supply Board's Application to Change Rate Schedules

989 A.2d 110 (R.I. 2010) · No. No. 2007-378-M.P. · Decided February 25, 2010

SUMMARY

The Supreme Court of Rhode Island reviewed the Public Utilities Commission's denial of a proposed rate increase intended to reimburse the Providence Water Supply Board for retiree health-care expenses paid by the City of Providence. The court held that the requested recovery was barred by the prohibition against retroactive ratemaking and did not qualify for the statutory exception for documented loans or advances. The court also concluded that the utility failed to provide sufficient documentary evidence establishing the amount of the claimed expenses and affirmed the PUC's order.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Justice Goldberg; Chief Justice Suttell; Justice Flaherty; Justice Robinson
JURISDICTION	Rhode Island
DECIDED	February 25, 2010
DOCKET	No. 2007-378-M.P.
DISPOSITION	quashed
PROCEDURAL POSTURE	The City of Providence petitioned the Supreme Court of Rhode Island for a writ of certiorari under G.L. 1956 § 39-5-1 to review the Rhode Island Public Utilities Commission's order denying Providence Water Supply Board recovery through future rates of retiree health-care expenses paid by the city.
STANDARD OF REVIEW	Under G.L. 1956 § 39-5-3, factual findings of the PUC are prima facie true, and the Supreme Court does not exercise independent judgment or weigh conflicting evidence. A commission order will not be reversed unless the PUC exceeded its authority or acted illegally, arbitrarily, or unreasonably; in regulatory proceedings, review is limited to whether the findings are lawful and reasonable, supported by legal evidence, and sufficiently specific.
PRECEDENTIAL VALUE	Published opinion; precedential

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QUESTIONS PRESENTED

1. Whether the PUC properly denied the PWSB's request to recover historical retiree health-care expenses through future rates under the prohibition against retroactive ratemaking.
2. Whether the statutory exception in G.L. 1956 § 39-3-11.1(a) permitted the requested rate increase as reimbursement for a loan or advance of money made by the city to a municipal water utility.
3. Whether the PWSB satisfied its burden under G.L. 1956 § 39-3-12 to prove that the requested rate increase was necessary and supported by accurate, verifiable evidence.

HOLDINGS

1. The requested future rate increase constituted an attempt to recover past expenses and was barred by the general prohibition against retroactive ratemaking unless a statutory exception applied.
2. The exception in G.L. 1956 § 39-3-11.1(a) did not apply because the City of Providence failed to prove that the requested reimbursement represented repayment of a loan or advance of money made under an existing contract or arrangement, and failed to provide documentary evidence supporting the alleged indebtedness.
3. The PWSB failed to satisfy its statutory burden to prove that the requested rate increase was necessary and supported by actual, accurate, and verifiable evidence of the retiree health-care costs.

KEY QUOTATIONS

“The central principle is that ratemaking must be prospective and, although subject to narrow exceptions, the PUC may not engage in retroactive ratemaking that results in future payments for past expenses.” (at 115)

“Thus, in accordance with the plain meaning of the statute, whenever a municipality-owned water company is petitioning for a retroactive rate increase, as allowed by § 39-3-11.1, it must demonstrate to the PUC that there was an actual loan or advance to support the request; it must also demonstrate that the amount the petitioners seek to recoup is capable of proof by documentary evidence.” (at 117)

“Neither the PUC nor this Court is required to accept an extrapolation in place of the actual and verifiable proof necessary to sustain a general rate filing; nor will this Court substitute its own judgment for that of the PUC” (at 118)

FACTUAL BACKGROUND

From 1997 through 2005, the City of Providence paid a portion of the Providence Water Supply Board's retiree health-care costs but did not charge the PWSB for those expenses. After the omission was discovered, the PWSB included in a 2007 general rate filing a request to recover approximately \$1.489 million through future rates. The PWSB calculated the historical costs by starting with actual costs from 2004 and 2005 and extrapolating backward using annual working-rate increases, but the city had not separately tracked retiree costs before 2007 and could not verify the actual amounts paid from 1997 through 2005.

PROCEDURAL HISTORY

The Providence Water Supply Board filed a general rate application with the PUC in 2007, seeking, among other things, approximately \$1.489 million over six years to reimburse the City of Providence for retiree health-care expenses incurred from 1997 through 2005. The PUC denied the request, concluding that retroactive ratemaking barred recovery and, independently, that the amount was not adequately documented or verifiable. The City petitioned for certiorari, the writ issued, and the Supreme Court quashed the writ and affirmed the PUC's order.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The records certified to the Supreme Court are remanded to the PUC with the decision endorsed thereon; the PUC's order denying reimbursement remains affirmed.

CASES CITED

- Providence Water Supply Board v. Public Utilities Commission, 708 A.2d 537, 541 (R.I. 1998)
- Providence Water Supply Board v. Malachowski, 624 A.2d 305, 309 (R.I. 1993)
- In re Island Hi-Speed Ferry, LLC, 852 A.2d 524, 528 (R.I. 2004)
- Narragansett Electric Co. v. Burke, 415 A.2d 177, 178-79 (R.I. 1980)
- Providence Gas Co. v. Burke, 475 A.2d 193, 196 (R.I. 1984)
- O'Neil v. Malachowski, 604 A.2d 1268, 1269 (R.I. 1992)
- In re Woonsocket Water Department, 538 A.2d 1011, 1014-15 (R.I. 1988)
- Gem Plumbing & Heating Co. v. Rossi, 867 A.2d 796, 811 (R.I. 2005)
- Harvard Pilgrim Health Care of New England, Inc. v. Gelati, 865 A.2d 1028, 1037 (R.I. 2004)
- Audubon Society of Rhode Island v. Malachowski, 569 A.2d 1, 2-3 (R.I. 1990)

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