

INDIANA SUPREME COURT

Hamilton Southeastern Utilities, Inc. v. Indiana Utility Regulatory Commission

101 N.E.3d 229 (Ind. 2018) · No. 18S-EX-49 · Decided June 27, 2018

SUMMARY

The Indiana Supreme Court held that the Indiana Utility Regulatory Commission was a proper party to an appeal from its own utility-rate order. The court reversed the Court of Appeals' dismissal of the Commission and remanded to allow it to brief the exclusion of expenses related to an affiliated company. The court summarily affirmed the Court of Appeals' decision concerning the inclusion of shareholder-paid income taxes in the utility's rate calculation.

CASE DETAILS

COURT	Indiana Supreme Court
WRITING FOR THE COURT	Justice David; Chief Justice Rush; Justice Massa; Justice Slaughter; Justice Goff
JURISDICTION	Indiana
DECIDED	June 27, 2018
DOCKET	18S-EX-49
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Hamilton Southeastern Utilities appealed an Indiana Utility Regulatory Commission rate order. The Indiana Court of Appeals dismissed the Commission as a party to the appeal and otherwise ruled on the rate issues. The Indiana Supreme Court granted transfer and reviewed the Commission's status as an appellee, while summarily affirming the Court of Appeals' ruling on the income-tax issue.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Hamilton Southeastern Utilities, Inc. v. Indiana Utility Regulatory Commission, Indiana Office of Utility Consumer Counselor

TOPICS

judicial review of agency action

administrative law

appellate jurisdiction

appellate procedure

agency adjudication

PRACTICE AREAS

administrative law

utility regulation

appellate procedure

QUESTIONS PRESENTED

1. Whether the Indiana Utility Regulatory Commission is a proper party to an appeal from its own final order.
2. Whether the Commission's dismissal as a party required reversal of the Court of Appeals' ruling concerning SAMCO-related expenses.
3. Whether the Court of Appeals' determination allowing HSE to include shareholder-paid state and federal income taxes in its rate calculation should be affirmed.

HOLDINGS

1. The Commission is a proper party to an appeal from its own final order and may appear when it determines that its participation is necessary to defend the order.
2. The Court of Appeals' ruling concerning the exclusion of SAMCO-related expenses must be reversed because the Commission was not given an opportunity to defend its order; the matter must be remanded to permit the Commission to brief that issue.
3. The Court of Appeals' determination permitting HSE to include passed-through state and federal income-tax liability in its rates is summarily affirmed.

KEY QUOTATIONS

"We reverse the Court of Appeals' dismissal of the Commission as a party and now hold that the Commission was a proper party to the appeal." (at 8)

"The Commission's ability to determine when its participation is necessary to defend its orders on appeal promotes a more efficient appeals process and upholds a century of accepted practice in the courts." (at 7)

FACTUAL BACKGROUND

Hamilton Southeastern Utilities, Inc. is an Indiana public utility providing sewage services in Hamilton County. After operating costs increased and HSE's average rate of return fell substantially below the Commission-approved rate, HSE sought a rate increase. The Commission approved a smaller increase and excluded certain SAMCO-related expenses from HSE's rate calculation, while permitting HSE to recover income-tax liability passed through to its shareholders.

PROCEDURAL HISTORY

HSE petitioned the Commission for an 8.42% rate increase, later reducing its request to 6.27%; the Commission authorized a 1.17% increase. HSE appealed the Commission's order and initially named the Commission as an appellee, then moved to dismiss it. The Court of Appeals granted that motion, found the Commission had acted arbitrarily regarding certain SAMCO-related expenses, and resolved the remaining rate issues. The Indiana Supreme Court granted the Commission's and the Office of Utility Consumer Counselor's petitions to transfer,

vacated the Court of Appeals' opinion, reversed the dismissal of the Commission, and remanded for the Commission to brief the SAMCO-related-expense issue.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Court of Appeals' dismissal of the Indiana Utility Regulatory Commission as a party and remand to the Court of Appeals to permit the Commission an opportunity to brief the issue concerning the exclusion of SAMCO-related expenses. Summarily affirm the remainder of the Court of Appeals' opinion.

CASES CITED

- Hamilton Southeastern Utils., Inc. v. Ind. Util. Regulatory Comm'n, 85 N.E.3d 612, 617, 625 (Ind. Ct. App. 2017)
- Winfield v. Pub. Serv. Comm'n, 118 N.E. 531 (Ind. 1911)
- Kosciusko County Rural Electric Membership Corp. v. Pub. Serv. Comm'n, 77 N.E.2d 572 (Ind. Ct. App. 1948)
- Sizemore v. Public Service Comm'n, 177 N.E.2d 743 (Ind. Ct. App. 1961)
- Stucker Fork Conservancy Dist. v. Ind. Util. Regulatory Comm'n, 600 N.E.2d 955 (Ind. Ct. App. 1992)
- Nextel W., Corp. v. Ind. Util. Regulatory Comm'n, 831 N.E.2d 134 (Ind. Ct. App. 2005)
- Filter Specialists, Inc. v. Brooks, 879 N.E.2d 558, 570 (Ind. Ct. App. 2007), vacated in part and summarily affirmed in part, 906 N.E.2d 835, 845 (Ind. 2009)
- Pub. Serv. Comm'n v. City of Indianapolis, 131 N.E.2d 308 (Ind. 1956)
- N. Indiana Pub. Serv. Co. v. U.S. Steel Corp., 907 N.E.2d 1012, 1015 (Ind. 2009)

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