

SUPREME JUDICIAL COURT OF MASSACHUSETTS

City of Springfield v. Department of Telecommunications and Cable

457 Mass. 562 (2010) · No. SJC-10576 · Decided August 16, 2010

SUMMARY

The Supreme Judicial Court of Massachusetts reviewed a Department of Telecommunications and Cable order approving Comcast's basic service tier rates for subscribers in Springfield. The court held that federal law did not bar state judicial review because the appeal involved state-law questions concerning agency review and contract interpretation. Deferring to the department's technical expertise, the court upheld its interpretation of "pass through" as referring only to incremental franchise-related costs under the renewal license and affirmed the department's order.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
WRITING FOR THE COURT	Gants, J.; Marshall, C.J.; Ireland, J.; Spina, J.; Cowin, J.; Cordy, J.; Botsford, J.
JURISDICTION	Massachusetts
DECIDED	August 16, 2010
DOCKET	SJC-10576
DISPOSITION	affirmed
PROCEDURAL POSTURE	The city sought judicial review of the Department of Telecommunications and Cable's order approving Comcast's basic service tier cable rates. Comcast intervened and moved to dismiss for lack of jurisdiction. A single justice transferred the matter to the county court and reserved and reported it to the full Supreme Judicial Court without decision.
STANDARD OF REVIEW	Under G. L. c. 30A, § 14 (7), the court gives due weight to the agency's experience, technical competence, specialized knowledge, and discretionary authority. The appealing party bears a heavy burden to show that the agency order is invalid; factual findings supported by substantial evidence are upheld, while legal determinations are reviewed de novo.
PRECEDENTIAL VALUE	Published and precedential Massachusetts Supreme Judicial Court opinion

PARTIES

City of Springfield v. Department of Telecommunications and Cable

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administrative law

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Federal law and FCC regulations vested exclusive jurisdiction in the FCC over Springfield's appeal from the department's basic service tier rate order.
2. Whether the department reasonably and lawfully interpreted the renewal license's term "pass through" to prohibit only incremental increases in franchise-related costs, rather than the continued inclusion of embedded costs.
3. Whether Springfield's unpreserved constitutional, statutory-authority, and procedural challenges to the department's order and acceptance order should be considered on appeal.

HOLDINGS

1. Federal law did not preclude the Supreme Judicial Court from reviewing the department's rate order because Springfield's challenge turned on Massachusetts administrative-law and contract-interpretation principles, not on whether the department complied with the Cable Act or FCC regulations governing basic service tier rates.
2. The department correctly interpreted "pass through" in § 8.1(d) of the renewal license as referring to incremental increases in franchise-related costs resulting from new obligations under the renewal license; the provision did not require removal of franchise-related costs already embedded in the basic service tier rate.
3. The court would not consider Springfield's constitutional, statutory-authority, and procedural challenges because Springfield had not raised them before the department and the case presented no exceptional circumstances warranting review of unpreserved issues.

KEY QUOTATIONS

"These are questions of State law that do not implicate the relevant provisions of the Federal regulatory scheme or require us to determine whether the department 'has acted consistently with the Cable Act or §§ 76.922 and 76.923.'" (567)

"In light of the deference we give to the department's expertise and experience, particularly where this interpretive question arises under a complex statutory and regulatory framework, we conclude that the department's interpretation of the term 'pass through' in § 8.1(d) of the renewal license is soundly based in law and supported by substantial evidence." (572)

FACTUAL BACKGROUND

Springfield and Comcast's predecessor entered into a 1998 renewal cable television service license effective January 29, 2000, through January 28, 2010. Section 8.1(d) stated that specified public, educational, and governmental access and other license-related costs would not be passed through to subscribers. In a 2008 rate filing, Springfield argued that the provision barred Comcast from including any franchise-related costs in the basic service tier rate and sought rebates and prospective rate reductions. The department interpreted the provision to bar only incremental franchise-related cost increases associated with new renewal-license obligations, while permitting historically embedded costs to remain in the rate calculation.

PROCEDURAL HISTORY

The department issued a November 17, 2008, rate order interpreting the renewal license's restriction on passing through franchise-related costs as applying only to incremental costs arising from new renewal-license obligations, not historically embedded costs. The city filed for review in the Superior Court, and the case was transferred to the county court and reported to the full court. The Supreme Judicial Court rejected Comcast's jurisdictional argument, reached the merits, and affirmed the department's order.

DISPOSITION

affirmed

CASES CITED

- Chicago v. Comcast Cable Holdings, LLC, 384 F.3d 901, 905 (7th Cir. 2004)
- Raytheon Co. v. Director of the Division of Employment Security, 364 Mass. 593, 595 (1973)
- Massachusetts Institute of Technology v. Department of Public Utilities, 425 Mass. 856, 867 (1997)
- General Convention of the New Jerusalem in the U.S., Inc. v. MacKenzie, 449 Mass. 832, 835-836 (2007)
- Pennsylvania Railroad v. Day, 360 U.S. 548, 553 (1959)
- Davis v. Dawson, Inc., 15 F. Supp. 2d 64, 109 (D. Mass. 1998)
- Woogmaster v. Liverpool & London & Globe Insurance Co., 312 Mass. 479, 481 (1942)
- Lodge Corp. v. Assurance Co. of America, 56 Mass. App. Ct. 195, 197 (2002)
- MCI Telecommunications Corp. v. Department of Telecommunications & Energy, 435 Mass. 144, 150-151 (2001)
- Massachusetts Electric Co. v. Department of Public Utilities, 383 Mass. 675, 679 (1981)
- Hingham v. Department of Telecommunications and Energy, 433 Mass. 198, 215-216 (2001)
- Albert v. Municipal Court of Boston, 388 Mass. 491, 493-494 (1983)
- Hormel v. Helvering, 312 U.S. 552, 557 (1941)