

SUPREME COURT OF LOUISIANA

Entergy Louisiana, Inc. v. Louisiana Public Service Commission

815 So. 2d 27 (La. 2002) · Decided April 3, 2002

SUMMARY

The Louisiana Supreme Court reviewed an Entergy Louisiana challenge to a Louisiana Public Service Commission order disallowing certain reserve-equalization payments associated with generating units in extended reserve shutdown. The court held that federal law and the filed-rate doctrine did not preempt the Commission from assessing the prudence of Entergy Louisiana’s decision to continue treating those units as available for retail ratemaking purposes. The court affirmed the Commission’s order and concluded that it was not arbitrary, capricious, or clearly erroneous.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Johnson, Justice; Johnson; Kimball; Lobrano; Reasons; Traylor
JURISDICTION	Louisiana
DECIDED	April 3, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	Entergy Louisiana sought judicial review of a Louisiana Public Service Commission order in the Nineteenth Judicial District Court for East Baton Rouge Parish. After the district court upheld the order, Entergy appealed directly to the Supreme Court of Louisiana.
STANDARD OF REVIEW	LPSC orders receive great weight and will not be overturned absent arbitrariness, capriciousness, abuse of authority, lack of record support, or clear error. Courts should be reluctant to substitute their judgment for that of the Commission in rate-making matters.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; precedential
PARTIES	Entergy Louisiana, Inc. v. Louisiana Public Service Commission

TOPICS

- judicial review of agency action
- administrative law
- preemption
- federalism
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether federal law and the filed-rate doctrine preempted the LPSC from assessing the prudence of Entergy Louisiana's decision to continue including ERS units in MSS-1 calculations after August 5, 1997.
2. Whether the LPSC's determination that Entergy Louisiana acted imprudently was arbitrary, capricious, clearly erroneous, or unsupported by the record.

HOLDINGS

1. The LPSC was not precluded by federal law or the filed-rate doctrine from assessing the prudence of Entergy Louisiana's decision to continue including ERS units in its MSS-1 payment calculations after the effective date of the FERC-approved amendment.
2. The LPSC's determination that Entergy Louisiana acted imprudently by continuing to include the ERS units without adequately evaluating the costs and benefits of returning them to service was supported by the record and was not arbitrary, capricious, or clearly erroneous.

KEY QUOTATIONS

“For these reasons, we hold that the LPSC is not precluded from assessing the prudence of ELI’s decision to continue to include the ERS units in its calculations for MSS-1 payments.” (815 So. 2d at 38)

“Accordingly, we find that the LPSC’s finding that ELI acted imprudently by failing to minimize its costs was not arbitrary or capricious and was supported by the evidence.” (815 So. 2d at 39)

FACTUAL BACKGROUND

Entergy Louisiana participated in an interstate electric system governed by a FERC-approved System Agreement and Service Schedule MSS-1, under which operating companies made payments to equalize reserve capacity. Entergy included generating units in extended reserve shutdown status in its MSS-1 capability calculations even though the units were inactive and unavailable for customer service, increasing Entergy Louisiana's payments and the retail costs passed to Louisiana customers. After FERC amended the System Agreement to permit certain ERS units to be treated as available, the LPSC found that Entergy had not adequately evaluated the costs, benefits, resource needs, or return-to-service prospects required by the amendment and had acted imprudently by continuing the treatment.

PROCEDURAL HISTORY

The LPSC ordered Entergy Louisiana to remove post-August 5, 1997 MSS-1 overpayments associated with extended-reserve-shutdown generating units from its cost-of-service calculations and credit those amounts to ratepayers. The district court found the LPSC's action neither arbitrary nor capricious and within its constitutional and statutory authority, and upheld the order. The Supreme Court of Louisiana affirmed.

DISPOSITION

affirmed

CASES CITED

- Entergy Services, Inc. and Gulf States Utility Company, Initial Decision, 70 FERC ¶ 63,018 (1995)
- Entergy Services, Inc. and Gulf States Utilities Company, Opinion No. 415, 80 FERC ¶ 61,197 (1997)
- Entergy Services, Inc. and Gulf States Utilities Company, FERC Order No. 415-A (1998)
- Entergy Gulf States, Inc. v. Louisiana Public Service Commission, 766 So. 2d 521 (La. 2000)
- Entergy Gulf States, Inc. v. Louisiana Public Service Commission, 730 So. 2d 890 (La. 1999)
- Entergy Gulf States, Inc. v. Louisiana Public Service Commission, 726 So. 2d 870 (La. 1999)
- Gulf States Utilities Co. v. Louisiana Public Service Commission, 676 So. 2d 571 (La. 1996)
- Central Louisiana Electric Co. v. Louisiana Public Service Commission, 508 So. 2d 1361 (La. 1987)
- Dixie Electric Membership Corp. v. Louisiana Public Service Commission, 441 So. 2d 1208 (La. 1983)
- Montana-Dakota Utilities Co. v. Northwestern Public Service Co., 341 U.S. 246 (1951)
- Nantahala Power & Light Co. v. Thornburg, 476 U.S. 953 (1986)
- Pike County Light & Power Co. v. Pennsylvania Public Utility Commission, 465 A.2d 785 (Pa. Commw. Ct. 1983)
- New Orleans Public Service, Inc. v. Council of the City of New Orleans, 491 U.S. 350 (1989)
- New Orleans Public Service, Inc. v. Council of the City of New Orleans, 911 F.2d 993 (5th Cir. 1990)