

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - RHODE ISLAND**

### **Portsmouth Water and Fire District v. Rhode Island Public Utilities Commission**

**Supreme Court of Rhode Island - December 6, 2016 - A.3d - 2016 WL 7105876**

Water district petitioned for writ of certiorari, challenging order of Public Utilities Commission finding that net-cost savings realized by city water utility were available to city water utility to reduce its payables to city, and further recognizing that savings city water utility realized through specific types of efficiencies were a means for city water district to commence required repayment of debt city water utility owed to city.

The Supreme Court of Rhode Island vacated the Commission's order and remanded for more specific findings of fact. On remand, the Commission entered an order identifying, inter alia, specific areas of savings and reductions in reference to efficiencies and certain excess revenues city water utility could use to repay debt to city. Water district petitioned for writ of certiorari, challenging Commission's remand order.

The Supreme Court of Rhode Island held that:

- Commission complied with Supreme Court's remand order directing Commission to make more specific findings of fact; and
- Commission lawfully and reasonably defined "efficiencies"; but
- Commission's order on remand ruling that city water utility could use certain excess revenues to repay certain debts owed to city exceeded scope of remand order.

Public Utilities Commission complied with Supreme Court's remand order directing Commission to make more specific findings of fact to support Commission's conclusion that city water utility complied with Commission's initial order permitting water utility to use savings realized from efficiencies to pay down accounts payable balance water utility owed to city, since, in order on remand, Commission clearly identified 12 areas in which water utility realized savings through efficiencies and quantified total amount saved, and even though Commission did not provide detailed itemization of savings that water utility achieved or create line item that corresponded to each efficiency identified, Court did not require such degree of specificity.

Public Utilities Commission lawfully and reasonably defined, identified, and quantified "efficiencies," following Supreme Court's remand order directing Commission to make more specific findings of fact to support Commission's conclusion that city water utility complied with Commission's initial order permitting water utility to use savings realized from efficiencies to pay down accounts payable balance water utility owed to city. In making definition, Commission gave examples of what it deemed to be efficiencies, and instead of looking only at specific items that created savings, Commission considered totality of water utility's operations.

Public Utilities Commission's order on remand ruling that city water utility could use certain excess revenues to repay certain debts owed to city exceeded scope of Supreme Court's remand order,

since remand order limited Commission to making more specific findings of fact to support its conclusion that water utility complied with Commission's initial order permitting water utility to use savings realized from efficiencies to pay down accounts payable, and initial order was silent on whether excess revenues could be used to reduce the debts water utility owed to city.