
PUBLIC UTILITIES - MAINE

NECEC Transmission LLC v. Bureau of Parks and Lands

Supreme Judicial Court of Maine - August 30, 2022 - A.3d - 2022 WL 3723172 - 2022 ME 48

Owner of renewable energy project, which involved construction of high-voltage direct current (HVDC) transmission line from Canada to New England, brought declaratory judgment action seeking to permanently block retroactive application of ballot initiative that imposed a geographic ban on construction of high-impact electric transmission lines in the state and that required a two-thirds approval from legislature for any similar project on public lands.

The Business and Consumer Court denied owner's motion for preliminary injunction and reported the interlocutory ruling for review.

The Supreme Judicial Court held that retroactive application of ballot initiative could violate due process thus warranting a preliminary injunction.

Retroactive application of ballot initiative that imposed a geographic ban on construction of high-impact electric transmission lines in the state, and that required a two-thirds approval from legislature for any similar project on public lands, would violate due process clause of the State Constitution if owner of renewable energy project undertook substantial construction consistent with and in good-faith reliance on its previously-issued public convenience and necessity (CPCN) for the project, which involved the construction of high-voltage direct current (HVDC) transmission line from Canada into New England, and thus owner was entitled to a preliminary injunction in its declaratory judgment action seeking to permanently block retroactive application of ballot initiative.

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