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PUBLIC UTILITIES - CALIFORNIA

Golden State Water Company v. Public Utilities Commission

Supreme Court of California - July 8, 2024 - P.3d - 2024 WL 3321648

Class A water utilities and an association that represented investor-owned water utilities' interests petitioned for writs of review to have set aside the Public Utilities Commission's order 2020 WL 5407872, as modified by 2021 WL 4627678, that, among other things, did away with a water-conservation mechanism allowed certain water companies to structure their rates in a way that decoupled revenue from the amount of water sold.

After issuing the writs of review, the Supreme Court consolidated the cases.

The Supreme Court held that:

- Enactment of new legislation concerning conservation-related decoupling mechanisms did not render the case moot;
- Commission did not give adequate notice that it would consider elimination of the water-conservation mechanism; and
- Assuming that a showing of prejudice was required in order to set aside the Commission's order due to lack of adequate notice, petitioners demonstrated such prejudice.

Enactment of new legislation concerning conservation-related decoupling mechanisms did not render moot petitions for review that were filed by Class A water utilities and an association representing investor-owned water utilities' interests and that sought the setting aside of Public Utilities Commission's order that did away with a water-conservation mechanism allowed certain water companies to structure their rates in a way that decoupled revenue from the amount of water sold; new legislation referred only to consideration of a mechanism for decoupling revenue from sales, and the statute's requirement that the Commission consider authorizing such a mechanism was not necessarily equivalent to what the petitioners were asking for.

Public Utilities Commission did not give adequate notice that it would consider elimination of a water-conservation mechanism allowed certain water companies to structure their rates in a way that decoupled revenue from the amount of water sold, as would warrant setting aside Commission's order eliminating the mechanism; the scoping memos covered a forecasting issue that did not fairly include the possibility that the Commission would order petitioners not to propose continuing existing water-conservation mechanisms.

Class A water utilities and an association that represented investor-owned water utilities' interests were prejudiced by failure of Public Utilities Commission's scoping memos to cover the possible elimination of a water-conservation mechanism allowed certain water companies to structure their rates in a way that decoupled revenue from the amount of water sold, as would warrant, assuming that a showing of prejudice was even required, setting aside Commission's order eliminating the mechanism; the lack of notice of the possible elimination of the mechanism deprived petitioners of an adequate opportunity to present their case for preserving the mechanism.

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