

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2022-00222

October 18, 2022

MAINE PUBLIC UTILITIES COMMISSION
Repeal of Chapter 886, Energy
Infrastructure Corridors

ORDER REPEALING RULE

BARTLETT, Chair; DAVIS and SCULLY, Commissioners

I. SUMMARY

By this Order, the Commission repeals Chapter 886 of the Commission's Rules (65-407 C.M.R. ch. 886), which governs the designation and use of energy infrastructure corridors, because the Commission no longer regulates these matters.

II. BACKGROUND

In 2008, the Legislature enacted P.L. 2007, ch. 656, An Act to Protect Maine's Energy Sovereignty through the Designation of Energy Infrastructure Corridors and Energy Plan Development (codified at 35-A M.R.S. § 122) (the Act). Part A of the Act authorizes the Commission to designate "energy infrastructure corridors" and to issue certificates for the development of energy infrastructure within the designated corridors. The Act directed the Commission to conduct rulemaking proceedings to adopt standards and procedures for the designation of energy infrastructure corridors and the development of infrastructure within those corridors and to adopt procedures to govern requests by utilities and developers for exemptions from municipal ordinances or Land Use Regulation Commission regulations.

On August 19, 2008, the Commission issued a Notice of Rulemaking (NOR) and proposed rule 886. On November 12, 2008, the Commission promulgated Chapter 886 which set out standards and procedures to implement the Act.

On July 30, 2015, the Act was repealed by operation of law.¹ Thus the Commission's no longer possesses the statutory authority to regulate energy infrastructure corridors under existing State law.

III. DISCUSSION AND DECISION

On August 15, 2022, the Commission issued a Notice of Rulemaking (Notice) by which the Commission proposed to repeal Chapter 886 in its entirety. In the Notice, the

¹ The Act included a "sunset" clause (35-A M.R.S. § 122(10)) which would repeal Part A of the Act on July 30, 2011. However, on April 15, 2010, the Legislature enacted P.L. 2009, ch. 655, An Act Regarding Energy Infrastructure Development, which formally extended the repeal of Part A to July 30, 2015.

Commission set an August 31, 2022 deadline for interested persons to request a public hearing in this matter. The Commission did not receive any public hearing requests. Additionally, the Commission in the Notice set a September 30, 2022 deadline for interested persons to file comments regarding the proposed repeal of Chapter 886. The Commission did not receive any comments.

Given the above, and because the Commission's no longer possesses the statutory authority to regulate energy infrastructure corridors under existing State law, the Commission hereby repeals Chapter 886 in its entirety.

IV. ORDERING PARAGRAPHS

In light of the foregoing, the Commission

O R D E R S

1. That Chapter 886 of the Commission's Rules (65-407 C.M.R. ch. 886) is repealed; and
2. That the Administrative Director shall notify the following of the repeal of this Rule:
 - a. All electric utilities in the State;
 - b. All persons who have filed with the Commission within the past year a written request for notices of rulemakings;
 - c. The Secretary of State; and
 - d. Executive Director of the Legislative Council.

Dated at Hallowell, Maine, this Eighteenth Day of October, 2022

BY ORDER OF THE COMMISSION

/s/ Harry Lanphear

Harry Lanphear
Administrative Director

COMMISSIONERS VOTING FOR: Bartlett
Davis

COMMISSIONER ABSENT: Scully

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 9061 requires the Public Utilities Commission to give each party at the conclusion of an adjudicatory proceeding written notice of the party's rights to seek review of or to appeal the Commission's decision. The methods of review or appeal of Commission decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 11(D) of the Commission's Rules of Practice and Procedure (65-407 C.M.R. ch. 110) within **20** days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within **20** days from the date of filing is denied.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S. § 1320(5).

Pursuant to 5 M.R.S. § 8058 and 35-A M.R.S. § 1320(6), review of Commission Rules is subject to the jurisdiction of the Superior Court.

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.