

NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC

v.

PUBLIC UTILITIES COMMISSION et al.

Argued April 6, 2016
Decided April 14, 2016

Panel: ALEXANDER, MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Northern New England Telephone Operations LLC, d/b/a FairPoint Communications—NNE, appeals from an order of the Public Utilities Commission affirming the Rapid Response Process Team’s (RRPT) finding that FairPoint owes Biddeford Internet Corporation, d/b/a Great Works Internet (GWI), a credit of \$352,434. The credit relates to fees that GWI pays FairPoint pursuant to the companies’ interconnection agreement.

We decline to address FairPoint’s argument that the RRPT violated its due process rights because that issue was not timely raised. *See Dillon v. Select Portfolio Servicing*, 630 F.3d 75, 80 (1st Cir. 2011); *Antler’s Inn & Rest., LLC v. Dep’t of Pub. Safety*, 2012 ME 143, ¶ 9 & n.2, 60 A.3d 1248. Additionally, as to the RRPT’s determination of GWI’s account balance, we cannot conclude—under any standard of review applicable to factual findings—that the determination was erroneous. *Compare City of Portland v. Pub. Utils. Comm’n*, 656 A.2d 1217, 1221 (Me. 1995) (explaining that when a utility that had the burden of proof before the Commission challenges the Commission’s factual findings, we will reverse on appeal “only if the record compels a contrary conclusion”), *with Am. Ass’n of Retired Pers. v. Pub. Utils. Comm’n*, 678 A.2d 1025, 1030 (Me. 1996) (stating, in a

case where the appellant did not have the burden of proof before the Commission, that our review of the Commission’s factual findings was limited to whether those findings were “supported by substantial evidence in the record”).

The entry is:

Order of the Public Utilities Commission affirmed.

On the briefs:

Catherine R. Connors, Esq., and Noland L. Reichl, Esq., Pierce Atwood LLP, Portland, and Sarah Davis, Esq., FairPoint Communications, Portland, for appellant Northern New England Telephone Operations LLC

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Frederick S. Samp, Esq., Great Works Internet, Biddeford, for appellee Biddeford Internet Corporation

At oral argument:

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Frederick S. Samp, Esq., for appellee Biddeford Internet Corporation d/b/a Great Works Internet