



Administrative Office of the Courts

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Supreme Court affirms contempt order against New Mexico's tax agency

SANTA FE – The state Supreme Court today affirmed a judge's decision to hold the state Department of Taxation and Revenue in contempt for failing to comply with an order in 2015 concerning a property tax dispute over two high-voltage electrical transmission lines in Harding County.

In a unanimous decision, the Court also upheld the district court's award of \$38,430 in attorney fees and legal costs to the Harding County Board of Commissioners and public school boards in Roy and Mosquero for seeking to enforce the court's order in the tax case and as a sanction against the department.

"We cannot say the district court's award of costs and fees was unreasonable as a matter of law where sufficient evidence was presented to support the award and where the district court specifically found the award was reasonable," the Supreme Court wrote in an opinion by Justice David K. Thomson.

The transmission lines were built by Tri-State Generation and Transmission Association to supply power to oil company plants that process carbon dioxide in Harding County. Tri-State, a wholesale electric supplier owned by the cooperatives and power district it serves, transferred ownership of the power lines at no cost to the Springer Electric Cooperative, Inc.

In 2015, the county and school district filed a lawsuit asking the First Judicial District Court to order the department to establish the value of the power lines for property tax purposes. Without the valuation, Harding County could not assess, impose and collect taxes on the property.

The district court determined the power lines were taxable and ordered the department to complete the valuation process. The department later certified to the court that it had complied with the court's directive because an administrative hearing officer had resolved tax protests involving one of the power lines and determined it had no value for tax purposes, having been acquired by the electric co-op at no cost. The department certified that the other power line also had no value for tax purposes.

The county and school districts went back to the district court and argued that the department had not complied with the court's original order. The court agreed and in 2016 found the department in contempt, awarding costs and fees to the county and schools.

The department appealed to the Court of Appeals, which upheld the contempt finding and award of costs and fees. The appeals court declined to consider the legal merits of the district court's peremptory writ of mandamus, which ordered the department to establish a tax valuation for the power lines, because the state agency missed the deadline for filing an appeal of that order.

The Supreme Court affirmed the Court of Appeals.

“Because the Department admittedly failed to act in accordance with the dictates of the law after the district court ordered the Department to act and after the Department was given notice and an opportunity to be heard, we cannot say that the district court abused its discretion to hold the Department in contempt,” the Supreme Court wrote.

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To read the decision in *Board of County Commissioners, Harding County, v. N.M. Tax and Revenue Dept.*, No. S-1-SC-37803, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/491870/index.do>