MAINE SUPREME JUDICIAL COURT Reporter of Decisions
Decision: 2026 ME 98
Docket: PUC-25-51
Argued: January 7, 2026
Decided: September 17, 2026

Panel: STANFILL, C.J., and MEAD, LAWRENCE, and DOUGLAS, JJ., and HORTON, A.R.J.

BERWICK SOLAR, LLC

v.

PUBLIC UTILITIES COMMISSION et al.

LAWRENCE, J.

[¶1] Berwick Solar, LLC, appeals from an order of the Public Utilities Commission dismissing its complaint against Central Maine Power Company (CMP) alleging that CMP issued final reconciliation statements outside the time periods established in both 65-407 C.M.R. ch. 324, § 15(J) (effective Nov. 20, 2023)[1] and the standard-form Interconnection Agreement (IA) that Berwick Solar and CMP entered into under Chapter 324. *See* 65-407 C.M.R. ch. 324, § 4(A). We affirm.

[1] As noted by the Commission in its briefing, none of the parties argue that anything besides the current version of Chapter 324 (effective Nov. 2023) should apply despite Berwick Solar and CMP entering the IA on March 6, 2020. The Commission applied the current version in the order on appeal here. Although the version of Chapter 324 provided by Berwick Solar in the appendix in this case was effective January 9, 2022, we cite the current version of Chapter 324.

I. BACKGROUND

[¶2] The following facts and procedural background are drawn from the administrative record and the Commission's order dated January 15, 2025. *See, e.g.*, *Off. of the Pub. Advoc. v. Pub. Utils. Comm'n*, 2023 ME 77, ¶ 2, 306 A.3d 633.

[¶3] On March 6, 2020, Berwick Solar and CMP entered into the IA pursuant to 65-407 C.M.R. ch. 324, § 4(A), which provides the method by which small electric power generators may interconnect with electrical transmission and distribution systems. *See* 65-407 C.M.R. ch. 324, §§ 1-18. The IA was for Berwick Solar's photovoltaic generation facility. It estimated total interconnection costs of $65,522 plus SCADA[2] costs. Those amounts were based on a feasibility/impact final report dated January 29, 2020. Berwick Solar chose not to obtain a facilities study, which would have provided more detail of the cost of system modifications necessary to connect Berwick Solar's project to CMP's electric distribution system. Berwick Solar paid to CMP the estimated cost in the IA in advance of CMP completing the connection to CMP's

[2] Although not defined in the record for this matter, we understand that in the utilities field "SCADA" is an acronym that stands for Supervisory Control and Data Acquisition. *See Portland Cellular P'ship v. Town of Cape Elizabeth*, 139 F. Supp. 3d. 479, 482 (D. Me. 2015).

electric distribution system. The project was operational in May 2021, and CMP sent Berwick Solar a certification of completion on May 5, 2021.

[¶4] On February 24, 2022, CMP sent Berwick Solar a reconciliation statement pursuant to 65-407 C.M.R. ch. 324, § 15(J) and article 5.1.2 of the IA, seeking $45,502.73 in additional interconnection costs. Upon receiving the statement, Berwick Solar asserted that the statement was time-barred under article 5.1.2 of the IA because CMP failed to issue the statement within ninety days of completing the construction and installation of the interconnection facilities and upgrades.[3] In response, CMP pointed Berwick Solar to the default provision found in article 6.6 of the IA[4] and stated that Berwick Solar had the

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[3] Chapter 324 § 15(J) provides for a sixty-day period for a transmission and distribution utility to issue a final reconciliation statement of actual costs, but article 5.1.2 of the IA contains a ninety-day period. There is no dispute between the parties that CMP did not issue the final reconciliation statement within either of the time periods and, as discussed *infra* ¶¶ 13-16, we reach the same conclusion under both Chapter 324 and the IA.

[4] Article 6.6 of the IA, "Default" provides,

> 6.61 No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of a Force Majeure Event as defined in this Agreement, or the result of an act or omission of the other Party. Upon a Default, the non-defaulting Party shall give written notice of such Default to the defaulting Party. Except as provided in Article 6.6.2, the defaulting Party shall have sixty calendar days from receipt of the Default notice within which to cure such Default; provided however, if such Default is not capable of cure within sixty calendar days, the defaulting Party shall commence such cure within twenty calendar days after notice and continuously and diligently complete such cure within six months from receipt of the Default notice; and, if cured within such time, the Default specified in such notice shall cease to exist.
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> 6.6.2 If a Default is not cured as provided for in this Article, or if a Default is not capable of being cured within the period provided for herein, the non-defaulting Party

right to notify CMP of a default, including a failure to timely provide the final cost reconciliation statements. CMP also asserted that because CMP had already provided the reconciliation statement, there was no longer any default to cure, and Berwick Solar was required to pay the costs within thirty calendar days of receiving the statement.

[¶5] On January 16, 2023, CMP issued a second cost reconciliation statement, this time seeking $27,655.83—a reduction from the February 2022 reconciliation statement. Finally, on May 19, 2023, CMP issued a third, lower cost reconciliation statement, this time seeking $23,655.83. Berwick Solar maintained its position that the statements were time-barred. It also asserted that the reconciliation statements lacked the necessary written explanation of the significant variation between the statements. Berwick Solar made specific requests in May 2023 for supporting information to explain the costs. CMP responded in June 2023 that it was working on putting together responses to the requests for information, but at the time of the hearing CMP had not responded.

> shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article will survive termination of this Agreement.

[¶6] CMP and Berwick Solar had no further contact until April 2024 when CMP sent Berwick Solar a notice of default for nonpayment of $27,655.93. CMP stated that it would regard the claim of default as "on pause" until the impending dispute-resolution process concluded. Berwick Solar and CMP followed the informal dispute-resolution procedure in July 2024, *see* 65-407 C.M.R. ch. 324, § 17(A)-(B), but could not resolve the dispute. Berwick Solar requested that the dispute proceed to the formal adjudication process established by 65-407 C.M.R. ch. 324, § 17(C).[5]

[¶7] Following the submission of pre-filed testimony from Berwick Solar and briefs from Berwick Solar and CMP, the Commission held a contested hearing in August 2024. On November 8, 2024, the hearing examiners issued a report recommending that the Commission dismiss Berwick Solar's complaint. On November 22, 2024, CMP filed comments in support of the hearing examiners' report, and Berwick Solar filed exceptions to the report.

[¶8] The Commission dismissed Berwick Solar's complaint in an order dated January 15, 2025. In its order, the Commission concluded that nothing in Chapter 324 or the IA allows it to release Berwick Solar from its obligation to

[5] Section 17(C) provides that if the parties cannot resolve a dispute under the informal process, "then either Party may send written notice to Commission Staff requesting an adjudicatory proceeding." Article 8 of the IA incorporates the dispute-resolution process contained in Chapter 324.

pay the actual construction costs for the interconnection of its project. It determined that section 3 of Chapter 324 is explicit that interconnection customers, like Berwick Solar, are required to pay the actual interconnection costs. *See* 65-407 C.M.R. ch. 324, § 3(A). The Commission explained that Berwick Solar's project had been operating for more than three years without paying the actual costs and that CMP's invoices for Berwick Solar's actual costs have decreased over time, leading the Commission to believe that Berwick Solar may have been charged a higher amount if the invoice had been issued within the ninety-day period. Despite concluding that Berwick Solar was not relieved of its obligation, the Commission noted that it was concerned that CMP did not notify Berwick Solar of the delay in sending a reconciliation statement and that CMP did not provide an explanation of why it did not communicate with Berwick Solar before the expiration of the ninety-day period. Nevertheless, the Commission found that the delay in issuing the reconciliation statement was based on CMP's good-faith effort to reduce costs for developers. The Commission also found that Berwick Solar was not prejudiced by the delay in receiving the reconciliation statement because it had the option to notify CMP that it was in default of the IA and to require CMP to cure the default, but, once CMP provided the statements, there was no longer anything to cure. Further, the Commission found that Berwick Solar did not have a reasonable expectation that the estimated cost contained in the IA was the full and final cost identified in Exhibit 6 of the IA.[6]

[¶9] As to Berwick Solar's challenge regarding the information CMP was required to provide in support of the multiple reconciliation statements it provided, the Commission concluded that no part of Chapter 324 required CMP to provide Berwick Solar with actual purchase orders or invoices related to contractor services. It did, however, find that CMP had not explained why the notice of default for nonpayment indicated that $27,655.83 was the amount owed by Berwick Solar instead of the $23,655.83 contained in the third statement, and it advised that CMP should send Berwick Solar a statement for the corrected, lower amount. In a footnote, the Commission declined to address Berwick Solar's argument with respect to the appropriateness of assessing a share of CMP's "pooled costs" incurred for all small generators because it was not necessary to decide the current dispute, but it did note that the pooled-costs approach resulted in reduced costs for Berwick Solar.

[6] Exhibit 6 contained an estimate of $65,522 and further provided, "[T]he Customer shall be responsible for all costs of such electrical system modifications, even if they are in excess of [the estimate], plus twenty-five percent."

[¶10] Neither party filed any further requests with the Commission after the Commission issued its order.[7] (*See* A. 3.) Berwick Solar timely filed a notice of appeal. *See* 35-A M.R.S. § 1320 (2026); M.R. App. P. 2B(c)(1), 22.

II. DISCUSSION

[¶11] The issues here revolve around the interpretation of Chapter 324 and the standard-form IA that CMP and Berwick Solar were required to use when contracting for the interconnection of Berwick Solar's project to CMP's electric distribution system. 65-407 C.M.R. ch. 324, § 4(A) ("Standard forms adopted by order of the Maine Public Utilities Commission shall be used for all . . . Interconnection Agreements."). The IA also provides that "[t]he validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of Maine . . . . This Agreement is subject to all Applicable Laws and Regulations." Consistent with fundamental principles of contract law, we interpret Chapter 324 to be part of the form agreement at issue here because regulations "governing the subject matter of a contract must under normal circumstances be read as a constituent part thereof." *Wescott v. Allstate Ins.*, 397 A.2d 156, 166 (Me. 1979); *see also Rehart*

[7] Berwick Solar did not petition to change, modify, or reconsider any part of the Commission's order despite its ability to do so within twenty days of the order being issued. *See* 65-407 C.M.R. ch. 110, § 11(D) (effective Nov. 26, 2012).

v. Clark, 448 F.2d 170, 173 (9th Cir. 1971) (stating that valid regulations have the force and effect of laws of general application and "are read into contracts in order to fix the rights and obligations of the parties"); 11 Richard A. Lord, *Williston on Contracts* § 30:19 (4th ed. 2012) (stating that valid laws, including regulations, "existing at the time of the making of a contract enter into and form a part of the contract as fully as if expressly incorporated in the contract"). Chapter 324, which both requires an IA and constitutes part of it, governs this dispute.

A. Berwick Solar is not relieved of its obligation to pay CMP the actual cost of construction for the interconnection of its project.

[¶12] "On appeal, the party challenging the [Commission's] decision has the burden of showing that the agency's action was arbitrary or based on an error of law." *Cent. Me. Power Co. v. Pub. Utils. Comm'n*, 2014 ME 56, ¶ 19, 90 A.3d 451 (quotation marks omitted). When the challenge to the Commission's order involves its interpretation of a regulation, we employ a two-step inquiry. *Off. of the Pub. Advoc. v. Pub. Utils. Comm'n*, 2024 ME 11, ¶ 12, 314 A.3d 116. "First, we determine de novo whether the rule is reasonably susceptible of different interpretations and therefore ambiguous. If the language is clear, we apply the regulation's plain language. If the language is ambiguous, we review the Commission's construction of the ambiguous rule for reasonableness and defer to the Commission's interpretation unless the rule plainly compels a contrary result."[8] *Id*. (alterations, citations, and quotation marks omitted); *accord Cent. Me. Power Co.*, 2014 ME 56, ¶¶ 18-19, 90 A.3d 451.

[¶13] The crux of this dispute involves two sections of Chapter 324: section 15(J) and section 3(A). Section 15(J) provides that

> [w]ithin sixty (60) Business Days after issuance of the later of (i) T & D Utility's formal Notice of Approved Operation, or (ii) submittal of final as-built drawings to the T & D Utility, the T & D Utility shall prepare and submit to the Applicant a final reconciliation statement of its actual costs less any Payment of System Modifications made by the Applicant, with a detailed breakdown of costs for review by the Applicant.

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[8] Berwick Solar argues that a less deferential standard of review applies here, asserting that because the Commission changed its position as to the "deadline" set in Chapter 324 and the IA without a reasoned explanation, its decision is entitled to less deference, and the action is arbitrary and capricious. *See Cassidy Holdings, LLC v. Aroostook Cnty. Commr's*, 2023 ME 69, ¶ 16 n.4, 304 A.3d 259 ("An agency is free to change its mind in its interpretation of a statute. But if it does so, the agency must acknowledge that it is making a change, explain why, and give due consideration to the serious reliance interests on the old policy." (citation omitted)). We disagree. In none of the prior Commission orders cited by Berwick Solar did the Commission interpret the regulation to provide, as Berwick Solar suggests, that absent a grant of exemption, no further adjustments may be made beyond the "deadline" and that the interconnection customer is relieved of its obligation to pay any outstanding actual costs of project construction. *See Cent. Me. Power Co.*, Request for Approval of Waiver Regarding Section 12(G) of Chapter 324, No. 2021-00082, Order (Me. P.U.C. May 6, 2021); *Cent. Me. Power Co.*, Request for Waiver of Chapter 324 § 13(J), No. 2021-00306, Order (Me. P.U.C. Dec. 16, 2021); *Cent. Me. Power Co.*, Request for Waiver of Section 12(J) of Chapter 324 of the Commission Rules, No. 2021-00306, Order (Me P.U.C. Sept. 30, 2022); *Cent. Me. Power Co.*, Request for Waiver of Section 12(J) of Chapter 324 of the Commission Rules, No. 2021-00306, Order (Me. P.U.C. Nov. 29, 2022). The Commission was not required to provide a reasoned explanation because it did not change its position and thus did not act arbitrarily and capriciously. Moreover, because we conclude that the language of Chapter 324 is not ambiguous, we do not reach the second step of the inquiry, in which deference would be accorded.

The parties do not dispute that under section 15(J), CMP was required to send Berwick Solar the final cost reconciliations for the project within sixty days.[9] Berwick Solar argues that this "final accounting clause" contains a time limit of sixty days and that when CMP missed the deadline, Berwick Solar was relieved of its obligation to pay the actual cost of construction for interconnection of its project to CMP's electric distribution system. Given the language of section 15(J), Berwick Solar's contention is incorrect. Although the plain language of section 15(J) requires CMP to send the final reconciliation statement within the sixty-day period, Berwick Solar's obligation to pay the actual construction cost of its project is not conditioned on CMP's timely sending the statement. There is nothing in the language of this clause that indicates that CMP's failure to timely send a final reconciliation statement would result in the discharge of Berwick Solar's obligation to pay the actual construction costs.

[¶14] Rather, Berwick Solar's obligation to pay the actual cost of its project is specified in section 3(A), which governs responsibilities for costs, and which provides:

> [a]n Interconnection Customer shall be responsible for (1) the actual construction cost of its Interconnection Facilities, as may be

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[9] Berwick makes its arguments relying on the ninety-day deadline contained in article 5.1.2 of the IA. As discussed above, *see supra* n.3, the number of days is inconsequential because CMP did not send the reconciliation statement within the sixty- or ninety-day period. For clarity, we refer to the period as the sixty-day period because that is the period contained in Chapter 324.

> adjusted for Contingent Upgrades pursuant to § 14(F), and (2) all expenses, including overheads, associated with owning, operating, maintaining, repairing and replacing its Interconnection Facilities.

Thus, Berwick Solar's obligation to pay is established in a section of the regulation that is separate and apart from, and not at all linked to, the section regarding CMP's responsibility to send a reconciliation statement. In the absence of any cross-reference, this regulatory structure makes clear that neither of those responsibilities is conditioned upon the other. Moreover, the consequence of CMP's failing to adhere to the sixty-day period is made clear elsewhere in Chapter 324. Under section 16, "[t]he Commission may assess financial penalties on [CMP] . . . for failure to comply with the required timelines listed in this Chapter." 65-407 C.M.R. ch. 324, § 16. Therefore, the consequence for CMP's untimeliness in the furnishing of a reconciliation statement is a financial penalty, not a discharge of Berwick Solar's obligation to pay the actual cost of its project's connection to CMP's electric distribution system. Based on the unambiguous language of Chapter 324, Berwick Solar is not discharged from its obligation to pay the actual cost of connection documented in the belated reconciliation statements.[10]

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[10] Even if we were to conclude that Chapter 324 is ambiguous, we would "review the Commission's construction of the ambiguous rule for reasonableness and defer to the Commission's interpretation unless the rule plainly compels a contrary result." *Off. of the Pub. Advoc.*, 2024 ME 11, ¶ 12, 314 A.3d 116 (alterations, citations, and quotation marks omitted). Reviewing the Commission's

[¶15] The regulation required Berwick Solar and CMP to enter into the IA, and because we have interpreted the regulation's unambiguous language, we conclude that the parallel provisions contained in the IA do not compel a different result here. While the IA does not have an analogous article permitting the Commission to impose financial penalties for untimeliness of a reconciliation statement, it does contain a provision that the parties can use to seek relief when one party is not abiding by the terms in the IA, giving force and effect to the provisions of the IA regarding both the furnishing of reconciliation statements and the payment of the actual cost of connecting Berwick Solar's project to CMP's electric distribution system.[11]

[¶16] Regardless of whether Chapter 324 or the IA governs this dispute about timing, they both unambiguously provide for the responsibilities of each

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interpretation of Chapter 324 with considerable deference, we cannot conclude that the Commission's interpretation was unreasonable. We discern no legal error or arbitrariness in its construction of its own rules because, when examining Chapter 324 as a whole, there is no language that would lead to the consequence that Berwick Solar is relieved of its obligations to pay actual costs.

[11] Berwick Solar contends that by failing to follow Maine case law regarding contract interpretation, the Commission's decision was arbitrary and capricious and an error of law. Berwick asserts that the Commission's interpretation fails to give force and effect to the ninety-day period contained in article 5.1.2 of the IA. This argument is unpersuasive. Section 16 of Chapter 324 controls, and the default provision of the IA also provides mechanisms—that could have been but were not employed here—that would address the untimely delivery of a reconciliation statement, giving effect to the ninety-day period. *See Am. Prot. Ins. Co. v. Acadia Ins. Co.*, 2003 ME 6, ¶ 12, 814 A.2d 989 (stating that we consider a contract as a whole when construing it to give force and effect to all its provisions to avoid rendering any provisions meaningless). Therefore, we reject Berwick Solar's argument and conclude that the Commission's decision did not fail to follow Maine case law on interpreting contracts.

party without making them conditional upon one another; provide mechanisms to address untimeliness, which Berwick Solar did not pursue; and do not discharge Berwick Solar from its obligation to pay the actual cost of the interconnection.[12]

B. The Commission did not err or act arbitrarily and capriciously by concluding that CMP is not required to provide purchase orders or contractor invoices to support assessments of actual interconnection costs.

[¶17] Berwick Solar argues that, even if the belated reconciliation statements are not time-barred, the Commission acted arbitrarily and capriciously and erred as a matter of law by concluding that CMP is not required to provide purchase orders or invoices to support its claimed actual interconnection costs. The Commission and CMP contend that Chapter 324 does not require a utility to provide supporting contractor invoices and purchase orders.

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[12] Berwick Solar also argues that the Commission's decision was arbitrary and capricious because it failed to reference or discuss two federal circuit court cases. This argument is unpersuasive for two reasons. First, the Commission was not required to discuss or rely on nonbinding case law from other jurisdictions. *See Me. Coal. to Stop Smart Meters v. Pub. Utils. Comm'n*, 2023 ME 8, ¶ 10 n.7, 288 A.3d 1195. Second, the federal cases Berwick Solar cites to are inapposite because neither is interpreting language similar to that of Chapter 324 or the IA. *See Okla. Gas & Elec. Co. v. FERC*, 11 F.4th 821, 827 (D.C. Cir. 2021); *Bos. Edison Co. v. FERC*, 856 F.2d 361, 372-74, 377 (1st Cir. 1988).

[¶18] We again begin by reviewing the language of the regulations de novo, applying the language if its meaning is plain. *Off. of the Pub. Advoc.*, 2024 ME 11, ¶ 12, 314 A.3d 116.

[¶19] The Commission concluded that there was nothing in Chapter 324 that required CMP to provide Berwick Solar with any actual purchase orders or invoices related to contractor services. Berwick Solar points to article 5.1.2 of the IA and section 15(J) of Chapter 324 and asserts that they require CMP to send "a written explanation for any signification variation" and a detailed breakdown of costs so that Berwick Solar is able to challenge the assessed charges, and that the "written explanation" necessarily includes purchase orders and invoices.

[¶20] We agree that Berwick Solar's ability to challenge the details of the cost breakdown may be hindered without detailed supporting information; however, we disagree that either Chapter 324 or the IA specifically requires CMP to afford access to original or provide copies of purchase orders and invoices as the detailed supporting information. Per Chapter 324, CMP was required to submit to Berwick Solar "a final reconciliation statement of its actual costs . . . with a detailed breakdown of costs for review by [Berwick Solar]." 65-407 C.M.R. ch. 324, § 15(J). A breakdown of costs could include the costs segmented by categories such as internal labor, materials, contractors, and other categories relevant to completing the interconnection of the project. The language of Chapter 324 does not require CMP to provide Berwick Solar with a more granular breakdown of costs by way of purchase orders for materials or contractor invoices for the connection to CMP's electric distribution system.

[¶21] Moreover, Berwick Solar's argument—that the Commission's interpretation of Chapter 324 gives CMP a "blank check" to assess charges that cannot be reviewed or challenged for propriety or eligibility for assessment—is not persuasive. Specifically, we note that once Berwick Solar initiated the dispute process under 65-407 C.M.R. ch. 324, § 17(C) to proceed to a formal adjudicatory proceeding, it was able to engage in discovery and could have, for example, served data requests on CMP. 65-407 C.M.R. ch. 110, § 9(B). There is no evidence in the record that Berwick Solar sought to obtain the necessary information through discovery requests to CMP in order to contest the costs contained in the reconciliation statements. For reasons that are not clear, Berwick Solar chose not to use the process available to obtain the information that it purportedly sought.

C. The Commission's decision with respect to pooled costs was neither arbitrary and capricious nor an error of law.

[¶22] Berwick Solar argues that, even if the belated reconciliation statements are not time-barred, the Commission acted arbitrarily and capriciously and erred as a matter of law by failing to address the contested issue of CMP's assessment of pooled costs not incurred solely to complete the connection of Berwick Solar's project to CMP's electric distribution system.

[¶23] We do not entertain Berwick Solar's arguments about the appropriateness of the assessment of pooled costs because Berwick Solar did not seek reconsideration of the Commission's decision that it did not need to address the pooled-costs issue. *See* 65-407 C.M.R. ch. 110, § 11(D). Nonetheless, Berwick Solar argues on appeal that the Commission acted arbitrarily and capriciously, and also erred as a matter of law, by failing to address the issue. In the context of appeals from administrative agency decisions, "it is important for a party to raise an issue of [regulation] interpretation during the proceedings before that agency to give it an opportunity to consider the argument first." *Cent. Me. Power Co.*, 2014 ME 56, ¶ 20, 90 A.3d 451. Chapter 324 provides that Berwick Solar would be responsible for "all expenses, *including overheads*, associated with owning, operating, maintaining, repairing and replacing its Interconnection Facilities." 65-407 C.M.R. ch. 324, § 3(A) (emphasis added). Therefore, the Commission should have the opportunity to first interpret Chapter 324 to determine whether pooled costs can be assessed.

[¶24] The Commission declined to discuss pooled costs, and we conclude that the Commission's determination was reasonable. Although Berwick Solar did argue to the Commission, in its brief, that it should not have been assessed pooled costs incurred on a generalized basis, it nevertheless conceded that the main issue before the Commission in the adjudicatory proceeding was the timing of the reconciliation statements, and Berwick Solar did not press for the Commission to reach the issue of whether CMP could assess pooled costs. Specifically, Berwick Solar expressed to the Commission that "the most important part [of the proceeding] is to resolve this interpretive issue as to what, if any, effect does that 90-day clause have." In addition, Berwick Solar agreed with the Commission that had CMP issued the reconciliation statement within the ninety-day period, the primary issue would not exist. Thus, when Berwick Solar began presenting an argument about the pooled costs, the Commission interrupted, stating that it did not seem relevant to the proceeding.

Berwick Solar's response was that the amount was also being contested but that the parties would focus on resolving the timing issue in the proceeding and address pooled costs later. The Commission concluded the discussion with the sentiment that the proceeding was limited to the timing issue.[13] Thus, the Commission properly declined to reach the issue of pooled costs because Berwick Solar, while making the argument, did eventually concede that the interpretation of the sixty-day period was the main issue for the Commission's consideration.

[¶25] To the extent that Berwick Solar argues before us that CMP cannot assess pooled costs, we conclude that CMP properly included pooled costs in the actual costs of the interconnection. The pooled costs disputed by Berwick are the indirect costs that CMP was incurring to bring these projects into fruition, including the costs of internal employees and the use of company-issued computers. Using the pooled-cost approach was a method of revising

[13] CMP also agreed that Berwick Solar's challenge came down to the timing issue.

the types of applicable overhead costs and reallocating those costs in line with a project's direct costs to reduce the overhead rates for developers.

D. The Commission did not err or act arbitrarily when it concluded that Berwick Solar was not prejudiced by the belated reconciliation statements.

[¶26] Finally, Berwick Solar argues that the Commission acted arbitrarily by failing to address witness testimony regarding the adverse impacts of allowing the assessment of costs beyond the sixty-day period. The Commission and CMP both contend that there was substantial evidence in the record to support the Commission's finding that Berwick Solar was not prejudiced by CMP's delayed reconciliation statements.

[¶27] "We will sustain findings of fact issued by the Commission unless they are not supported by substantial evidence in the record." *Me. Coal. to Stop Smart Meters v. Pub. Utils. Comm'n*, 2023 ME 8, ¶ 7, 288 A.3d 1195 (alterations and quotation marks omitted). On appeal, "[o]ur review does not involve any weighing of the merits of evidence; instead, we will vacate an agency's factual findings only if there is no competent evidence in the record to support the findings . . . even if the record contains inconsistent evidence or evidence contrary to the result reached by the agency." *Snakeroot Solar, LLC v. Pub. Utils. Comm'n*, 2025 ME 64, ¶ 37, 340 A.3d 99 (quotation marks omitted).

[¶28] Competent evidence in the record supports the Commission's finding that Berwick Solar was not prejudiced by CMP's delay in furnishing the reconciliation statements, largely because Berwick Solar could have, but did not, notify CMP that it was in default when Berwick Solar did not receive a reconciliation statement within the sixty-day period. Further, Berwick Solar did not have a reasonable expectation that the estimate contained in Exhibit 6 to the IA was the full and final amount because of the decision to forgo a facilities study that would have provided a more detailed cost estimate. Berwick Solar had the expectation that a final reconciliation statement would be issued at some point after it received the certification of completion given both Exhibit 6 and Exhibit 3, which collectively demonstrate that CMP and Berwick Solar agreed that the information in Exhibit 3 outlining the interconnection facilities support charges would be amended once CMP determined the actual costs. Instead of alerting CMP to its failure to comply with the terms of Chapter 324 and the IA as soon as the sixty-day period ran, Berwick Solar chose not to do so and risked receiving the final reconciliation statement even further down the road.

[¶29] Although Berwick Solar did provide testimony regarding the adverse impacts late reconciliation statements could have on financial closure and project valuation, the Commission's determination was not compelled by Berwick Solar's evidentiary presentation. The Commission did not have to believe the hypothetical impact that Berwick Solar postulated, because there is no evidence in the record that Berwick Solar's financing was affected in any way because of the belated reconciliation statements. Consequently, the Commission determined that Berwick Solar was not actually prejudiced by the belated reconciliation statements. The amount sought in the reconciliation statements in fact decreased, with additional costs assessed at $45,502.73 in the first statement, $27,655.83 in the second, and $23,655.83 in the final one. This resulted in lower costs to Berwick than what would have been assessed had the reconciliation statement been issued within the sixty-day period. The record, therefore, does not compel a determination that Berwick Solar suffered prejudice.

III. CONCLUSION

[¶30] We conclude that the regulation is clear. The failure to issue a reconciliation statement within the sixty-day period does not relieve Berwick Solar of its obligation to pay the actual costs of construction for interconnection that CMP incurred, including pooled overhead costs, and CMP is not required to provide purchase orders and contractor invoices unless Berwick Solar requested those documents through the formal dispute-resolution process. Moreover, the Commission's finding that Berwick Solar was not prejudiced by the belated reconciliation statements is supported by competent evidence in the record.

The entry is:

Judgment affirmed.

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