

Pub. Serv. Comm'N of N. Y. vs. F. P. C.

Pub. Serv. Comm'N of N. Y. vs. F. P. C.

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Court : US Supreme Court

Decided On : Dec-14-1959

Appeal No. : 361 U.S. 195

Appellant : Pub. Serv. Comm'N of N. Y.

Respondent : F. P. C.

Judgement :

PUB. SERV. COMM'N OF N. Y. v. F. P. C. - 361 U.S. 195 (1959)

U.S. Supreme Court PUB. SERV. COMM'N OF N. Y. v. F. P. C., 361 U.S. 195 (1959) **361 U.S. 195**

PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK v. FEDERAL POWER

COMMISSION ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT. No. 459.

Decided December 14, 1959. [*](#)

Certiorari granted; judgment vacated; and cases remanded to the Court of Appeals with directions to remand to Federal Power Commission for reconsideration in the light of Atlantic Refining Co. v. Public Service Commission of New York, [360 U.S. 378](#) .

Reported below: [269 F.2d 865](#) .

[[Footnote *](#)] Together with No. 473, United Gas Improvement Co. et al. v. Federal Power Commission et al., also on petition for writ of certiorari to the same Court.

Kent H. Brown and George H. Kenny for petitioner in No. 459.

J. David Mann, Jr. and J. Louis Monarch for United Gas Improvement Co., and Vincent P. McDevitt and Samuel Graff Miller for Philadelphia Electric Co., petitioners in No. 473.

Willard W. Gatchell and Howard E. Wahrenbrock for the Federal Power Commission; Richard J. Connor, John T. Miller, Jr., Thomas F. Brosnan, James B. Henderson and William N. Bonner, Jr. for Transcontinental Gas Pipe Line Corp.; W. W. Heard and William J. Grove for Pan American Petroleum Corp.; Chas. B. Ellard and Bernard A. Foster, Jr. for Atlantic Refining Co.; Gentry Lee and Bernard A. Foster, Jr. for Cities Service Production Co.; Carl Illig and William J. Merrill for Humble Oil & Refining Co.; Clayton L. Orn and James D. Parriott for Ohio Oil Co.; Frank C. Bolton and William S. Richardson for Socony Mobil Oil Co., Inc. (successor to

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Magnolia Petroleum Co.); John C. Snodgrass for Pure Oil Co.; George D. Horning for Union Oil Co. of California; Robert E. May for Hunt, Trustee; Rayburn L. Foster, Harry D. Turner, Kenneth Heady, Charles E. McGee and Lambert McAllister for Phillips Petroleum Co.; Martin A. Row, Robert E. May and Omar L. Crook for Sun Oil Co., respondents.

Briefs of amici curiae in support of petitioners were filed by William M. Bennett for the State of California and the Public Utilities Commission of California; John W. Reynolds, Attorney General of Wisconsin, N. S. Heffernan, Deputy Attorney General, Roy G. Tulane, Assistant Attorney General, and William E. Torkelson for the State of Wisconsin and the Public Service Commission of Wisconsin; David

Berger for the City of Philadelphia; David Stahl for the City of Pittsburgh; Joe W. Anderson, Roger Arnebergh, Alexander G. Brown, J. Elliott Drinard, N. H. Goldstick, Dion R. Holm, Claude V. Jones, Walter J. Mattison, John C. Melaniphy, Barnett I. Shur, A. C. Van Soelen, Charles S. Rhyne and J. Parker Connor for the Member Municipalities of the National Institute of Municipal Law Officers; Charles S. Rhyne and J. Parker Connor for the Alabama League of Municipalities; Edward Munce and Thomas M. Kerrigan for the Pennsylvania Public Utility Commission; and Edward S. Kirby for Public Service Electric & Gas Co.

PER CURIAM.

The motion to substitute Humble Oil & Refining Company, a Delaware corporation, in the place of Humble Oil & Refining Company, a Texas corporation, as a party respondent, is granted. The motions of Public Service Electric and Gas Company and the Alabama League of Municipalities for leave to file briefs, as amici curiae, are granted.

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The petitions for writs of certiorari are granted. The judgment of the Court of Appeals is vacated and the cases are remanded to that court with directions to remand the cases to the Federal Power Commission for reconsideration and redetermination in the light of *Atlantic Refining Co. v. Public Service Commission of New York*, [360 U.S. 378](#) .

MR. JUSTICE DOUGLAS dissents.

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