

Syllabus.

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.

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

*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.

Per Curiam.

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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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December 14, 1959.

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.

FAUBUS, GOVERNOR OF ARKANSAS, *v.*
AARON ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF ARKANSAS.

No. 458. Decided December 14, 1959.*

173 F. Supp. 944, affirmed.

Thomas Harper and *Walter L. Pope* for appellant in
No. 458.

Bruce Bennett, Attorney General of Arkansas, and
Ben J. Harrison, Chief Assistant Attorney General, for
appellants in No. 471.

Wiley A. Branton and *Thurgood Marshall* for appellees.

PER CURIAM.

The motion to affirm is granted and the judgment is
affirmed.

MR. JUSTICE WHITTAKER would note probable juris-
diction.

*Together with No. 471, *State Board of Education et al. v. Aaron et al.*, also on appeal from the same Court.