

SUPREME COURT OF PENNSYLVANIA

HIKO Energy, LLC v. Pennsylvania Public Utility Commission

No. 39 EAP 2017, Supreme Court of Pennsylvania (June 5, 2019)

SUMMARY

HIKO Energy challenged a \$1.8 million penalty imposed by the Pennsylvania Public Utility Commission as grossly disproportionate, raising an excessive fines clause claim under the Pennsylvania and U.S. Constitutions. The Supreme Court of Pennsylvania granted allocatur on the constitutional issue, but the majority disposed of the appeal on waiver grounds without reaching the merits. The dissenting opinion argues that the Court should have decided the excessive fines issue of first impression rather than shifting to the waiver question not encompassed in the allocatur grant. Key topics: excessive fines, constitutional law, penalty proportionality, waiver, and Pennsylvania Public Utility Commission enforcement.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Donohue
JURISDICTION	Pennsylvania
DECIDED	June 5, 2019
DOCKET	39 EAP 2017
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Commonwealth Court's order affirming the PUC's penalty order.
PRECEDENTIAL VALUE	published
PARTIES	HIKO Energy, LLC v. Pennsylvania Public Utility Commission

TOPICS

[constitutional law](#)[administrative law](#)[appellate procedure](#)[waiver](#)

PRACTICE AREAS

[public utilities](#)[constitutional law](#)

QUESTIONS PRESENTED

1. Whether the \$1,836,125.00 penalty was so grossly disproportionate to the penalties the Commission has approved for similar or more egregious conduct as to violate the Excessive Fines Clause of the Pennsylvania and U.S. Constitutions.

KEY QUOTATIONS

“(1) Whether the \$1,836,125.00 penalty was so grossly disproportionate to the penalties the Commission has approved for similar or more egregious conduct as to violate the Excessive Fines Clause of the Pennsylvania and U.S. Constitutions.”

“I must therefore dissent, as I am of the view that this Court should proceed to decide the constitutional issue on its merits by published opinion.”

FACTUAL BACKGROUND

The Pennsylvania Public Utility Commission imposed a \$1,836,125.00 penalty on HIKO Energy for conduct not described in this dissenting opinion. The penalty was affirmed by the Commonwealth Court.

PROCEDURAL HISTORY

The Pennsylvania Public Utility Commission imposed a \$1,836,125.00 penalty on HIKO Energy. HIKO appealed to the Commonwealth Court, which affirmed. The Supreme Court granted allocatur on three issues, including whether the penalty violated the Excessive Fines Clause. The Supreme Court affirmed, holding that the constitutional issue was waived.

DISPOSITION

affirmed

CASES CITED

- HIKO Energy, LLC v. Pennsylvania Pub. Util. Comm'n, 176 A.3d 235 (Pa. 2017)

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