

SUPREME COURT OF LOUISIANA

CITGO Petroleum Co. v. Louisiana Public Service Commission

898 So. 2d 291 (La. 2005) · No. 2004-CD-0914, 2004-CD-0917, 2004-CA-1190, 2004-CA-1191, 2004-CA-1192
· Decided March 2, 2005

SUMMARY

The Louisiana Supreme Court considered consolidated appeals and supervisory writ applications arising from Louisiana Public Service Commission proceedings concerning pilotage fees and tariffs. The court held that Act 902 of the 2004 Regular Legislative Session divested the Commission of authority to set the unresolved pilotage rates, rendering the issues moot. The writs and motion to dismiss the appeals were denied, and the matter was remanded to the newly created Pilotage Fee Commission.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Traylor
JURISDICTION	Louisiana
DECIDED	March 2, 2005
DOCKET	2004-CD-0914, 2004-CD-0917, 2004-CA-1190, 2004-CA-1191, 2004-CA-1192
DISPOSITION	remanded
PROCEDURAL POSTURE	Consolidated appeals and supervisory writs from a district court judgment reversing LPSC interlocutory rulings; motion to dismiss appeals.
STANDARD OF REVIEW	Not explicitly stated; court addressed jurisdiction and mootness.
PRECEDENTIAL VALUE	Published
PARTIES	Louisiana Public Service Commission and Lake Charles Pilots, Inc. v. CITGO Petroleum Co. and ConocoPhillips Co., Inc.

TOPICS

administrative law appellate jurisdiction mootness statutory interpretation
judicial review of agency action

PRACTICE AREAS

Administrative Law

Public Utilities

QUESTIONS PRESENTED

1. Whether the Supreme Court should exercise appellate and/or supervisory jurisdiction over the district court's judgment.
2. If jurisdiction exists, whether a justiciable controversy remains in light of the enactment of Act No. 902 of the 2004 Regular Legislative Session.

HOLDINGS

1. The Supreme Court has appellate jurisdiction under La. Const. art. IV, § 21(E) because the constitutional language is plain and unambiguous, granting a direct appeal from any judgment of the district court reviewing LPSC action.
2. The issues are moot because Act 902 divested the LPSC of authority to set pilotage fees effective January 1, 2005, and any decision by the court would be advisory.

KEY QUOTATIONS

“Based upon this plain, unambiguous and unequivocal language, we find that this court is vested with appellate jurisdiction under La. Const. Art. 4, § 21(E) to review these matters.” (at 296)

“It is well settled that courts should not decide abstract, hypothetical or moot controversies, or render advisory opinions with respect to such controversies.” (at 298)

“The effect of any decision by this court reviewing the propriety of those rulings would result in an advisory opinion without effect.” (at 298)

FACTUAL BACKGROUND

The case involves pilotage fees for the Port of Lake Charles. After CITGO I, the matter was remanded to the LPSC to include the outer bar in the final tariff. On remand, the ALJ made interlocutory rulings regarding discovery and expert testimony. The LPSC reviewed these rulings and issued orders, which CITGO and Conoco challenged in district court. The district court vacated the LPSC's orders, and the LPSC and Pilots appealed. During the appeal, the legislature enacted Act 902, creating a new Pilotage Fee Commission and divesting the LPSC of rate-making authority effective January 1, 2005.

PROCEDURAL HISTORY

The LPSC and Pilots sought review of a district court judgment that reversed several interlocutory rulings of the LPSC. The Supreme Court consolidated the matters. During pendency, the legislature enacted Act 902, divesting LPSC of rate-making authority. The court found the issues moot and remanded to the new Pilotage Fee Commission.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Remand to the Pilotage Fee Commission for a determination of the fees and tariffs at issue.

CASES CITED

- CITGO Petroleum Corp. v. Louisiana Public Service Comm., 01-1902 (La.3/15/02), 815 So. 2d 19
- East Baton Rouge Sch. Bd. v. Foster, 02-2799 (La.6/6/03), 851 So. 2d 985
- Ocean Energy, Inc. v. Plaquemines Parish Government, 880 So. 2d 1 (La. 2004)
- Cajun Elec. Power Co-op. v. Louisiana Pub. Serv. Com'n, 544 So. 2d 362 (La. 1989)
- Brown v. Texas-LA Cartage, Inc., 98-1063 (La.12/1/98), 721 So. 2d 885
- Baxter v. Scott, 2003-2013 (La.11/14/03), 860 So. 2d 535
- St. Charles Parish School Board v. GAF Corporation, 512 So. 2d 1165 (La. 1987)

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