

The Burger Court Opinion Writing Database

Gainesville Utilities Dept. v. Florida Power Corp.

402 U.S. 515 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

May 18, 1971

CHAMBERS OF
THE CHIEF JUSTICE

No. 464 - Gainesville Utilities Dept. v. Fla. Power

No. 469 - Federal Power Comm. v. Fla. Power Corp.

Dear Bill:

Please join me.

Regards,

WRB

Mr. Justice Brennan

cc: The Conference

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HUGO L. BLACK

May 13, 1971

Dear Bill,

Re: Nos. 464 and 469 - Gainesville
Utilities Dept. v. Fla. Power Comm.

Glad to agree.

Sincerely,

Hugo
Hugo

Mr. Justice Brennan

cc: Members of the Conference

CHAMBERS OF
JUSTICE JOHN M. HARLAN

Re: Nos. 464 and 469 - Gainesville, FPC v.
Florida Power Corporation

Although my Conference vote to affirm was dubitante, your opinion has set my mind at rest and I am glad to join you.

J. M. H.
J. M. H.

CC: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION
OF THE NATIONAL ARCHIVES

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

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Joined by
Justice
Black
& Justice
Harlan

You voted
to reverse

Please join
me

2nd DRAFT

From: Brennan, J.

Circulated: 5/3/71

Recirculated:

SUPREME COURT OF THE UNITED STATES

Nos. 464 AND 469.—OCTOBER TERM, 1970

Gainesville Utilities Depart-
ment et al., Petitioners,
464 v.
Florida Power Corporation.
Federal Power Commission,
Petitioner,
469 v.
Florida Power Corporation.

On Writ of Certiorari to
the United States Court
of Appeals for the Fifth
Circuit.

[May —, 1971]

MR. JUSTICE BRENNAN delivered the opinion of the
Court.

Under the Federal Power Act, an order of the Federal
Power Commission that directs one electric utility "to
establish physical connection of its transmission facilities
with the facilities of" another utility "may prescribe the
terms and conditions of the arrangement to be made . . .
including the apportionment of cost between them and
the compensation or reimbursement reasonably due to
any of them." Federal Power Act § 202 (b), 16 U. S. C.
§ 824a (b).¹ The Commission order which directed re-

¹ Section 202 (b) of the Federal Power Act, 16 U. S. C. § 824a (b),
provides:

"(b) Whenever the Commission, upon application of any State
Commission or of any person engaged in the transmission or sale of
electric energy, and after notice to each State commission and public
utility affected and after opportunity for hearing, finds such action
necessary or appropriate in the public interest it may by order direct
a public utility (if the Commission finds that no undue burden will
be placed upon such public utility thereby) 'to establish physical

SECTION OF CONGRESS

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 11, 1971

RE: Nos. 464 & 469 - Gainesville Utilities
v. Florida Power Corporation

Dear Harry:

You'll note I added the note at the foot which you requested. I wonder whether you wanted to include "the consideration or", or limit it to just "disposition". I think that's been the practice when a Justice hears oral argument.

*OK'd to WPB
5-11-71*

Sincerely,

Bill

Mr. Justice Blackmun

Page 14.

To: The Chief Justice
 Mr. Justice Black
 ✓ Mr. Justice Douglas
 Mr. Justice Harlan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun

3rd DRAFT

From: Brennan, J.

SUPREME COURT OF THE UNITED STATES

Circulated: _____

Recirculated: 5-11-11

Nos. 464 AND 469.—OCTOBER TERM, 1970

Gainesville Utilities Department et al., Petitioners,
 464 v.
 Florida Power Corporation.
 Federal Power Commission,
 Petitioner,
 469 v.
 Florida Power Corporation.

On Writ of Certiorari to
 the United States Court
 of Appeals for the Fifth
 Circuit.

[May —, 1971]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

Under the Federal Power Act, an order of the Federal Power Commission that directs one electric utility "to establish physical connection of its transmission facilities with the facilities of" another utility "may prescribe the terms and conditions of the arrangement to be made . . . including the apportionment of cost between them and the compensation or reimbursement reasonably due to any of them." Federal Power Act § 202 (b), 16 U. S. C. § 824a (b).¹ The Commission order which directed re-

¹ Section 202 (b) of the Federal Power Act, 16 U. S. C. § 824a (b), provides:

"(b) Whenever the Commission, upon application of any State Commission or of any person engaged in the transmission or sale of electric energy, and after notice to each State commission and public utility affected and after opportunity for hearing, finds such action necessary or appropriate in the public interest it may by order direct a public utility (if the Commission finds that no undue burden will be placed upon such public utility thereby) 'to establish physical

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

May 6, 1971

Nos. 464 & 469, Gainesville v. FPC

Dear Bill,

I am glad to join your opinion
for the Court in this case.

Sincerely yours,

P.S.

Mr. Justice Brennan

Copies to the Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. SUPREME COURT

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 6, 1971

Re: Nos. 464 & 469 - Gainesville
Utilities Dept v. Florida
Power Corp.

Dear Bill:

Please join me.

Sincerely,

Byron

Mr. Justice Brennan

Copies to Conference

Supreme Court of the United States
Washington, D. C. 20543


CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 17, 1971

Re: 464 and 469 - Gainesville Utilities v.
Florida Power Corp., etc.

Dear Bill:

Please join me.


T.M.

Mr. Justice Brennan

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

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May 10, 1971

Re: No. 464 - Gainesville Utilities Department
v. Florida Power Corp.

No. 469 - FPC v. Florida Power Corp.

Dear Bill:

Would you please indicate at the close of your
opinion that I am taking no part in the consideration or dis-
position of these cases.

Sincerely,

H. A. B.

Mr. Justice Brennan

cc: The Conference