

The Burger Court Opinion Writing Database

Aluminum Co. of America v. Central Lincoln Peoples' Utility District

467 U.S. 380 (1984)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



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

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JUSTICE MARSHALL

CHAMBERS OF
THE CHIEF JUSTICE

May 22, 1984

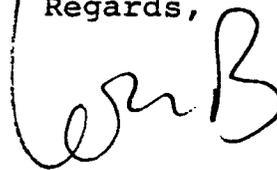
84 MAY 23 09:31

Re: 82-1071 - Aluminum Company of America v. Central
Lincoln Peoples' Utility District

Dear Harry:

I join.

Regards,



Justice Blackmun

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Supreme Court of the United States
Washington, D. C. 20543-1000

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

20:59 PM YAM 18

May 11, 1984

No. 82-1071

Aluminum Company of America, et al.
v. Central Lincoln Peoples' Utility
District, et al

Dear Harry,

I agree.

Sincerely,



Justice Blackmun

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 15, 1984

Re: 83-1071 - Aluminum Company of America v.
Central Lincoln Peoples' Utility District

Dear Harry,

Please join me.

Sincerely yours,



Justice Blackmun

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cpm

ST WA 12 6410

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6

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 16, 1984

Re: No. 82-1071-Aluminum Co. of America v. Central
Lincoln Peoples' Utility District

Dear Harry:

Please join me.

Sincerely,

J.M.
T.M.

Justice Blackmun

cc: The Conference

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'84 MAY 10 P3:14

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: Justice Blackmun

Circulated: MAY 10 1984

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1071

ALUMINUM COMPANY OF AMERICA, ET AL., PETI-
TIONERS *v.* CENTRAL LINCOLN PEOPLES'
UTILITY DISTRICT ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

[May —, 1984]

JUSTICE BLACKMUN delivered the opinion of the Court.

Since enactment of the Bonneville Project Act of 1937, 50 Stat. 731, 16 U. S. C. § 832 *et seq.* (Project Act), the Bonneville Power Administration (BPA) has marketed low-cost hydroelectric power generated by a series of dams along the Columbia River. Although §4(a) of the Project Act, 16 U. S. C. § 832c(a), directs the BPA Administrator to "give preference and priority to public bodies and cooperatives" when selling its power, BPA for many years enjoyed a surplus of power that allowed it to satisfy the needs of all customers in the region. As demand for power increased to exceed BPA's generating capability, however, the allocation of low-cost federal power became an issue of significant area concern. In 1980, Congress moved to avert what appeared to be an emerging customer struggle for BPA power by enacting the Pacific Northwest Electric Power Planning and Conservation Act, 94 Stat. 2697, 16 U. S. C. § 839 *et seq.* (Regional Act). That Act required BPA to offer new contracts to its several customers. Some of the respondents¹

¹Throughout this opinion, the term "respondents" is used to refer only to those parties who support the Court of Appeals' judgment. The term does not include the Administrator of BPA and the Secretary of the Department of Energy, who nominally are respondents in this case even though they urge reversal of the judgment below.

STYLISTIC CHANGES

7 p. 17

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: Justice Blackmun

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1071

ALUMINUM COMPANY OF AMERICA, ET AL., PETITIONERS
v. CENTRAL LINCOLN PEOPLES' UTILITY DISTRICT ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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Pages 10-11, 13,
and footnotes renumbered

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SUPREME COURT, U.S.
JUSTICE MARSHALL

'84 MAY 25 P12:14

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Powell
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Justice O'Connor

From: Justice Blackmun

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1071

ALUMINUM COMPANY OF AMERICA, ET AL., PETITIONERS
v. CENTRAL LINCOLN PEOPLES' UTILITY DISTRICT ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[May —, 1984]

JUSTICE BLACKMUN delivered the opinion of the Court.

Since enactment of the Bonneville Project Act of 1937, 50 Stat. 731, 16 U. S. C. §832 *et seq.* (Project Act), the Bonneville Power Administration (BPA) has marketed low-cost hydroelectric power generated by a series of dams along the Columbia River. Although §4(a) of the Project Act, 16 U. S. C. §832c(a), directs the BPA Administrator to "give preference and priority to public bodies and cooperatives" when selling its power, BPA for many years enjoyed a surplus of power that allowed it to satisfy the needs of all customers in the region. As demand for power increased to exceed BPA's generating capability, however, the allocation of low-cost federal power became an issue of significant area concern. In 1980, Congress moved to avert what appeared to be an emerging customer struggle for BPA power by enacting the Pacific Northwest Electric Power Planning and Conservation Act, 94 Stat. 2697, 16 U. S. C. §839 *et seq.* (Regional Act). That Act required BPA to offer new contracts to its several customers. Some of the respondents¹

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May 16, 1984

82-1071 ALCOA v. Central Lincoln Peoples' Utility

Dear Harry:

There is a footnote that seems to have an ambiguity - at least as I read it.

The third sentence in footnote 9, p. 12, states that "as the initial contracts expire, the preference rules will apply to any additional sales made to DSIs". This is probably right. It may be advisable, however, not to prejudge the administrator's authority to renew these initial contracts with industrial companies.

This is a minor point, and I may not be entirely right. My join is not conditioned on a change. In fact, I think the opinion is very well written.

Sincerely,

Justice Blackmun

lfp/ss

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 16, 1984

82-1071 ALCOA v. Central Lincoln Peoples' Utility

Dear Harry;

Please join me.

Sincerely,



Justice Blackmun

lfp/ss

cc: The Conference



CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

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

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SUPREME COURT, U.S.
JUSTICE MARSHALL

'84 MAY 14 12:30

May 14, 1984

Re: No. 82-1071 Aluminum Company of America, et al. v.
Central Lincoln Peoples' Utility District

Dear Harry:

Please join me.

Sincerely,

Justice Blackmun

cc: The Conference

(2)

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

80 59 11 YAS 58

May 11, 1984

Re: 82-1071 - Aluminum Co. of America v.
Central Lincoln Peoples' Utility
District

Dear Harry:

The response at pages 9-10 of your draft opinion does not persuade me that the DSI's 1980 contracts merely provided them with "an amount of power equivalent to that which [they were] entitled" under the 1975 contracts. I therefore plan to make this point in a brief dissent which probably will not take issue with your response to the argument based on the preference provisions of the Project Act.

Respectfully,



Justice Blackmun

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

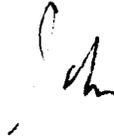
May 16, 1984

Re: 82-1071 - Aluminum Co. of America v.
Central Lincoln Peoples' Utility
District

Dear Harry:

Enclosed is a copy of the dissent which I have
just sent to the printer.

Respectfully,



Justice Blackmun

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

From: Justice Stevens

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1071

**ALUMINUM COMPANY OF AMERICA, ET AL., PETI-
TIONERS v. CENTRAL LINCOLN PEOPLES'
UTILITY DISTRICT ET AL.**

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT**

[May —, 1984]

JUSTICE STEVENS, dissenting.

Section 5(d)(1)(B) of the Pacific Northwest Electric Power Planning and Conservation Act of 1980, 94 Stat. 2697, provides:

“[T]he Administrator shall offer in accordance with subsection (g) of this section to each existing direct service industrial customer an initial long term contract that provides such customer an amount of power equivalent to that to which such customer is entitled under its contract dated January or April 1975 providing for the sale of ‘industrial firm power.’” 16 U. S. C. § 839(d)(1)(B) (1982 ed.).

The critical question in this case is whether the contracts offered by the Administrator of the Bonneville Power Administration (BPA) pursuant to the 1980 Act are for “an amount of power equivalent to” the amount to which the direct service industrial customers (DSIs) were entitled under their 1975 contracts.

Under the 1975 contracts 75 percent of the specified amount of power was virtually guaranteed; the “top quartile,” however, was subject to interruption at any time to meet the demands of preference customers. Thus, the actual amount of power delivered under the 1975 contracts was

stylistic changes throughout

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

From: Justice Stevens

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1071

ALUMINUM COMPANY OF AMERICA, ET AL., PETITIONERS
v. CENTRAL LINCOLN PEOPLES' UTILITY DISTRICT ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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'84 MAY 29 A11 :09

28. 4-5

To: The Chief Justice
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Justice O'Connor

From: Justice Stevens

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1071

ALUMINUM COMPANY OF AMERICA, ET AL., PETI-
TIONERS *v.* CENTRAL LINCOLN PEOPLES'
UTILITY DISTRICT ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

[May —, 1984]

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

May 16, 1984

No. 82-1071 Aluminum Company of America v.
Central Lincoln Peoples' Util. Dist.

Dear Harry,

Please join me.

Sincerely,



Justice Blackmun

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9:07 AM '84

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