

## Supreme Court of Pennsylvania



## Appeal Docket Sheet

Docket Number: 85 MAP 2022

Page 1 of 17

October 4, 2023

## CAPTION

Richard Negrin, Acting Secretary of the Department of Environmental Protection and Acting Chairperson of the Environmental Quality Board

v.

Pennsylvania Legislative Reference Bureau, Vincent C. DeLiberato, Jr., Director of the Legislative Reference Bureau, and Amy J. Mendelsohn, Director of the Pennsylvania Code and Bulletin

Appeal of: Citizens for Pennsylvania's Future, Sierra Club, and Clean Air Council, Possible Intervenors

## CASE INFORMATION

Initiating Document: Notice of Appeal

Case Status: Active

Journal Number: J-30B-2023 May 24, 2023

Case Category: Administrative Agency Case Type(s): Environmental Protection, Department of Environmental Quality Board

## CONSOLIDATED CASES

## RELATED CASES

Docket No / Reason	Type	Docket No / Reason	Type
79 MAP 2022 Sua Sponte	Consolidated	79 MAP 2022 Similar Issues DEP, et al. v. PA Legislative Reference Bureau	Related
87 MAP 2022 Sua Sponte	Consolidated	81 MAP 2022 Similar Issues Ziadeh, R v. PA Legislative Reference Bureau et al	Related
		83 MAP 2022 Similar Issues Ziadeh, R v. PA Legislative Reference Bureau et al	Related
		87 MAP 2022 Similar Issues DEP, et al. v. PA Legislative Reference Bureau	Related
		89 MAP 2022 Similar Issues Bowfin KeyCon Hldgs. et al., Aplt. v. DEP et al.	Related

## COUNSEL INFORMATION

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Receive Mail: Yes

Receive EMail: Yes Email:

Representing: Clean Air Council, Appellant

Pro Se: No

IFP Status:




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**COUNSEL INFORMATION**


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 Representing: Citizens for Pennsylvania's Future, Appellant  
 Pro Se: No  
 IFP Status:  
 Representing: Sierra Club, Appellant  
 Pro Se: No  
 IFP Status:

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 IFP Status:  
 Representing: Sierra Club, Appellant  
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 IFP Status:

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**COUNSEL INFORMATION**


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 Pro Se: No  
 IFP Status:  
 Representing: Corman, Jake, Appellee  
 Pro Se: No  
 IFP Status:  
 Representing: Ward, Kim, Appellee  
 Pro Se: No  
 IFP Status:  
 Representing: Yaw, Gene, Appellee  
 Pro Se: No  
 IFP Status:

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**COUNSEL INFORMATION**


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 Pro Se: No  
 IFP Status:  
 Representing: Mendelsohn, Amy J., Appellee  
 Pro Se: No  
 IFP Status:  
 Representing: Pennsylvania Legislative Reference Bureau, Appellee  
 Pro Se: No  
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 Representing: Cutler, Bryan D., Appellee  
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 IFP Status:

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 IFP Status:

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**COUNSEL INFORMATION**


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 IFP Status:  
 Representing: Mendelsohn, Amy J., Appellee  
 Pro Se: No  
 IFP Status:  
 Representing: Pennsylvania Legislative Reference Bureau, Appellee  
 Pro Se: No  
 IFP Status:

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 Representing: DeLiberato, Jr., Vincent C., Appellee  
 Pro Se: No  
 IFP Status:  
 Representing: Mendelsohn, Amy J., Appellee  
 Pro Se: No  
 IFP Status:  
 Representing: Pennsylvania Legislative Reference Bureau, Appellee  
 Pro Se: No  
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 IFP Status:  
 Representing: Cutler, Bryan D., Appellee  
 Pro Se: No  
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**COUNSEL INFORMATION**


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 Pro Se: No  
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 IFP Status:  
 Representing: Corman, Jake, Appellee  
 Pro Se: No  
 IFP Status:  
 Representing: Ward, Kim, Appellee  
 Pro Se: No  
 IFP Status:  
 Representing: Yaw, Gene, Appellee  
 Pro Se: No  
 IFP Status:

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 IFP Status:  
 Representing: Corman, Jake, Appellee  
 Pro Se: No  
 IFP Status:  
 Representing: Ward, Kim, Appellee  
 Pro Se: No  
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 Representing: Causer, Martin T., Appellee  
 Pro Se: No  
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 Representing: Cutler, Bryan D., Appellee  
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 Representing: Corman, Jake, Appellee  
 Pro Se: No  
 IFP Status:  
 Representing: Ward, Kim, Appellee  
 Pro Se: No  
 IFP Status:  
 Representing: Yaw, Gene, Appellee  
 Pro Se: No  
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#### SUPREME COURT INFORMATION

Appeal From: the Order of the Commonwealth Court at No. 41 MD 2022 dated June 28, 2022.  
 Appeal Filed Below: 7/20/2022 12:00:00AM  
 Probable Jurisdiction Noted: Docketed Date: July 20, 2022  
 Allocatur/Miscellaneous Granted: Allocatur/Miscellaneous Docket No.:  
 Allocatur/Miscellaneous Grant Order:

#### FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
07/25/2022	Notice of Appeal	90.25	07/25/2022	2022-SUP-M-001698	361.00

#### INTERMEDIATE APPELLATE COURT INFORMATION

Court Name: Docket Number:  
 Date of Order: Rearg/Recon Disp Date:  
 Rearg/Recon Disposition:  
 Judge(s):  
 Intermediate Appellate Court Action:  
 Referring Court:

#### AGENCY/TRIAL COURT INFORMATION

## Supreme Court of Pennsylvania



## Appeal Docket Sheet

Docket Number: 85 MAP 2022

Page 11 of 17

October 4, 2023

Court Below: Commonwealth Court of Pennsylvania  
 County: Division: Commonwealth Court of Pennsylvania  
 Date of Agency/Trial Court Order: June 28, 2022  
 Docket Number: 41 MD 2022  
 Judge(s): Wojcik, Michael H. OTN:  
 Order Type: Order

## ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content/Description
Original Record		@ 79 MAP 2022

## Record Remittal:

## BRIEFING SCHEDULE

Amicus Curiae	Appellee
<b>Keystone Energy Efficiency Alliance, et al.</b> Brief	<b>Browne, Pat</b> Brief
Due: November 4, 2022 Filed: November 4, 2022	Due: November 28, 2022 Filed: November 28, 2022
<b>McKinstry, Robert B., Jr.</b> Brief	<b>Causer, Martin T.</b> Brief
Due: November 4, 2022 Filed: November 7, 2022	Due: November 28, 2022 Filed: November 28, 2022
<b>Widener University Environmental Law and Sustainability Center</b> Brief	<b>Corman, Jake</b> Brief
Due: November 4, 2022 Filed: November 7, 2022	Due: November 28, 2022 Filed: November 28, 2022
<b>Appellant</b> <b>Citizens for Pennsylvania's Future</b> Brief	<b>Cutler, Bryan D.</b> Brief
Due: November 4, 2022 Filed: November 4, 2022	Due: November 28, 2022 Filed: November 28, 2022
<b>Reply Brief</b>	<b>DeLiberato, Jr., Vincent C.</b> Brief
Due: December 5, 2022 Filed: December 5, 2022	Due: November 28, 2022 Filed:
<b>Reproduced Record</b>	<b>Mendelsohn, Amy J.</b> Brief
Due: November 4, 2022 Filed: November 4, 2022	Due: November 28, 2022 Filed:
<b>Clean Air Council</b> Brief	<b>Negrin, Richard</b> Brief
Due: November 4, 2022 Filed: November 4, 2022	Due: November 28, 2022 Filed:
<b>Reply Brief</b>	<b>Pennsylvania Legislative Reference Bureau</b> Brief
Due: December 5, 2022 Filed: December 5, 2022	Due: November 28, 2022 Filed:
<b>Reproduced Record</b>	<b>Ward, Kim</b> Brief
Due: November 4, 2022 Filed: November 4, 2022	



## BRIEFING SCHEDULE

<b>Appellant</b> <b>Sierra Club</b> <b>Brief</b>		<b>Appellee</b> <b>Ward, Kim</b> <b>Brief</b>	
Due: November 4, 2022	Filed: November 4, 2022	Due: November 28, 2022	Filed: November 28, 2022
<b>Reply Brief</b>		<b>Yaw, Gene</b> <b>Brief</b>	
Due: December 5, 2022	Filed: December 5, 2022	Due: November 28, 2022	Filed: November 28, 2022
<b>Reproduced Record</b>			
Due: November 4, 2022	Filed: November 4, 2022		

## SESSION INFORMATION

Journal Number: J-30B-2023  
 Listed/Submitted Date: May 24, 2023  
 Consideration Type: Oral Argument Supreme Ct.

## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
<b>July 20, 2022</b>	<b>Notice of Appeal</b>	Appellant Appellant Appellant	Citizens for Pennsylvania's Future Clean Air Council Sierra Club
<b>July 20, 2022</b>	<b>Jurisdictional Statement</b>	Appellant Appellant Appellant	Citizens for Pennsylvania's Future Clean Air Council Sierra Club
<b>August 3, 2022</b>	<b>Answer to Notice of Appeal &amp; Jurisdictional Statement</b>	Appellee Appellee Appellee	Benninghoff, Kerry A. Cutler, Bryan D. Causer, Martin T.
<b>August 3, 2022</b>	<b>Answer to Notice of Appeal &amp; Jurisdictional Statement</b>	Appellee Appellee Appellee Appellee	Browne, Pat Corman, Jake Ward, Kim Yaw, Gene
<b>August 3, 2022</b>	<b>No Answer Letter to Notice of Appeal &amp; Jurisdictional Statement</b>	Appellee	Negrin, Richard
<b>August 3, 2022</b>	<b>Answer to Notice of Appeal &amp; Jurisdictional Statement</b>	Appellee Appellee Appellee	DeLiberato, Jr., Vincent C. Mendelsohn, Amy J. Pennsylvania Legislative Reference Bureau



## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
August 5, 2022	<b>Application for Leave to Join Application to Consolidate and Expedite Appeals</b>	Appellant Appellant Appellant	Citizens for Pennsylvania's Future Clean Air Council Sierra Club
August 8, 2022	<b>No Answer Letter to Application to Expedite and Consolidate</b>	Appellee	Negrin, Richard
August 10, 2022	<b>No Answer Letter to Application to Expedite and Consolidate</b>	Appellee Appellee Appellee	DeLiberato, Jr., Vincent C. Mendelsohn, Amy J. Pennsylvania Legislative Reference Bureau
August 10, 2022	<b>Answer to Application to Expedite and Consolidate</b>	Appellee Appellee Appellee	Benninghoff, Kerry A. Cutler, Bryan D. Causer, Martin T.
August 10, 2022	<b>Answer to Application to Expedite and Consolidate</b>	Appellee Appellee Appellee Appellee	Browne, Pat Corman, Jake Ward, Kim Yaw, Gene
August 30, 2022	<b>Notice of Disclosure</b>		Brobson, P. Kevin
October 12, 2022	<b>Jurisdiction Postponed</b>		Per Curiam
<p>Comments:</p> <p>AND NOW, this 12th day of October, 2022, the determination of this Court's jurisdiction is DEFERRED to consideration of the briefs. In addition to the issues set forth in purported Appellants' jurisdictional statements, purported Appellants and the parties, including those who attained party status when the Commonwealth Court permitted them to intervene, are ORDERED to address the appealability of the Commonwealth Court's order denying purported Appellants' intervention request. See <i>Markham v. Wolf</i>, 136 A.3d 134, 138 n.4 (Pa. 2016) (explaining that an order denying intervention is immediately appealable under the collateral order doctrine). See also Pa.R.A.P. 313 (setting forth the collateral order doctrine).</p> <p>Purported Appellants and the parties are ORDERED to file briefs that jointly address both of the appeals captioned on this order.</p> <p>The Combined Application for Leave to Join Application of Appellant Constellation is DISMISSED.</p>			
October 12, 2022	<b>Order Exited</b>		Office of the Prothonotary
October 14, 2022	<b>Commonwealth Court Record Received</b>		Commonwealth Court of Pennsylvania



## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
October 21, 2022	<b>Designation of Contents of Reproduced Record</b>	Appellant	Citizens for Pennsylvania's Future
November 4, 2022	<b>Appellant's Brief</b>	Appellant Appellant Appellant	Citizens for Pennsylvania's Future Clean Air Council Sierra Club
November 4, 2022	<b>Appellant's Reproduced Record (3 volumes)</b>	Appellant Appellant Appellant	Citizens for Pennsylvania's Future Clean Air Council Sierra Club
November 4, 2022	<b>Amicus Curiae Brief</b>	Amicus Curiae	Keystone Energy Efficiency Alliance, et al.
November 7, 2022	<b>Amicus Curiae Brief</b>	Amicus Curiae Amicus Curiae	McKinstry, Robert B., Jr. Widener University Environmental Law and Sustainability Center
November 28, 2022	<b>Appellee's Brief</b>	Appellee Appellee Appellee Appellee	Browne, Pat Corman, Jake Ward, Kim Yaw, Gene
November 28, 2022	<b>Appellee's Brief</b>	Appellee Appellee Appellee	Benninghoff, Kerry A. Cutler, Bryan D. Causer, Martin T.
December 5, 2022	<b>Appellant's Reply Brief</b>	Appellant Appellant Appellant	Citizens for Pennsylvania's Future Clean Air Council Sierra Club



## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
<b>December 5, 2022</b>	<b>Application for Order Confirming Substitution of Parties and Amending Caption of Appellees</b>		
		Appellee	Browne, Pat
		Appellee	Corman, Jake
		Appellee	Ward, Kim
		Appellee	Yaw, Gene

## Comments:

Requesting "Senate President Pro Tempore Jake Corman, Senate Majority Leader Kim Ward, and Senate Committee Chair Pat Browne" changed to "Senator Kim Ward, Interim Senate President Pro Tempore; Senator Joseph Pittman, Senate Majority Leader; Senator Scott Martin, Chair of the Senate Appropriations Committee"

<b>December 19, 2022</b>	<b>Answer in Support of Application for Order Confirming Substitution of Parties and Amending Caption o</b>		
		Appellee	Benninghoff, Kerry A.
		Appellee	Cutler, Bryan D.
		Appellee	Causar, Martin T.

<b>December 19, 2022</b>	<b>No Answer to App. for Order Confirming Substitution of Parties and Amending Caption of Appellees</b>		
		Appellee	DeLiberato, Jr., Vincent C.
		Appellee	Mendelsohn, Amy J.
		Appellee	Pennsylvania Legislative Reference Bureau

<b>March 21, 2023</b>	<b>Dispositional Memo Order</b>		
			Per Curiam

## Comments:

AND NOW, this 21st day of March, 2023, oral argument is GRANTED in the appeals docketed at 85 MAP 2022 and 87 MAP 2022, and a determination of jurisdiction is DEFERRED to consideration of the briefs; in the appeal docketed at 79 MAP 2022, oral argument is GRANTED, LIMITED to the following issues as phrased by the appellant:

1. Did Commonwealth Court err in determining that Senators raised a substantial legal question with respect to whether RGGI Rulemaking's CO2 emission allowances are taxes, not fees?
2. Did Commonwealth Court err in determining that Senators demonstrated irreparable harm?
3. Did Commonwealth Court err in failing to properly balance the harms alleged by Senators with the harms the Commonwealth demonstrated would occur if the RGGI Regulation were enjoined?
4. Did Commonwealth Court err in failing to properly assess the public interest in implementing and enforcing the RGGI Regulation?
5. Did Commonwealth Court err in determining that enjoining the RGGI Regulation would abate the harms alleged by Senate Intervenors?

The remaining issues in the appeal docketed at 79 MAP 2022 are submitted on the briefs, and the Court will not entertain them at oral argument.

The Senate Intervenors' Application for Order Confirming Substitution of Parties and Amending Caption in the appeal docketed at 79 MAP 2022 is GRANTED without prejudice to any party's ability to challenge legislative standing, which will be decided on the briefs. See Pa.R.A.P. 502(c).

<b>March 21, 2023</b>	<b>Order Exited</b>		
			Office of the Prothonotary



## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
<b>March 30, 2023</b>	<b>Acknowledgement of Argument Notice</b>		
	Corman, Jake	Appellee	Hull, Kandice Kerwin
	Ward, Kim	Appellee	Hull, Kandice Kerwin
	Yaw, Gene	Appellee	Hull, Kandice Kerwin
	Browne, Pat	Appellee	Hull, Kandice Kerwin
	Ward, Kim	Appellee	Crompton, J. Andrew
	Yaw, Gene	Appellee	Crompton, J. Andrew
	Browne, Pat	Appellee	Crompton, J. Andrew
	Corman, Jake	Appellee	Crompton, J. Andrew
	Ward, Kim	Appellee	Khuri, Brigid Landy
	Yaw, Gene	Appellee	Khuri, Brigid Landy
	Browne, Pat	Appellee	Khuri, Brigid Landy
	Corman, Jake	Appellee	Khuri, Brigid Landy
<b>March 30, 2023</b>	<b>Acknowledgement of Argument Notice</b>		
	Pennsylvania Legislative Reference Bureau	Appellee	Klein, Peter William
	DeLiberato, Jr., Vincent C.	Appellee	Klein, Peter William
	Mendelsohn, Amy J.	Appellee	Klein, Peter William
<b>March 31, 2023</b>	<b>Acknowledgement of Argument Notice</b>		
	Citizens for Pennsylvania's Future	Appellant	O'Neill, Jessica Rose
	Sierra Club	Appellant	O'Neill, Jessica Rose
<b>April 4, 2023</b>	<b>Praecipe to Substitute (Cutler for Benninghoff &amp; Causer for Metcalfe)</b>		
		Appellee	Benninghoff, Kerry A.
		Appellee	Cutler, Bryan D.
	Appellee	Causer, Martin T.	
Comments:			
Pursuant to Pennsylvania Rule of Appellate Procedure 502(c): Substitute Representative Bryan D. Cutler, Leader of the House Republican Caucus, for Representative Kerry A. Benninghoff. Substitute Representative Martin T. Causer, Republican Chair of the House Environmental Resources and Energy Committee, for former-Representative Daryl D. Metcalfe. Representative Kerry Benninghoff not participating as a party as is no longer the Leader of the House Republican Caucus.			
<b>April 11, 2023</b>	<b>Acknowledgement of Argument Notice</b>		
	Cutler, Bryan D.	Appellee	Kutz, James John
	Benninghoff, Kerry A.	Appellee	Kutz, James John
	Causer, Martin T.	Appellee	Kutz, James John





## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
<b>May 24, 2023</b>	<b>Argued</b>		
	Citizens for Pennsylvania's Future	Appellant	O'Neill, Jessica Rose
	Sierra Club	Appellant	O'Neill, Jessica Rose
	Ward, Kim	Appellee	Hull, Kandice Kerwin
	Yaw, Gene	Appellee	Hull, Kandice Kerwin
	Browne, Pat	Appellee	Hull, Kandice Kerwin
	Corman, Jake	Appellee	Hull, Kandice Kerwin
	Ward, Kim	Appellee	Khuri, Brigid Landy
	Yaw, Gene	Appellee	Khuri, Brigid Landy
	Browne, Pat	Appellee	Khuri, Brigid Landy
	Corman, Jake	Appellee	Khuri, Brigid Landy
	Negrin, Richard	Appellee	White, Matthew Adam
	McDonnell, Patrick J.	Appellee	White, Matthew Adam
	Patrick J. McDonnell, Secretary of the Department of Environmental Protection	Appellee	White, Matthew Adam