



SUPREME COURT RULING FOR POWER COMPANIES VIEWED AS A VICTORY FOR ENVIRONMENT AND ECONOMY

WASHINGTON, D.C. (April 1, 2009) -- The U.S. Supreme Court today handed a victory to power plant operators in a down economy. It ruled that existing power plants that withdraw water from the ocean, rivers or lakes for cooling purposes can comply with the Clean Water Act by using cost-effective technologies to protect aquatic organisms instead of alternative cooling systems that might afford greater environmental protections but at an extraordinarily higher cost.

The decision in *Entergy Corp. v. Riverkeeper, Inc.* upholds the authority of the U.S. Environmental Protection Agency (EPA) to use a cost-benefit analysis in determining whether plants must modify cooling systems to comply with the Clean Water Act. The decision frees affected plants, especially older facilities, from having to bear costs that could ultimately force them to shut down, thus cutting energy supplies and spiking the cost of electricity.

Pillsbury attorneys **Margaret Rosegay** and **Kevin Fong**, San Francisco partners in the firm's Environment, Land Use & Natural Resources and Litigation practices, represented the **California Council for Environmental and Economic Balance ("CCEEB")** in the *Entergy* case. They filed an amicus brief urging the Court to uphold EPA's discretion in applying cost-benefit analysis to existing power plants, which CCEEB believes will avoid severe economic disruptions.

"This is a major decision and a victory for business, labor and community interests, especially here in California where millions of citizens depend on electricity generated by the coastal power plants that are affected by the Court's decision," said Rosegay. "Without the flexibility of cost-benefit analysis, older power plants would face severe pressure to close rather than incur the extraordinary costs to retrofit and meet a 'one size fits all' standard."

Closing power plants would have a dire impact on electrical grids and the economy, she adds.

"The court's ruling helps guide sound public policy in challenging economic times," Fong remarks. "Cost-benefit analysis is a critical tool for federal regulators, who can now follow a thorough evaluation process for taking each affected plant's unique circumstances into account and weigh environmental, energy and economic impacts of various cooling technologies."

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