CASE CITATIONS

COST

Michigan v. EPA, 83 USLW 4620 (US SCt June 29, 2015) (5J majority: "agencies have long treated cost as a centrally relevant factor when deciding whether to regulate." 4 J dissent: "cost is almost always a relevant – and usually, a highly important – factor in regulation. Unless Congress provides otherwise, an agency acts unreasonably in establishing 'a standard-setting process that ignore[s] economic considerations" 83 USLW at 4627)

EPA v. EME Homer City Generation, 82 USLW 4311 (US SCt April 29, 2014) (Court overrules DC Circuit's judicially-imposed "proportional allocation" method and, on EPA's second try, upholds EPA's "cost-effective allocation of emission reductions among up-wind States" as a "permissible, workable and equitable interpretation" of the "Good Neighbor Provision in the Clean Air Act; statute gives EPA authority to select from among reasonable options, including the most efficient/least costly option)

Entergy v. Riverkeeper, 556 U.S. 208 (2009) (EPA permitted to use cost-benefit approach when determining best available technology under Clean Water Act, where statutory language was ambiguous).

Whitman v. American Trucking Assn's, 531 U.S. 457 (2001) (where the specific part of the CAA at issue expressly directs EPA to regulate on the basis of a factor that on its face does not include cost, the Act normally should not be read as implicitly allowing the Agency to consider cost anyway)

THE MAJOR QUESTIONS DOCTRINE

King v. Burwell, 83 USLW 4541, 4545 (US SCt Jun 25, 2015) (Roberts, C.J.) (whether tax credits involving billions of dollars each year are available on Federal Exchanges is a question of deep "economic and political significance" that is central to this statutory scheme; no IRS expertise in crafting health insurance policy) ("This is not a case for the IRS. It is instead our task to determine the correct reading of [the ObamaCare statute]")

Utility Air Regulatory Group v. EPA, 82 USLW 4535 (US SCt June 23, 2014) (Court invalidates one part of EPA's greenhouse gas regulations, holding agency rules unreasonable if (among other things) they "would bring about an enormous and transformative expansion in EPA's regulatory authority without clear congressional authorization")

Gonzales v. Oregon, 546 U.S. 243, 266-267 (2006) (Court rejects Atty General's claim of authority to regulate physician-assisted suicide, given only "oblique" legislative authorization and the "importance of the issue" which has been "the subject of an 'earnest and profound debate' across the country")

MCI Telecom. Corp. v. AT&T, 512 U.S. 218, 231 (1994) (court finds it "highly unlikely that Congress would leave the determination of whether an industry will be … rate-regulated to agency discretion")

FDA v. Brown & Williamson, 529 U.S. 120, 160 (2000) (court rejects FDA's claim of jurisdiction to regulate tobacco products in the absence of a clear congressional statement granting that authority)

Benzene, 448 U.S. 607, 645-646 (1980) (court rejects agency's claim of sweeping regulatory authority without clear legislative authorization)

Case Note, 128 Harv.L.Rev. 1508, 1515-17 & nn.69, 76 (March 2015) (cases and commentary on the "major question" doctrine)