

**[J-127A-D-2012]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**MIDDLE DISTRICT**

ROBINSON TOWNSHIP, WASHINGTON : No. 63 MAP 2012  
COUNTY, PENNSYLVANIA, BRIAN :  
COPPOLA, INDIVIDUALLY AND IN HIS : Application for Reargument or  
OFFICIAL CAPACITY AS SUPERVISOR : Reconsideration of the Opinions and  
OF ROBINSON TOWNSHIP, TOWNSHIP : Order entered by this Court on  
OF NOCKAMIXON, BUCKS COUNTY, : December 19, 2013  
PENNSYLVANIA, TOWNSHIP OF :  
SOUTH FAYETTE, ALLEGHENY :  
COUNTY, PENNSYLVANIA, PETERS :  
TOWNSHIP, WASHINGTON COUNTY, :  
PENNSYLVANIA, DAVID M. BALL, :  
INDIVIDUALLY AND IN HIS OFFICIAL :  
CAPACITY AS COUNCILMAN OF :  
PETERS TOWNSHIP, TOWNSHIP OF :  
CECIL, WASHINGTON COUNTY, :  
PENNSYLVANIA, MOUNT PLEASANT :  
TOWNSHIP, WASHINGTON COUNTY, :  
PENNSYLVANIA, BOROUGH OF :  
YARDLEY, BUCKS COUNTY, :  
PENNSYLVANIA, DELAWARE :  
RIVERKEEPER NETWORK, MAYA VAN :  
ROSSUM, THE DELAWARE :  
RIVERKEEPER, MEHERNOSH KHAN, :  
M.D. :

v. :

COMMONWEALTH OF PENNSYLVANIA, :  
PENNSYLVANIA PUBLIC UTILITY :  
COMMISSION, ROBERT F. POWELSON, :  
IN HIS OFFICIAL CAPACITY AS :  
CHAIRMAN OF THE PUBLIC UTILITY :  
COMMISSION, OFFICE OF THE :  
ATTORNEY GENERAL OF :  
PENNSYLVANIA, KATHLEEN KANE, IN :  
HER OFFICIAL CAPACITY AS :  
ATTORNEY GENERAL OF THE :  
COMMONWEALTH OF PENNSYLVANIA, :  
PENNSYLVANIA DEPARTMENT OF :  
ENVIRONMENTAL PROTECTION AND :  
E. CHRISTOPHER ABRUZZO, IN HIS :  
OFFICIAL CAPACITY AS SECRETARY :

OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

APPEAL OF: PENNSYLVANIA PUBLIC UTILITY COMMISSION, ROBERT F. POWELSON, IN HIS OFFICIAL CAPACITY AS CHAIRMAN OF THE PUBLIC UTILITY COMMISSION & PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND E. CHRISTOPHER ABRUZZO, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

ROBINSON TOWNSHIP, WASHINGTON COUNTY, PENNSYLVANIA, BRIAN COPPOLA, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS SUPERVISOR OF ROBINSON TOWNSHIP, TOWNSHIP OF NOCKAMIXON, BUCKS COUNTY, PENNSYLVANIA, TOWNSHIP OF SOUTH FAYETTE, ALLEGHENY COUNTY, PENNSYLVANIA, PETERS TOWNSHIP, WASHINGTON COUNTY, PENNSYLVANIA, DAVID M. BALL, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS COUNCILMAN OF PETERS TOWNSHIP, TOWNSHIP OF CECIL, WASHINGTON COUNTY, PENNSYLVANIA, MOUNT PLEASANT TOWNSHIP, WASHINGTON COUNTY, PENNSYLVANIA, BOROUGH OF YARDLEY, BUCKS COUNTY, PENNSYLVANIA, DELAWARE RIVERKEEPER NETWORK, MAYA VAN ROSSUM, THE DELAWARE RIVERKEEPER, MEHERNOSH KHAN, M.D.,

Cross Appellants

v.

No. 72 MAP 2012

Application for Reargument or Reconsideration of the Opinions and Order entered by this Court on December 19, 2013

COMMONWEALTH OF PENNSYLVANIA,  
PENNSYLVANIA PUBLIC UTILITY  
COMMISSION, ROBERT F. POWELSON,  
IN HIS OFFICIAL CAPACITY AS  
CHAIRMAN OF THE PUBLIC UTILITY  
COMMISSION, OFFICE OF THE  
ATTORNEY GENERAL OF  
PENNSYLVANIA, KATHLEEN KANE, IN  
HER OFFICIAL CAPACITY AS  
ATTORNEY GENERAL OF THE  
COMMONWEALTH OF PENNSYLVANIA,  
PENNSYLVANIA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION AND  
E. CHRISTOPHER ABRUZZO, IN HIS  
OFFICIAL CAPACITY AS SECRETARY  
OF THE DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,

Appellees

ROBINSON TOWNSHIP, WASHINGTON  
COUNTY, PENNSYLVANIA, BRIAN  
COPPOLA, INDIVIDUALLY AND IN HIS  
OFFICIAL CAPACITY AS SUPERVISOR  
OF ROBINSON TOWNSHIP, TOWNSHIP  
OF NOCKAMIXON, BUCKS COUNTY,  
PENNSYLVANIA, TOWNSHIP OF  
SOUTH FAYETTE, ALLEGHENY  
COUNTY, PENNSYLVANIA, PETERS  
TOWNSHIP, WASHINGTON COUNTY,  
PENNSYLVANIA, DAVID M. BALL,  
INDIVIDUALLY AND IN HIS OFFICIAL  
CAPACITY AS COUNCILMAN OF  
PETERS TOWNSHIP, TOWNSHIP OF  
CECIL, WASHINGTON COUNTY,  
PENNSYLVANIA, MOUNT PLEASANT  
TOWNSHIP, WASHINGTON COUNTY,  
PENNSYLVANIA, BOROUGH OF  
YARDLEY, BUCKS COUNTY,  
PENNSYLVANIA, DELAWARE  
RIVERKEEPER NETWORK, MAYA VAN  
ROSSUM, THE DELAWARE  
RIVERKEEPER, MEHERNOSH KHAN,  
M.D.

No. 64 MAP 2012

Application for Reargument or  
Reconsideration of the Opinions and  
Order entered by this Court on  
December 19, 2013

v.

COMMONWEALTH OF PENNSYLVANIA,  
PENNSYLVANIA PUBLIC UTILITY  
COMMISSION, ROBERT F. POWELSON,  
IN HIS OFFICIAL CAPACITY AS  
CHAIRMAN OF THE PUBLIC UTILITY  
COMMISSION, OFFICE OF THE  
ATTORNEY GENERAL OF  
PENNSYLVANIA, KATHLEEN KANE, IN  
HER OFFICIAL CAPACITY AS  
ATTORNEY GENERAL OF THE  
COMMONWEALTH OF PENNSYLVANIA,  
PENNSYLVANIA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION AND  
E. CHRISTOPHER ABRUZZO, IN HIS  
OFFICIAL CAPACITY AS SECRETARY  
OF THE DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

APPEAL OF: OFFICE OF THE  
ATTORNEY GENERAL OF  
PENNSYLVANIA, KATHLEEN KANE, IN  
HER OFFICIAL CAPACITY AS  
ATTORNEY GENERAL OF THE  
COMMONWEALTH OF PENNSYLVANIA

ROBINSON TOWNSHIP, WASHINGTON  
COUNTY, PENNSYLVANIA, BRIAN  
COPPOLA, INDIVIDUALLY AND IN HIS  
OFFICIAL CAPACITY AS SUPERVISOR  
OF ROBINSON TOWNSHIP, TOWNSHIP  
OF NOCKAMIXON, BUCKS COUNTY,  
PENNSYLVANIA, TOWNSHIP OF  
SOUTH FAYETTE, ALLEGHENY  
COUNTY, PENNSYLVANIA, PETERS  
TOWNSHIP, WASHINGTON COUNTY,  
PENNSYLVANIA, DAVID M. BALL,  
INDIVIDUALLY AND IN HIS OFFICIAL  
CAPACITY AS COUNCILMAN OF  
PETERS TOWNSHIP, TOWNSHIP OF  
CECIL, WASHINGTON COUNTY,  
PENNSYLVANIA, MOUNT PLEASANT  
TOWNSHIP, WASHINGTON COUNTY,  
PENNSYLVANIA, BOROUGH OF

No. 73 MAP 2012

Application for Reargument or  
Reconsideration of the Opinions and  
Order entered by this Court on  
December 19, 2013

YARDLEY, BUCKS COUNTY,  
PENNSYLVANIA, DELAWARE  
RIVERKEEPER NETWORK, MAYA VAN  
ROSSUM, THE DELAWARE  
RIVERKEEPER, MEHERNOSH KHAN,  
M.D.,

Cross Appellants

v.

COMMONWEALTH OF PENNSYLVANIA,  
PENNSYLVANIA PUBLIC UTILITY  
COMMISSION, ROBERT F. POWELSON,  
IN HIS OFFICIAL CAPACITY AS  
CHAIRMAN OF THE PUBLIC UTILITY  
COMMISSION, OFFICE OF THE  
ATTORNEY GENERAL OF  
PENNSYLVANIA, KATHLEEN KANE, IN  
HER OFFICIAL CAPACITY AS  
ATTORNEY GENERAL OF THE  
COMMONWEALTH OF PENNSYLVANIA,  
PENNSYLVANIA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION AND  
E. CHRISTOPHER ABRUZZO, IN HIS  
OFFICIAL CAPACITY AS SECRETARY  
OF THE DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,

Appellees

**DISSENTING STATEMENT**

**MR. JUSTICE SAYLOR**

**FILED: February 21, 2014**

I respectfully differ with the majority's decision to deny reconsideration in this matter on the terms requested by the Commonwealth parties. In this regard, I am fully in line with the position that "[f]undamental fairness to a co-equal branch of government, as well as adherence to this Court's precedent and established procedure, mandates

that the [Commonwealth parties] be afforded a reasonable opportunity to present evidence before any judicial proclamation is made about whether Act 13 satisfies the newly-mandated balancing test under Section 27” of Article I of the Pennsylvania Constitution. Application for Reargument at 7; accord Robinson Twp. v. Commonwealth, \_\_\_ A.3d \_\_\_, \_\_\_, 2013 WL 6687290, \*85-90 (Pa. Dec. 19, 2013) (Saylor, J., dissenting). The judiciary simply does not possess the ability to divine the consequences of a legislative enactment absent a developed factual record.