

**In the
United States Court of Appeals
for the Second Circuit**

August Term 2025
No. 25-2763-cv

EDWARD SKOLARUS, on behalf of themselves and all others similarly situated,
JAMES SMALL, on behalf of themselves and all others similarly situated,
STEVEN TORTOLANI, on behalf of themselves and all others similarly situated,
JOSHUA CAIN, individually and on behalf of all others similarly situated,
MICHAEL KATZMAN, individually and on behalf of all others similarly situated,
YAFFA LAWSON, individually and on behalf of all others similarly situated,
CASSANDRA ARNOLD, individually and on behalf of all others similarly situated,

Plaintiffs-Appellants,

v.

BLOOMBERG, L.P., AND BLOOMBERG INDEX SERVICES, LTD.,

Defendants-Appellees.

On Appeal from the United States District Court
for the Southern District of New York

ARGUED: MAY 4, 2026
DECIDED: OCTOBER 7, 2026

Before: CALABRESI, PARK, and KAHN, *Circuit Judges*.

Plaintiffs-Appellants are utility customers in Texas and California who paid interest on bonds issued by their utility companies. They sued Defendants-Appellees Bloomberg, L.P. and Bloomberg Index Services, Ltd. under state law, alleging that Bloomberg inflated the bonds' interest rates by unlawfully reclassifying them from corporate bonds to asset-backed securities. The district court (Carter, Jr., *J.*) dismissed the suit under the filed rate doctrine—which bars parties from challenging rates filed with a regulatory agency—because the utility companies filed the challenged interest rates with state regulators prior to the issuance of the bonds.

We hold that the filed rate doctrine bars Plaintiffs' claims because the state regulators had notice of the allegedly inflated interest rates but still permitted the bonds to be issued. We therefore **AFFIRM** the judgment of the district court.

Judge Park concurs in a separate opinion.

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MARIA ARAÚJO KAHN, *Circuit Judge*:

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BACKGROUND

Plaintiffs-Appellants are customers of utility companies in Texas and California—Electric Reliability Council of Texas (“ERCOT”), Southern California Edison Company (“SCE”), and Pacific Gas and Electric Company (“PG&E”) (together, “the utilities”). Between 2022 and 2024, the utilities sought to issue four sets of bonds related to winter storm and wildfire recovery. Those bonds are:

ERCOT Texas Stabilization Subchapter N Bonds; SCE Senior Secured Recovery Bonds, Series 2023-A; PG&E Senior Secured Recovery Bonds, Series 2022-A; and PG&E Senior Secured Recovery Bonds, Series 2024-A (collectively, the “recovery bonds”). To issue the recovery bonds, the utilities were required to obtain approval from state public utility commissions (“state PUCs”). The California PUC has regulatory authority over PG&E and SCE; the Texas PUC has regulatory authority over ERCOT. If approved, the costs associated with the bonds would be passed through to ratepayers.

The utilities submitted applications to the state PUCs for issuance of the recovery bonds, and the state PUCs conditionally approved those applications subject to receiving “issuance advice letters” that detailed the full terms of the bonds. The interest rate on each recovery bond was to be set by a market-based process.

Prior to 2022, Bloomberg, the dominant indexer of the United States bond market, classified recovery bonds as corporate bonds. On June 8, 2022, Bloomberg announced its intent to consider whether it would reclassify recovery bonds as asset-backed securities (“ABS”) instead of corporate bonds. On August 1, 2022, Bloomberg formally announced that it was reclassifying recovery bonds as ABS.

Each state PUC received issuance advice letters from the utilities that detailed the terms of the recovery bonds, including the applicable interest rates. After receiving the issuance advice letters, the state PUCs retained the authority to decline to issue the bonds. The state PUCs did not exercise that authority, and all four sets of bonds were issued.

In 2024, Plaintiffs brought this diversity action against Bloomberg on behalf of themselves and those similarly situated. They alleged that Bloomberg's reclassification was unlawful and that it resulted in the recovery bonds being subject to higher interest rates that were passed through to utility customers. Bloomberg moved to dismiss, arguing that the filed rate doctrine barred Plaintiffs' claims and that Plaintiffs failed to state plausible claims for relief. The district court granted Bloomberg's motion. It held that there were sufficient regulatory safeguards such that Plaintiffs' claims were barred by the filed rate doctrine. This appeal followed.

DISCUSSION

We review a district court's decision to grant a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) *de novo*. See *Simon v. KeySpan Corp.*, 694 F.3d 196, 201 (2d Cir. 2012).

I. Forfeiture of Question of Application of Filed Rate Doctrine to State-Law Claims

We note at the outset that the question of whether the federal filed rate doctrine applies to Plaintiffs' state-law claims is not properly before us because Plaintiffs failed to properly raise the issue on appeal, as well as before the district court.

Even if they had raised the issue properly, a strong argument can be made that the question of whether the filed-rate doctrine applies to state-law claims is settled in our circuit. *See Wegoland Ltd. v. NYNEX Corp.*, 27 F.3d 17, 20 (2d Cir. 1994); *Rothstein v. Balboa Ins. Co.*, 794 F.3d 256, 260 n.1, 261 (2d Cir. 2015). Those decisions appear to settle the issue, and neither we nor the district court are empowered to overlook binding precedent. *See Lotes Co. v. Hon Hai Precision Indus. Co.*, 753 F.3d 395, 405 (2d Cir. 2014). In any event, Plaintiffs forfeited the issue.

Both on appeal and below, Plaintiffs conclusorily argue in a footnote that the federal filed rate doctrine cannot act to bar state-law claims concerning state regulatory action. "We have repeatedly ruled that arguments presented to us only in a footnote are not entitled to appellate consideration." *Universal City Studios, Inc. v. Corley*, 273 F.3d 429, 445 (2d Cir. 2001). Although in their reply brief,

Plaintiffs reiterate the claim in perfunctory form, that belated effort “does not save this argument” from forfeiture. *Diesel v. Town of Lewisboro*, 232 F.3d 92, 110 (2d Cir. 2000). As the Supreme Court has twice admonished in the most recent term, “[t]he parties frame the issues for decision, while the court serves as neutral arbiter of matters the parties present.” *Clark v. Sweeney*, 607 U.S. 7, 9 (2025) (per curiam) (internal quotation marks omitted); see also *Margolin v. Nat’l Ass’n of Immigr. Judges*, 146 S. Ct. 1285, 1288–89 (2026) (per curiam). In light of Plaintiffs’ repeated failure to properly raise this argument, we deem the issue forfeited.

We recognize that we have discretion to consider a forfeited argument where “necessary to avoid a manifest injustice or where the argument presents a question of law.” *Allianz Ins. Co. v. Lerner*, 416 F.3d 109, 114 (2d Cir. 2005) (internal quotation marks omitted). However, there is no manifest injustice in our declining to consider Plaintiffs’ forfeited argument even though that argument presents a question of law. See *In re Nortel Networks Corp. Sec. Litig.*, 539 F.3d 129, 133 (2d Cir. 2008) (per curiam) (considering the adequacy of the district court’s analysis to assess whether a manifest injustice will occur); *Niagara Mohawk Power Corp. v. Hudson River-Black River Regulating Dist.*, 673 F.3d 84, 108 n.8 (2d Cir. 2012) (briefly addressing the merits of argument deemed forfeited).

In addition, the circumstances here counsel against exercising our discretion to consider Plaintiffs' forfeited argument because Plaintiffs do not explain why they failed to properly raise it in the district court and in our Court. *See Nortel Networks*, 539 F.3d at 133 (declining to consider unpreserved argument where the parties "proffer no reason for their failure to raise the argument[] below" (internal quotation marks omitted)). Because Plaintiffs are represented by competent counsel, we will not excuse their failure to properly present this issue for our review. *See Universal City Studios*, 273 F.3d at 445. Accordingly, we decline to address an argument that was unpreserved and that is seemingly foreclosed by prior decisions of this Court.

II. Application of the Filed Rate Doctrine

We now turn to consider whether the district court erred in ruling that Plaintiffs' claims were barred under the filed rate doctrine. We hold that it did not.

The filed rate doctrine "holds that any 'filed rate' — that is, one approved by the governing regulatory agency — is per se reasonable and unassailable in judicial proceedings brought by ratepayers." *Wegoland*, 27 F.3d at 18. The doctrine is grounded in the principles of nondiscrimination and nonjusticiability.¹ *See*

¹ The parties agree that the nondiscrimination principle is not at issue in this appeal.

Rothstein, 794 F.3d at 261. The nonjusticiability principle provides that courts “should not undermine agency rate-making authority by upsetting approved rates.” *Id.* (alteration adopted and internal quotation marks omitted). We have applied the doctrine across a wide variety of scenarios. *See Simon*, 694 F.3d at 205 (discussing the doctrine’s scope). The doctrine applies regardless of “the culpability of the defendant’s conduct or the possibility of inequitable results,” including to claims “based on fraud or impropriety in the method by which the rate is determined.” *Id.* (internal quotation marks omitted). It applies even if a claim “can be characterized as challenging something other than” a regulator-approved rate, and it “reaches both federal and state causes of action and protects rates approved by federal or state regulators.” *Rothstein*, 794 F.3d at 261, 262. Given the filed rate doctrine’s breadth, we have described it as “rigid and unforgiving.” *Simon*, 694 F.3d at 205.

The parties agree that the outcome of this case turns on the applicability of our decision in *Simon*. In *Simon*, the plaintiff—a retail consumer of electricity in New York City—brought state and federal antitrust claims against KeySpan Corporation, a producer of electricity, and Morgan Stanley Capital Group Inc., a financial firm that was allegedly complicit in KeySpan’s misconduct. *See* 694 F.3d

at 198. The New York Independent System Operator (“NYISO”) and the Federal Energy Regulatory Commission (“FERC”) implemented a market-based auction system that determined the rate (the “market-backed rate” or “MBR”) at which producers could sell their installed capacity of electricity. *See id.* at 198, 199, 206–07. Under the auction system, although the rate would ultimately be set by the market, FERC implemented some regulatory controls. *See id.* at 206–07. Specifically, FERC imposed price caps and retained the ability to investigate anticompetitive conduct. *See id.* at 207. The plaintiff alleged that KeySpan abused the auction system which resulted in the plaintiff paying a supracompetitive price for electricity. *See id.* at 198. We held that the filed rate doctrine was applicable notwithstanding that FERC “did not directly set the rate at issue” because FERC “created a process for setting rates, reviewed the resulting rates, and, after investigation, determined that the anti-competitive behavior did not undermine its process.” *Id.* at 206–07, 208.

As in *Simon*, although the state PUCs did not set the rates, they created a process to determine the rates, had the statutory obligation to assess the reasonableness of the rates associated with the recovery bonds, and ultimately accept or reject those rates. That the interest rates on the recovery bonds were set

in the market rather than directly by the state PUCs is not determinative. *See id.* at 206–07. Rather, the relevant inquiry is whether the market-based process was “sufficiently safeguarded such that the filed rate doctrine should apply.” *Id.* at 207.

Here, the state PUCs maintained oversight over the process by which the bonds were issued. The Texas PUC was required to consider “the impacts on both wholesale market participants and retail customers,” Tex. Util. Code § 39.653(a), and the California PUC was obligated to assess whether the “costs and expenses” associated with the recovery bonds were “just and reasonable,” Cal. Pub. Util. Code § 850.1(a). To that end, after receiving applications from the utilities for the issuance of recovery bonds, the state PUCs approved the process by which the rates were set for the recovery bonds. Those approval orders required the utilities to submit issuance advice letters detailing the terms and structure of the recovery bonds prior to the issuance of the bonds. The state PUCs then received those issuance advice letters which detailed the bonds’ terms, including the applicable interest rates. Although the state PUCs could not alter the interest rates, as Plaintiffs note, the state PUCs nonetheless retained the authority to decline to issue the bonds if they deemed the terms of the bonds unreasonable. Plaintiffs’

disagreement with the state PUCs' decision to permit the bonds to be issued does not establish a lack of regulatory oversight to render the filed rate doctrine inapplicable.²

As to Plaintiffs' assertion that, unlike in *Simon*, the regulators did not possess the authority to investigate Bloomberg's alleged misconduct, the district court properly recognized that the clandestine nature of the alleged conduct at issue in *Simon* made the ability to investigate that conduct critical to the determination of the doctrine's applicability. By contrast, Bloomberg's reclassification of the bonds was well-publicized. In fact, Plaintiffs allege that it was Bloomberg's public disclosure of its intent to reclassify the bonds which influenced the market's response. See *Skolarus v. Bloomberg, L.P.*, No. 24-cv-04375, 2025 WL 2782335, at *6 (S.D.N.Y. Sept. 30, 2025). The public nature of Bloomberg's alleged misconduct—and the state PUCs' notice of the potential effect of that reclassification on the interest rates of those bonds—renders the state PUCs' inability to investigate Bloomberg's conduct less significant in this case.

² As to the bonds issued by the California PUC, Bloomberg finalized its reclassification of recovery bonds three months, eight months, and two years prior to the issuance of the bonds. We recognize that, as to the bonds issued by the Texas PUC, notice of Bloomberg's intent to reclassify was issued one day prior to the Texas PUC's receipt of the issuance advice forms. Even so, the Texas PUC still had notice as of June 8, 2022 and received a description of the bonds' full terms a day later, which gave the Texas PUC ample opportunity to review the terms of the bonds in light of Bloomberg's potential reclassification to determine whether the interest rates were reasonable.

Importantly, we note that the Securities and Exchange Commission (“SEC”) twice issued guidance concluding that utility securitizations such as recovery bonds are properly classified as ABS. In light of the other regulatory controls that the state PUCs did exercise and the SEC’s subsequent guidance, we conclude that sufficient safeguards were in place such that the filed rate doctrine applies.

Finally, the district court did not abuse its discretion in dismissing the complaint with prejudice. *See Horoshko v. Citibank, N.A.*, 373 F.3d 248, 249–50 (2d Cir. 2004) (per curiam) (“The . . . contention that the District Court abused its discretion in not permitting an amendment that was never requested is frivolous.”). Plaintiffs concede that they did not request leave to amend. As such, “no court can be said to have erred in failing to grant a request that was not made.” *Gallop v. Cheney*, 642 F.3d 364, 369 (2d Cir. 2011) (citation and internal quotation marks omitted).

CONCLUSION

Accordingly, the judgment of the district court is **AFFIRMED**.

PARK, *Circuit Judge*, concurring:

I agree with the majority that our precedent applying the *federal* filed rate doctrine would likely bar the claims in this case, even though they are *state-law* challenges to rates approved by *state* agencies.¹ I write separately to explain why those decisions are misguided. The doctrine is based on an inference that federal rate-setting statutes bar challenges to rates approved by federal agencies. But such an inference should apply—if at all—only in cases that actually involve federal rate-setting statutes, and not in cases—like this one—about rates governed by state law.

I

The federal filed rate doctrine is a judicially created rule that “precludes legal challenges to rates set or approved by federal agencies.” *Simon*, 694 F.3d at 201. It is “grounded statutorily” in federal statutes that authorize federal agencies to approve rates, *FTC v. Verity Int’l, Ltd.*, 443 F.3d 48, 61 (2d Cir. 2006), and its application is “rigid and unforgiving” in cases involving those statutes, *Simon*, 694 F.3d at 205.

¹ See *Rothstein v. Balboa Ins. Co.*, 794 F.3d 256, 260–61 (2d Cir. 2015) (applying the federal filed rate doctrine to state agency-approved rates); *Simon v. KeySpan Corp.*, 694 F.3d 196, 207 (2d Cir. 2012) (stating that the “rationale behind the filed rate doctrine applies with equal force” to rates set by an “auction system . . . in which the regulating agency tightly controls the auction process”); *Wegoland, Ltd. v. NYNEX Corp.*, 27 F.3d 17, 20 (2d Cir. 1994) (stating that “the rationales underlying the filed rate doctrine apply equally strongly to regulation by state agencies”).

States have adopted their own approaches to their rate-setting schemes. Some states—including California, whose agencies approved some of the rates challenged here—have “declined to create a state filed rate doctrine.” *Carlin v. DairyAmerica, Inc.*, 705 F.3d 856, 868 n.9 (9th Cir. 2013). Other states, including Texas—whose agencies approved the other rates challenged here—have incorporated the doctrine into state law. *See Mid-Century Ins. Co. of Tex. v. Ademaj*, 243 S.W.3d 618, 625 (Tex. 2007). In the states that have adopted the filed rate doctrine, its “breadth and force” varies. *Gunn v. Cont’l Cas. Co.*, 968 F.3d 802, 805 (7th Cir. 2020).

II

A

The federal filed rate doctrine rests on an interpretation of federal rate-setting statutes, so it should apply only to claims that implicate those statutes.

The Supreme Court has described the federal filed rate doctrine as an inference from the purpose underlying the federal rate-setting statutes. When the Court first articulated the filed rate doctrine in *Keogh v. Chicago & Northwestern Railway Co.*, 260 U.S. 156 (1922), it explained that the doctrine was necessary to promote “the paramount purpose of Congress” in passing the Interstate Commerce Act—*i.e.*, “prevention of unjust [rate] discrimination” between customers. *Id.* at 163.²

² The Supreme Court has acknowledged that there is “nothing in the language of the Interstate Commerce Act,” or other “relevant statutes,” that prevents courts from resolving challenges to filed rates. *Square D Co. v. Niagara Frontier Tariff Bureau, Inc.*, 476 U.S. 409, 414 (1986).

After *Keogh*, the Court extended the filed rate doctrine “across the spectrum of regulated utilities,” as a matter of statutory interpretation. *Ark. La. Gas Co. v. Hall*, 453 U.S. 571, 577 (1981) (“*Arkla*”). In *Arkla*, it concluded that the doctrine barred a challenge to rates filed with the Federal Energy Regulatory Commission (“FERC”) because “Congress here has granted exclusive authority over rate regulation to [FERC].” *Id.* at 580. Later, it applied the doctrine to the Communications Act of 1934, reasoning that the Act’s relevant provisions were “modeled after similar provisions of the Interstate Commerce Act . . . and share its goal of preventing unreasonable and discriminatory charges.” *Am. Tel. & Tel. Co. v. Cent. Off. Tel., Inc.*, 524 U.S. 214, 222 (1998). Other cases also tie the doctrine to federal rate-setting statutes. *See, e.g., Louisville & Nash. R.R. Co. v. Maxwell*, 237 U.S. 94, 97 (1915) (describing an early form of the doctrine that “embodies the policy which has been adopted by Congress in the regulation of interstate commerce”); *MCI Telecomms. Corp. v. Am. Tel. & Tel. Co.*, 512 U.S. 218, 234 (1994) (deriving the doctrine from the “meaning of the federal Communications Act of 1934”).

The Supreme Court has applied the doctrine to areas of state law only when a federal statute dictated that result. In *Arkla*, the Court explained that the Supremacy Clause required it to apply the filed rate doctrine to a state-law challenge to rates filed with FERC because allowing that challenge would “undermine the congressional scheme of uniform rate regulation.” 453 U.S. at 579, 581–582. Later, the Court explained that “[w]hen the filed rate doctrine applies to state regulators, it does so as a matter of federal pre-emption through the Supremacy Clause.” *Entergy La., Inc. v. La. Pub. Serv.*

Comm’n, 539 U.S. 39, 47 (2003). The Court has never applied the doctrine in a case that did not involve a federal rate-setting statute.

This case should be straightforward. Plaintiffs challenge rates that are governed only by state law, so the federal filed rate doctrine should not bar their claims.

B

In *Wegoland*, we stated that “the rationales underlying the filed rate doctrine apply equally strongly to regulation by state agencies.” 27 F.3d at 20. We then relied on that statement in *Rothstein* to conclude that the federal filed rate doctrine bars challenges to rates regulated by “state insurance regulators.” 794 F.3d at 260–61. As the majority explains, these cases would likely require us to apply the federal filed rate doctrine to bar Plaintiffs’ state-law challenges to rates approved by state agencies. But *Wegoland*’s suggestion that the federal filed rate doctrine applies to “regulation by state agencies” based on its “rationales,” 27 F.3d at 20, is inconsistent with Supreme Court precedent. And when—as here—it leads courts to apply the federal filed rate doctrine in diversity suits challenging state-approved rates, it is also inconsistent with the Rules of Decision Act.

First, *Wegoland* ignores Supreme Court precedent, which clarifies that the filed rate doctrine is based on federal statutes, not on any compelling “rationales.” In *Square D*, the Court stated that the filed rate doctrine may be “unwise as a matter of policy,” but applied it because of “the strong presumption of continued validity that adheres in the judicial interpretation of a statute.” 476 U.S. at 420, 424. So “[i]f there is to be an overruling of the *Keogh* rule, it must come from Congress, rather than from this Court.” *Id.* at 424.

Later, the Court reiterated that if “the filed rate doctrine has become an anachronism,” “it is the responsibility of Congress to modify or eliminate” the relevant rate-setting statutes. *Maislin Indus., U.S., Inc. v. Primary Steel, Inc.*, 497 U.S. 116, 136 (1990). Since then, some states—like California—have chosen not to adopt the filed rate doctrine. See *Carlin*, 705 F.3d at 868 n.9. It makes no sense to apply an interpretation of federal law to state law in this context.

Second, applying the federal filed rate doctrine in diversity suits about rates governed by state law is inconsistent with the Rules of Decision Act, which requires courts to apply “[t]he laws of the several states, except where the Constitution or treaties of the United States or Acts of Congress otherwise require or provide.” 28 U.S.C. § 1652. In state-law challenges to rates governed by state regulatory schemes, there is no federal statute, constitutional provision or principle, or treaty requiring courts to apply the federal filed rate doctrine. Nor can courts apply the filed rate doctrine as a form of federal common law. “In the absence of congressional authorization, common lawmaking must be necessary to protect uniquely federal interests.” *Rodriguez v. FDIC*, 589 U.S. 132, 136 (2020) (cleaned up). There are no “uniquely federal interests” in cases involving exclusively state rate-setting regimes and state-law claims.

Wegoland did not consider these concerns. Instead, it asserted without analysis that “courts have uniformly held, and we agree, that the rationales underlying the filed rate doctrine apply equally strongly to regulation by state agencies.” *Wegoland*, 27 F.3d at 20. But the cases *Wegoland* cited offered only conclusory statements to the

same effect,³ and some relied on *state* filed rate doctrines.⁴ Beyond that, *Wegoland's* statement that courts uniformly apply the federal filed rate doctrine to claims challenging state agency-approved rates is no longer true. The Seventh Circuit has since rejected a defendant's "astonishing" argument that "'federal common law' creates [the] filed-rate defense" in a state-law challenge to insurance rates approved by state agencies. *Gunn*, 968 F.3d at 807. The Ninth Circuit similarly has explained that in a case involving "a *state* antitrust law being applied where an *agency of that state* has set a commodity price," "[w]hether damages can be awarded to the injured parties is a matter of state law." *Knevelbaard Dairies v. Kraft Foods, Inc.*, 232 F.3d 979, 992 (9th Cir. 2000). And other courts of appeals have relied on state law in similar suits.⁵ We should revisit

³ See *Taffet v. S. Co.*, 967 F.2d 1483, 1494 & n.12 (11th Cir. 1992) (en banc) (explaining that the principles "central to the filed rate doctrine . . . appl[y] with equal force to preclude recovery under RICO whether the rate at issue has been set by a state rate-making authority or a federal one"); *H.J. Inc. v. Nw. Bell Tel. Co.*, 954 F.2d 485, 494 (8th Cir. 1992) ("Although little case law exists on this question, we see no reason to distinguish between rates promulgated by state and federal agencies."); *Sun City Taxpayers' Ass'n v. Citizens Utils. Co.*, 847 F. Supp. 281, 289 (D. Conn. 1994) (similar).

⁴ See *Taffet*, 967 F.2d at 1491 (explaining that under Georgia and Alabama law, "the judiciary has no authority to set utility rates"); *Sun City*, 847 F. Supp. at 289 (explaining that under Arizona law, "courts cannot substitute their judgment for that of the commission as to what is fair value or a just and reasonable rate" (cleaned up)).

⁵ See *In re N.J. Title Ins. Litig.*, 683 F.3d 451, 459–60 (3d Cir. 2012) (applying New Jersey's filed rate doctrine); *Coll v. First Am. Title Ins. Co.*, 642 F.3d 876, 886–87 (10th Cir. 2011) (applying New Mexico's filed rate doctrine); see also *Patel v. Specialized Loan Servicing, LLC*, 904 F.3d 1314, 1329 (11th Cir. 2018) (Jordan, J., dissenting) ("[F]or the federal filed rate doctrine

Wegoland and clarify that the federal filed rate doctrine applies only to cases implicating federal rate-setting, not regulation by state agencies.⁶

III

I concur in the judgment because we are likely bound by our precedent misapplying the federal filed rate doctrine. But *Wegoland*'s statement that the doctrine applies to all rates approved by state agencies is wrong, and we should reconsider it in an appropriate case.

to apply, it must be tied to a federal statute creating a federal regulatory scheme.").

⁶ The rationale underlying the federal filed rate doctrine may warrant reexamination after *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). There, the Supreme Court overruled *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), in part because its "justifying presumption"—that Congress intended for executive agencies to resolve ambiguities in statutes they administer—was "a fiction," unmoored from any statutory text, that "prevent[ed] [judges] from judging." *Loper Bright*, 603 U.S. at 404. The filed rate doctrine likewise rests not on statutory text but on the presumption that Congress intended to "insulate from challenge [any] filed rate deemed reasonable by [a] regulatory agency." *Wegoland*, 27 F.3d at 20.