

Bond Case Briefs

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PUBLIC UTILITIES - TEXAS

Exelon Wind 1, L.L.C. v. Nelson

United States Court of Appeals, Fifth Circuit - September 8, 2014 - F.3d - 2014 WL 4421392

Qualifying wind generation facilities under the Public Utilities Regulatory Policies Act (PURPA) brought action against the Texas Public Utilities Commission (PUC), challenging the PUC's requirement that only qualifying facilities that generate "firm power" were eligible to sell power through a legally enforceable obligation. The District Court granted summary judgment for the generation facilities. The PUC appealed.

The Court of Appeals held that:

- Texas Courts had exclusive jurisdiction over the facilities' challenges to the Texas PUC's order;
- Federal courts had exclusive jurisdiction over the facilities' challenges to the Texas PUC's rule; and
- PURPA and Federal Energy Regulatory Commission (FERC) regulations did not mandate that all qualifying facilities must be able to form legally enforceable obligations.