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UTILITIES - COLORADO

Energy and Environment Legal Institute v. Epel

United States Court of Appeals, Tenth Circuit - July 13, 2015 - F.3d - 2015 WL 4174876

Nonprofit energy organization brought action alleging that Colorado statute requiring that twenty percent of electricity sold to Colorado consumers come from renewable sources violated dormant Commerce Clause. After environmental groups intervened, the United States District Court entered summary judgment in state's favor, and organization appealed.

The Court of Appeals held that:

- Statute did not violate dormant Commerce Clause, and
- District court did not abuse its discretion in denying organization's request to defer ruling on state's summary judgment motion.

Colorado statute requiring electricity generators to ensure that twenty percent of electricity they sold to Colorado consumers come from renewable sources did not violate dormant Commerce Clause. Statute was not price control statute, it did not link prices paid in Colorado with those paid out of state, and it did not discriminate against out-of-staters.

District court did not abuse its discretion in denying plaintiff's request to defer ruling on defendant's summary judgment motion until additional discovery could take place, where court did not rule on motion until after discovery had closed, and plaintiff did not seek to supplement its summary judgment opposition papers with new evidence acquired from additional discovery it received, or indicate what additional discovery was still needed.