

Bond Case Briefs

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UTILITIES - TEXAS

Kidd v. Texas Public Utility Commission

Court of Appeals of Texas, Austin - November 25, 2015 - S.W.3d - 2015 WL 7697794

Individuals brought action against Public Utilities Commission, following denial of their request for public hearing on their request for rulemaking processes to address concerns related to deployment of certain meters by electric utilities.

The District Court granted Commission's plea to jurisdiction seeking dismissal of individuals' claims. Individuals appealed.

The Court of Appeals held that individuals did not have right to public hearing by Commission and, thus, trial court did not have subject matter jurisdiction over action.

Individuals, who requested that Public Utilities Commission conduct public hearing on their request for rulemaking processes to address concerns related to deployment of certain meters by electric utilities, did not have right to hearing, and, thus, trial court did not have subject matter jurisdiction, under Administrative Procedure Act, over their action brought against Commission following denial of their request for hearing. While provision of Act waiving sovereign immunity for declaratory judgment action challenging validity of agency rule required individuals to complain of Commission rule to successfully invoke court's jurisdiction, individuals' claims arose in admitted absence of rule and focused on procedure Commission employed prior to its decision not to adopt a rule, and provision of Act governing opportunity for public hearing prior to adopting rule did not impose non-discretionary duty upon Commission to provide individuals with hearing.