

Bond Case Briefs

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PUBLIC UTILITIES - TEXAS

In re Texas-New Mexico Power Company

Court of Appeals of Texas, Waco - August 14, 2019 - Not Reported in S.W. Rptr. - 2019 WL 3822274

Property owners brought tort action against power company, alleging power surge that damaged property was caused by power company's negligence and violation of Texas Utilities Code and Public Utilities Commission (PUC) regulations.

Power company moved to dismiss on grounds of failure to exhaust administrative remedies. The District Court denied motion to dismiss. Power company filed petition for writ of mandamus.

The Court of Appeals held that:

- PUC had exclusive jurisdiction over property owner's claims, and
- Mandamus was appropriate vehicle for power company's challenge to trial court's denial of motion to dismiss.

Property owners' tort claims that power company's violations of utility statutes and Public Utilities Commission (PUC) regulations caused power surge to damage their home was a claim involving power company's "services," and, thus, fell within PUC's exclusive jurisdiction over the services of an electric utility.

Mandamus was appropriate vehicle for power company to challenge trial court's ruling denying its motion to dismiss property owners' tort claims, which involved power company's alleged violations of Public Utilities Commission regulations, on the ground that property owners failed to exhaust administrative remedies before the PUC; allowing trial to go forward would interfere with PUC's legislatively-mandated function and purpose.