Bond Case Briefs

Municipal Finance Law Since 1971

PUBLIC UTILITIES - CALIFORNIA

Pacific Gas and Electric Company v. Federal Energy Regulatory Commission

United States Court of Appeals, District of Columbia Circuit - August 23, 2024 - F.4th - 2024 WL 3908398

Investor-owned utility that provided electricity to most consumers in city petitioned for review of orders of the Federal Energy Regulatory Commission (FERC) with respect to utility's obligations under a tariff to transmit, or wheel, over its network electricity produced by a public utility with some customers in city, orders that FERC had issued on remand from a prior decision of the Court of Appeals, vacating FERC's prior orders with respect to the same issues.

The Court of Appeals held that:

- Investor-owned utility had Article III standing;
- FERC order with respect to investor-owned utility's transmission or wheeling obligations was contrary to law; and
- Term "ultimate consumer" in statute generally barring FERC orders requiring a utility to transmit or wheel energy except to a public entity that was providing electric service to "such ultimate consumer" as of date in grandfather clause refers to a discrete end user as of that date, not to a class or category of end users.

Investor-owned utility that provided electricity to most consumers in city experienced actual and ongoing injuries caused by orders of the Federal Energy Regulatory Commission (FERC) with respect to utility's obligations under a tariff to transmit, or wheel, over its network electricity produced by a public utility with some customers in city, and those injuries would be redressed if the appellate court set the orders aside, and investor-owned utility thus had Article III standing to petition for review of the orders, even though they related to a tariff that had been replaced by a later tariff, where FERC had required investor-owned utility to serve certain delivery points based on the earlier tariff, and the later tariff had not fully taken effect.

Order of the Federal Energy Regulatory Commission (FERC) with respect to obligations of investor-owned utility, which provided electricity to most consumers in city, under a tariff to transmit, or wheel, over its network electricity produced by a public utility with some customers in city was contrary to law, where FERC had erroneously given a broad, class-based interpretation to phrase "ultimate consumer" in grandfather clause in statute generally barring FERC orders requiring a utility to transmit or wheel energy except to a public entity that was providing electric service to "such ultimate consumer" as of a certain date, but phrase referred to a discrete end user, not a class or category of end users.

In statute barring Federal Energy Regulatory Commission (FERC) orders requiring the transmission or wheeling of electric energy "directly to an ultimate consumer" or to an entity that would sell that energy to an "ultimate consumer" unless, under statute's grandfather clause, the entity is a public entity that was providing electric service "to such ultimate consumer" as of a certain date, the term

“ultimate consumer” refers to a discrete end user as of that date, not to a class or category of end users.

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com