

# Case Law Updates in the Energy Industry

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## Introduction

- Over the past year, Texas courts have issued decisions on a wide variety of topics in the gas and power space
- Many of these cases stem from the aftermath of Winter Storm Uri
- These cases implicate
  - The Public Utility Commission's (PUC) exclusive jurisdiction over party disputes with ERCOT
  - ERCOT's protection under sovereign immunity
  - PUC/ERCOT's ability to set non-competitive rates during emergency load-shedding events
  - The constitutionality of state rights of first refusal laws
  - Interpreting Force Majeure clauses in NAESB base contracts

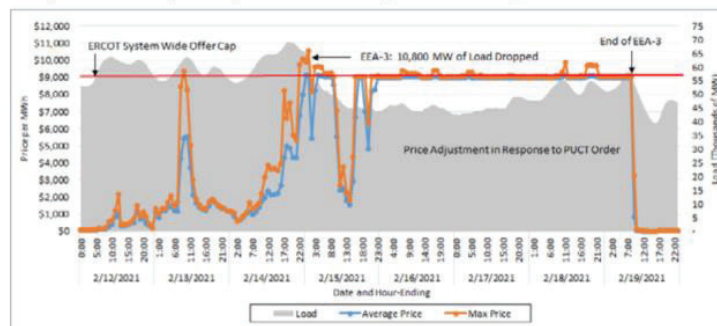
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# Background: Winter Storm Uri and ERCOT

- Feb. 2021–Winter Storm Uri brought freezing temperatures and precipitation to Texas, which greatly stressed the ERCOT transmission grid
- Feb. 15th–ERCOT declared its highest state of emergency and directed transmission operators to shed load to maintain grid stability
  - PUC directed ERCOT to set electricity prices at the market cap of \$9,000/MWh
- Feb. 17th–ERCOT recalled load shedding, but kept high prices for 32 more hours
- Nearly half of all possible generation failed and energy companies had to spend billions to supply power to their users
- Hundreds of Texans died amid the blackouts, which lasted four days straight for some. Losses from the storm are estimated to be over \$100 billion

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Figure 3: Electricity Prices (8 ERCOT Load Zones) and Load during the Cold Weather Event<sup>17</sup>



Source: NRRRI report, "Regulatory Questions Engendered by the Texas Energy Crisis of 2021." Credit: National Regulatory Research Institute (NRRRI)

## Winter Storm Uri Related Cases

- *CPS Energy v. ERCOT* (Tex. 2023)
- *Luminant Energy Co. LLC v. PUC* (Tex. App.–Austin 2023)
- *RWE Renewables Americas, LLC v. PUC* (Tex. App.–Austin 2023)
- *MIECO LLC v. Pioneer Nat. Res. USA, Inc.* (N.D. Tex. Feb. 15, 2023)



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### Case 1

## ***CPS Energy v. ERCOT (Tex. 2023)***

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