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Case Law Update

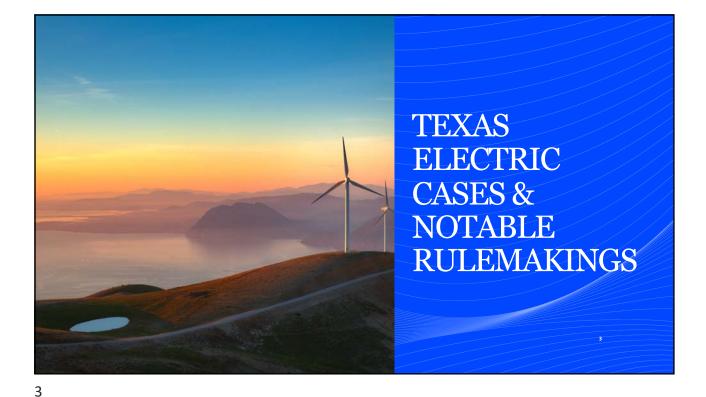
Holly Heinrich, Associate October 2024 UT Gas and Power Institute CLE

Overview

- Texas Electric Cases & Key Rulemakings
- Texas Oil & Gas Cases

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1



CPS Energy v. ERCOT, 671 S.W.3d 605 (Tex. 2023).

In *CPS Energy*, the Texas Supreme Court issued a single opinion concerning two cases against ERCOT:

- *Panda Power* (2016), originating from Panda's claims that ERCOT's load growth forecasts amounted to misrepresentations.
- *CPS Energy* (2021), originating from a challenge to the PUC's pricing order issued during Winter Storm Uri in 2021.

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CPS Energy v. ERCOT, 671 S.W.3d 605 (Tex. 2023).

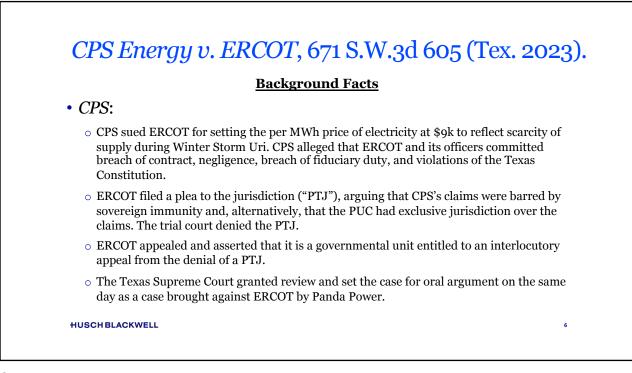
Background Facts

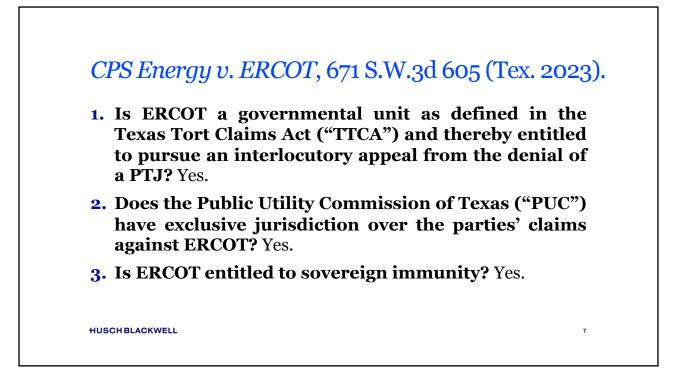
• Panda Power:

- Panda Power, a group of private equity investors, alleged that it relied on projections of energy shortfalls in ERCOT's 2011 and 2012 "Capacity, Demand, and Reserves" reports ("CDRs") when deciding to invest in construction of new power plants in the ERCOT region. Panda also alleged that ERCOT confirmed its findings in meetings and presentations.
- The CDR is a report that ERCOT publishes to provide forecasted Planning Reserve margins for ERCOT summer and winter Peak Load Seasons (June-Sept. and Dec.-Feb.).
- Panda alleged that after construction began, ERCOT revised the CDRs and forecast a future oversupply of generation capacity.
- Panda sued ERCOT for fraud, negligent misrepresentation, and breach of fiduciary duty. Panda alleged that ERCOT's reports caused it substantial financial harm and it sought damages of more than \$2 billion.

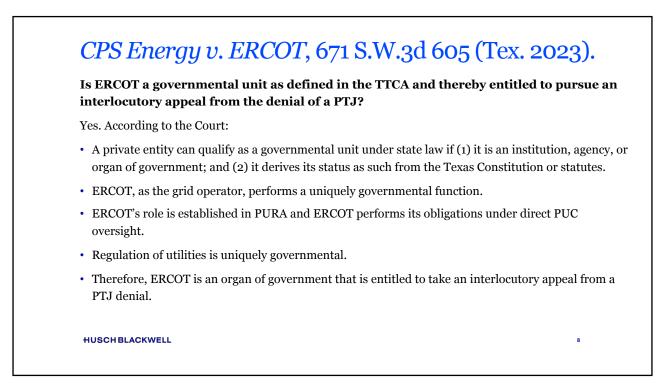
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5









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