

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

December 11, 2007

No. 06-51129

Charles R. Fulbruge III
Clerk

AEP TEXAS CENTRAL COMPANY

Plaintiff-Appellee

v.

PAUL HUDSON, Chairman of the Public Utility Commission of Texas;
JULIE PARSLEY, Commissioner of the Public Utility Commission of Texas;
BARRY SMITHERMAN, Commissioner of the Public Utility Commission of
Texas

Defendants-Appellants

v.

CPL CITIES STEERING COMMITTEE, consisting of the cities of Alton,
Aransas Pass, Big Wells, Dilley, Freer, Ganado, George West, Goliad, Indian
Lake, La Feria, Laguna Vista, Los Fresnos, Luling, Lyford, Mercedes, Palm
Valley, Port Aransas, Port Isabel, Port Lavaca, Rancho Viejo, Refugio,
Rockport, and Santa Rosa, Texas

Intervenor-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:05-CV-619

Before JOLLY, HIGGINBOTHAM, and PRADO, Circuit Judges.

PER CURIAM:*

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not
be published and is not precedent except under the limited circumstances set forth in 5TH CIR.

Having reviewed the district court's decision,¹ the parties' briefs, and the record, we find no reversible error in the district court's analysis of the tariffs.² Accordingly, the judgment of the district court is AFFIRMED.

R. 47.5.4.

¹ AEP Tex. Cent. Co. v. Hudson, 441 F. Supp. 2d 810 (W.D. Tex. 2006).

² See *Entergy La., Inc. v. La. Pub. Serv. Comm'n*, 539 U.S. 39, 50 (2003) ("It matters not whether FERC has spoken to the precise classification of ERS units, but only whether the FERC tariff dictates how and by whom that classification should be made. The amended system agreement clearly does so, and therefore the LPSC's second-guessing of the classification of ERS units is pre-empted." (emphasis added)); *AEP Tex. N. Co. v. Tex. Indus. Energy Consumers*, 473 F.3d 581, 585 (5th Cir. 2006) ("Here, we also consider a tariff which designates an agent to perform an allocation (although Entergy involved an allocation of costs, rather than revenues). . . . The states are bound to implement a FERC-approved agreement, and the agreement authorizes only AEPSC to implement the formula.").