

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 17-10235

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United States Court of Appeals  
Fifth Circuit

**FILED**

July 10, 2019

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellant

SIERRA CLUB,

Intervenor Plaintiff - Appellant

v.

LUMINANT GENERATION COMPANY, L.L.C.; BIG BROWN POWER  
COMPANY, L.L.C.,

Defendants - Appellees

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Appeal from the United States District Court for the  
Northern District of Texas

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ON PETITION FOR REHEARING EN BANC

(Opinion October 1, 2018, 5 Cir., 2018, 905 F.3d 874)

Before STEWART, Chief Judge, JONES, SMITH, DENNIS, OWEN,  
ELROD, SOUTHWICK, HAYNES, GRAVES, HIGGINSON, COSTA,  
WILLETT, DUNCAN, ENGELHARDT, and OLDHAM, Circuit Judges.<sup>1</sup>

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<sup>1</sup> Judge Ho is recused and did not participate in this decision.

No. 17-10235

BY THE COURT:

A member of the court having requested a poll on the petition for rehearing en banc, and a majority of the circuit judges in regular active service and not disqualified having voted in favor,

IT IS ORDERED that this cause shall be reheard by the court en banc with oral argument on a date hereafter to be fixed. The Clerk will specify a briefing schedule for the filing of supplemental briefs.