

In The News

Texas Justices Say Court Misread Gas Contract Ruling

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Law360, New York (November 21, 2014, 7:47 PM ET) -- The Texas Supreme Court held Friday that an appeals court erred in determining it could not review questions about whether Wolf Hollow I LP was owed damages in a contract dispute with El Paso Marketing LP, finding the appeals court misinterpreted an earlier high court ruling.

Friday's opinion reversed the 14th Court of Appeals' ruling, which remanded the case to the trial court to hear arguments over whether El Paso was responsible to pay for poor-quality gas it allegedly gave to Wolf Hollow.

The case had been the subject of a high court opinion and returned to the appeals court, which itself found it was precluded from deciding on the merits of the gas-quality claims, Friday's opinion said.

But in doing so, the Texas Supreme Court said, the appellate court constrained itself too much. While the high court ruled that El Paso was not entitled to summary judgment on all claims, it did not rule on the claims' merits, according to the opinion.

"While we held that replacement-power damages were available under the terms of the [contract] in certain circumstances ... we did not rule on all the issues," the opinion said.

El Paso attorney D. Mitchell McFarland of Munsch Hardt Kopf & Harr PC said the company was pleased with the court's ruling. Lawyers for Wolf Hollow did not immediately respond to requests for comment.

The underlying suit stems from a contract between the companies in which El Paso agreed to supply natural gas to an electric generation facility near Granbury, Texas.

In 2006, El Paso refused to pay an invoice for alleged damage to Wolf Hollow's facility due to contaminants in the gas, according to the suit. Instead, El Paso argued that the transporter of the gas, Enterprise Texas Pipeline LLC, was responsible under the contract. El Paso also said it was not responsible for paying for the replacement gas under the contract.

El Paso sought declaratory judgment against Wolf Hollow in Harris County district court, saying El Paso wasn't responsible for the disruptions or allegedly contaminated gas. Wolf Hollow counterclaimed for breach of contract.

The court granted summary judgment to El Paso, finding in part that all damages were consequential damages waived by the contract, according to the opinion. The court also rendered declaratory judgment, holding in part that Wolf Hollow could not make a claim for replacement power.

The summary judgment was later backed by the appellate court, which removed the declaratory judgment language as moot in light of its holding that all of Wolf Hollow's claims were barred by the consequential damages waiver, the opinion said.

But on first seeing the case in 2011, the Texas Supreme Court found that the contract did expressly provide for replacement-power damages, saying that further proceedings were warranted on those claims. The high court remanded the case back to the appellate court, reversing the appellate ruling on declaratory judgment.

There, the Court of Appeals remanded the case for trial. But while the high court held that Wolf Hollow could recover on its gas-quality claim, that did not preclude the appellate court from deciding that question, Friday's opinion said.

"Read in context, vacating this portion of the Court of Appeals' judgment was warranted because we held that the [contract's] waiver of consequential damages did not necessarily preclude an award of replacement-power damages," the opinion said. "We did not hold, on the merits, that Wolf Hollow was entitled to recover on its claim for replacement-power damages resulting from poor-quality gas."

El Paso is represented by D. Mitchell McFarland and Caroline C. Schadle of Munsch Hardt Kopf & Harr PC.

Wolf Hollow is represented by Jacks C. Nickens of McGuireWoods LLP.

The case is El Paso Marketing LP v. Wolf Hollow I LP, case number 13-0816, in the Supreme Court of the State of Texas.

By: Paul DeBenedetto; editing by Edrienne Su.

Primary Contacts



D. Mitchell McFarland

Houston
713.222.4041
mmcfarland@munsch.com



Carrie Schadle

Houston
713.222.4065
cschadle@munsch.com

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