

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TEXAS, LUFKIN DIVISION

RecoveryX Livingston L.L.C. for Assignees of Citizens of Livingston
for Fair and Equitable Relief and Residents of the City of Livingston
v. City of Livingston and Sam Rayburn Municipal Power Agency

RecoveryX Livingston · No. 9:24-CV-00193 · Decided March 24, 2026

SUMMARY

The Eastern District of Texas denied RecoveryX Livingston L.L.C.’s motion to alter or amend the judgment and, alternatively, for reconsideration or certification of an interlocutory appeal. The court upheld dismissal of the federal antitrust claims concerning municipal electricity rates, concluding that the complaint failed to establish antitrust injury, was barred in part by the indirect-purchaser rule, and challenged conduct protected by the state-action doctrine. The court also noted that the requested antitrust damages were unavailable against local government entities and declined to revisit the federal takings or remanded state-law claims.

CASE DETAILS

COURT	United States District Court for the Eastern District of Texas, Lufkin Division
WRITING FOR THE COURT	Michael J. Truncale
JURISDICTION	United States District Court for the Eastern District of Texas, Lufkin Division
DECIDED	March 24, 2026
DOCKET	9:24-CV-00193
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 59(e) to alter or amend the prior judgment dismissing its federal antitrust claims and alternatively sought Rule 54(b) reconsideration and certification for interlocutory appeal. The court denied the motion and remanded the remaining state-law claims to state court.
STANDARD OF REVIEW	Rule 59(e) reconsideration is an extraordinary remedy available for an intervening change in controlling law, newly available evidence, or the need to correct clear error or prevent manifest injustice. Rule 12(b)(6) dismissal is proper when the complaint does not plead enough well-

	pleaded facts to state a facially plausible claim; conclusory allegations, unwarranted inferences, and legal conclusions are not accepted as true.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion; persuasive only
PARTIES	RecoveryX Livingston L.L.C. for Assignees of Citizens of Livingston for Fair and Equitable Relief and Residents of the City of Livingston v. City of Livingston, Sam Rayburn Municipal Power Agency

TOPICS

commercial litigation municipal law public utilities motion for reconsideration civil procedure

PRACTICE AREAS

antitrust commercial litigation municipal law federal civil procedure public utilities

QUESTIONS PRESENTED

1. Whether RecoveryX identified a basis under Rule 59(e) to alter or amend the prior judgment dismissing its federal antitrust claims.
2. Whether Rule 54(b) reconsideration or interlocutory-appeal certification was available for the prior order dismissing the federal claims and remanding the state claims.
3. Whether RecoveryX adequately alleged antitrust injury and proper-plaintiff status under the indirect-purchaser rule.
4. Whether the alleged conduct was protected by the state-action doctrine or, alternatively, failed to constitute anticompetitive conduct.
5. Whether RecoveryX adequately pleaded Sherman Act Sections 1 and 2 or Clayton Act Section 3 claims, including tying and monopolization theories.
6. Whether the requested monetary antitrust relief was legally available against local-government defendants.

HOLDINGS

1. RecoveryX did not establish an intervening change in controlling law, newly available evidence, or clear error or manifest injustice warranting alteration or amendment of the prior judgment.
2. Rule 54(b) did not apply because the challenged order dismissing the federal claims and remanding the state claims was a final, appealable order rather than an interlocutory order.
3. RecoveryX failed to establish antitrust standing because the alleged payment of high electricity rates, without adequately alleged anticompetitive conduct causing the overcharge, was not antitrust injury.
4. RecoveryX's members could not pursue claims against SRMPA as indirect purchasers, and the court declined to recognize the proposed conspiracy or co-conspirator exception.

5. The complaint sought monetary antitrust relief that cannot be recovered from a local government under the Clayton Act, including antitrust damages, costs, and attorney's fees.
6. The court declined to alter the prior judgment based on the state-action doctrine because, even assuming the doctrine did not bar the claims against Livingston, the alleged conduct was not anticompetitive and the antitrust claims failed independently.
7. RecoveryX failed to plead a tying arrangement because it did not allege two distinct products supported by separate consumer demand; the Clayton Act claim also failed because Section 3 reaches commodity goods rather than services.
8. RecoveryX failed to state a Section 2 monopolization claim because it did not allege willful acquisition or maintenance of monopoly power through anticompetitive conduct.

KEY QUOTATIONS

“The mere possession of monopoly power, and the concomitant charging of monopoly prices, is not only not unlawful; it is an important element of the free-market system.” (Section IV.D.ii)

“The Supreme Court continues to withhold antitrust standing for indirect purchasers and declines to create exceptions.” (Section IV.B.ii)

“The Court therefore DENIES IN ITS ENTIRETY Plaintiff RecoveryX Livingston L.L.C.’s Rule 59(e) Motion to Alter or Amend the Judgment and, Alternatively, Rule 54 Motion for Reconsideration and Motion to Certify Interlocutory Appeal.” (Section V)

FACTUAL BACKGROUND

The case concerns alleged antitrust violations arising from municipal electricity rates and related contracts. Sam Rayburn Municipal Power Agency supplies wholesale electricity to Livingston and other cities, while Livingston resells electricity to its residents. RecoveryX, an assignee of claims by residents and other ratepayers, alleged that exclusive electricity contracts, trust-account distributions, and rates approximately 15 percent higher than those paid by similarly situated customers unlawfully inflated electricity costs and funded municipal benefits such as reduced ad valorem taxes.

PROCEDURAL HISTORY

RecoveryX filed the action in Texas state court on September 4, 2024. Defendants removed it to the Eastern District of Texas on October 9, 2024. After amendments, RecoveryX filed a Third Amended Complaint asserting state and federal claims. The court previously dismissed the federal claims and remanded the state claims on August 11, 2025. RecoveryX then moved to alter or amend that judgment, for reconsideration, and for interlocutory appeal; the court denied the motion in its entirety and again ordered the state-law claims remanded.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The remaining state-law claims were remanded to the 258th Judicial District Court of Polk County, Texas. The parties were ordered to bear their own attorney's fees and costs in the federal action.

CASES CITED

- *Sonnier v. State Farm Mutual Automobile Insurance Co.*, 509 F.3d 673, 675 (5th Cir. 2007)
- *In re Katrina Canal Breaches Litigation*, 495 F.3d 191, 205 (5th Cir. 2007)
- *Gentilello v. Rege*, 627 F.3d 540, 544 (5th Cir. 2010)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79, 697 (2009)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 556, 570 (2007)
- *Austin v. Kroger Texas, L.P.*, 864 F.3d 326, 336 (5th Cir. 2017)
- *Haase v. Countrywide Home Loans, Inc.*, 748 F.3d 624, 628-29 (5th Cir. 2014)
- *Templet v. HydroChem Inc.*, 367 F.3d 473, 479 (5th Cir. 2004)
- *Simon v. United States*, 891 F.2d 1154, 1159 (5th Cir. 1990)
- *Edward H. Bohlin Co. v. Banning Co.*, 6 F.3d 350, 355 (5th Cir. 1993)
- *Shenzen Synergy Digital Co. v. Mingtel, Inc.*, No. 4:19-CV-00216, 2022 WL 2252585, at *2 (E.D. Tex. June 22, 2022)
- *Hernandez v. Rush Enterprises, Inc.*, No. 4:19-CV-638, 2021 WL 1163725, at *1 (E.D. Tex. Mar. 26, 2021)
- *Ward v. Director, TDCJ-CID*, No. 6:17CV537, 2019 WL 4673302, at *4 (E.D. Tex. May 22, 2019)
- *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 485 n.5 (2008)
- *Ellis v. Salt River Project Agricultural Improvement & Power District*, 24 F.4th 1262, 1277-78 (9th Cir. 2022)
- *Pulse Network, L.L.C. v. Visa, Inc.*, 30 F.4th 480, 488, 493 (5th Cir. 2022)
- *Doctor's Hospital of Jefferson, Inc. v. Southeast Medical Alliance, Inc.*, 123 F.3d 301, 305 (5th Cir. 1997)
- *Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209, 225 (1993)
- *Hunt v. Crumboch*, 325 U.S. 821 (1945)
- *Atlantic Richfield Co. v. USA Petroleum Co.*, 495 U.S. 328, 334, 338 (1990)
- *Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.*, 429 U.S. 477, 487, 489 (1977)
- *Cargill, Inc. v. Monfort of Colorado, Inc.*, 479 U.S. 104, 109-10 (1986)
- *Brown Shoe Co. v. United States*, 370 U.S. 294, 320, 323 (1962)
- *Berkey Photo, Inc. v. Eastman Kodak Co.*, 603 F.2d 263, 294 (2d Cir. 1979)
- *Illinois Brick Co. v. Illinois*, 431 U.S. 720, 727, 730-32, 740, 744-47 (1977)
- *Apple Inc. v. Pepper*, 587 U.S. 273, 280, 289 (2019)
- *Kansas v. UtiliCorp United, Inc.*, 497 U.S. 199, 207-08, 216-17 (1990)
- *Hanover Shoe, Inc. v. United Shoe Machinery Corp.*, 392 U.S. 481, 487-94 (1968)
- *In re Beef Industry Antitrust Litigation*, 600 F.2d 1148, 1163 (5th Cir. 1979)
- *In re ATM Fee Antitrust Litigation*, 686 F.3d 741, 755 n.7 (9th Cir. 2012)
- *Parker v. Brown*, 317 U.S. 341, 352 (1943)
- *City of Columbia v. Omni Outdoor Advertising, Inc.*, 499 U.S. 365, 370, 376-78 (1991)

- F.T.C. v. Phoebe Putney Health System, Inc., 568 U.S. 216, 225-27 (2013)
- F.T.C. v. Tior Title Insurance Co., 504 U.S. 621, 635 (1992)
- Louisiana Real Estate Appraisers Board v. F.T.C., 976 F.3d 597, 605 (5th Cir. 2020)
- Surgical Care Center of Hammond, L.C. v. Hospital Service District No. 1 of Tangipahoa Parish, 171 F.3d 231, 234 (5th Cir. 1999)
- City of Lafayette v. Louisiana Power & Light Co., 435 U.S. 389, 398-99, 411-16 (1978)
- Town of Hallie v. City of Eau Claire, 471 U.S. 34, 42-43, 46-47 (1985)
- North Carolina State Board of Dental Examiners v. F.T.C., 574 U.S. 494, 503-04 (2015)
- In re Oncor Electric Delivery Co. LLC, 630 S.W.3d 40, 45-46 (Tex. 2021)
- United States v. Grinnell Corp., 384 U.S. 563, 570-71 (1966)
- Spectrum Sports, Inc. v. McQuillan, 506 U.S. 447, 456 (1993)
- United States v. Aluminum Co. of America, 148 F.2d 416, 432 (2d Cir. 1945)
- Aspen Skiing Co. v. Aspen Highlands Skiing Corp., 472 U.S. 585, 602 (1985)
- Dimmitt Agri Industries, Inc. v. CPC International Inc., 679 F.2d 516, 531 (5th Cir. 1982)
- Microsoft Corp., 253 F.3d 34, 51, 85, 90-93 (D.C. Cir. 2001)
- Eastman Kodak Co. v. Image Technical Services, Inc., 504 U.S. 451, 461-62, 467, 482-83 (1992)
- Jefferson Parish Hospital District No. 2 v. Hyde, 466 U.S. 2, 9, 12-22, 29 (1984)
- Times-Picayune Publishing Co. v. United States, 345 U.S. 594, 608-09 (1953)
- Moore v. James H. Matthews & Co., 550 F.2d 1207, 1214 (9th Cir. 1977)
- Fortner Enterprises, Inc. v. United States Steel Corp., 394 U.S. 495 (1969)
- Leegin Creative Leather Products, Inc. v. PSKS, Inc., 551 U.S. 877, 885-87 (2007)
- Philadelphia Taxi Association, Inc. v. Uber Technologies, Inc., 886 F.3d 332, 338 (3d Cir. 2018)
- Ohio v. American Express Co., 585 U.S. 529, 543 (2018)
- Maple Flooring Manufacturers' Association v. United States, 268 U.S. 563, 579 (1925)
- United States v. Connecticut National Bank, 418 U.S. 656, 669 (1974)
- Tampa Electric Co. v. Nashville Coal Co., 365 U.S. 320, 327 (1961)
- United States v. H & R Block, Inc., 833 F. Supp. 2d 36, 50-51 (D.D.C. 2011)
- F.T.C. v. Facebook, Inc., 581 F. Supp. 3d 34, 43-44 (D.D.C. 2022)
- F.T.C. v. Meta Platforms, Inc., 775 F. Supp. 3d 16, 34-35 (D.D.C. 2024)
- BRFHH Shreveport, LLC v. Willis-Knighton Medical Center, 49 F.4th 520, 529 (5th Cir. 2022)