

UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT
OF TEXAS, HOUSTON DIVISION

Phillips, as Trustee of the Entrust Liquidating Trust v. Electric
Reliability Council of Texas, Inc.

Case No. 21-31070; Adv. No. 22-3018 · No. Case No. 21-31070; Adv. No. 22-3018 · Decided March 11, 2026

SUMMARY

The United States Bankruptcy Court for the Southern District of Texas granted Electric Reliability Council of Texas, Inc. summary judgment on the Entrust Liquidating Trust’s remaining gross negligence claim. The court held that ERCOT is entitled to immunity from liability under Texas law, notwithstanding the Fifth Circuit’s determination that ERCOT lacks Eleventh Amendment sovereign immunity as a state or arm of the state. The court entered a final take-nothing judgment in favor of ERCOT.

CASE DETAILS

COURT	United States Bankruptcy Court for the Southern District of Texas, Houston Division
WRITING FOR THE COURT	Marvin Isgur
JURISDICTION	United States Bankruptcy Court for the Southern District of Texas, Houston Division
DECIDED	March 11, 2026
DOCKET	Case No. 21-31070; Adv. No. 22-3018
DISPOSITION	other
PROCEDURAL POSTURE	ERCOT moved for summary judgment on the Trustee's remaining gross-negligence claim after the court converted ERCOT's Rule 12(b) (6) motion to dismiss into a summary-judgment motion. The court granted summary judgment and entered a final take-nothing judgment for ERCOT.
STANDARD OF REVIEW	Summary judgment is appropriate when the movant shows that no genuine dispute as to any material fact exists and the movant is entitled to judgment as a matter of law. Where the only issue is a pure question of law, summary judgment is appropriate.
PRECEDENTIAL VALUE	Unknown

PARTIES

Anna Phillips, as Trustee of the Entrust Liquidating Trust v. Electric Reliability Council of Texas, Inc.

TOPICS

summary judgment

negligence

bankruptcy

adversary proceedings

constitutional law

PRACTICE AREAS

bankruptcy

civil procedure

torts

constitutional law

federalism

QUESTIONS PRESENTED

1. Whether summary judgment was appropriate where the Trustee identified no genuine dispute of material fact and the remaining issues were legal questions.
2. Whether ERCOT's lack of constitutional sovereign immunity from suit in federal court precluded ERCOT from asserting state-law sovereign immunity from liability.
3. Whether ERCOT is entitled under Texas law to sovereign immunity from liability for the Trustee's gross-negligence claim.
4. Whether the Texas Legislature waived sovereign immunity for the Trustee's gross-negligence claim under the Texas Tort Claims Act.

HOLDINGS

1. Summary judgment was appropriate because the Trustee's supplemental brief raised only legal arguments and no genuine dispute as to any material fact.
2. The Fifth Circuit's determination that ERCOT is not a state or arm of the State of Texas for purposes of federal constitutional sovereign immunity does not prevent ERCOT from asserting Texas-law sovereign immunity from liability.
3. ERCOT is entitled to sovereign immunity from liability under Texas law.
4. The Texas Tort Claims Act's limited waiver of sovereign immunity does not encompass the Trustee's gross-negligence claim; therefore, the claim fails as a matter of law.

KEY QUOTATIONS

“The decision in this case turns upon ERCOT’s immunity from liability under Texas law—not whether ERCOT has sovereign immunity from suit under the Constitution.”

“Thus, despite ERCOT’s sovereign immunity from suit under Texas law, ERCOT is still subject to suit in this Court.”

“Thus, because ERCOT is immune from liability on the Trustee’s gross negligence claim under Texas law, the Trustee’s claim fails as a matter of law.”

FACTUAL BACKGROUND

The adversary proceeding arose from Winter Storm Uri in February 2021, which rendered Entrust Energy, Inc. insolvent. The Trustee asserted a gross-negligence claim against ERCOT under Texas law; that claim was the only remaining claim. The Trustee's supplemental briefing raised legal arguments concerning ERCOT's alleged lack of constitutional sovereign immunity but did not identify any genuine dispute of material fact.

PROCEDURAL HISTORY

The adversary proceeding arose from Winter Storm Uri and Entrust Energy's resulting insolvency. The court previously denied ERCOT's abstention request, dismissed the Trustee's takings claim, and converted ERCOT's motion to dismiss the gross-negligence claim into a motion for summary judgment. After supplemental briefing, the court concluded that no genuine dispute of material fact existed and that ERCOT was immune from liability under Texas law.

DISPOSITION

other

CASES CITED

- Phillips v. Electric Reliability Council of Tex. (In re Entrust Energy Inc.), Case No. 21-31070, Adv. No. 22-3018, 2025 WL 3558739 (Bankr. S.D. Tex. Dec. 11, 2025)
- Phillips v. Electric Reliability Council of Tex. (In re Entrust Energy Inc.), 101 F.4th 369, 387 (5th Cir. 2024)
- Stern v. Marshall, 564 U.S. 462, 486-87 (2011)
- Cutter v. Tarrant Cnty. Loc. Workforce Dev. Bd., 943 F.3d 265, 268 (5th Cir. 2019)
- Seminole Tribe of Fla. v. Florida, 517 U.S. 44, 64-65, 71 n.15 (1996)
- Chisholm v. Georgia, 2 U.S. (2 Dall.) 419 (1793)
- Alden v. Maine, 527 U.S. 706, 721, 740, 749 (1999)
- Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89, 97-98 (1984)
- Regents of the Univ. of Cal. v. Doe, 519 U.S. 425, 429 n.5 (1997)
- Univ. of the Incarnate Word v. Redus, 602 S.W.3d 398, 403 (Tex. 2020)
- Anthology, Inc. v. Tarrant Cnty. Coll. Dist., 136 F.4th 549, 552-53 (5th Cir. 2025)
- CPS Energy v. Electric Reliability Council of Texas, 671 S.W.3d 605, 628 (Tex. 2023)
- Meyers ex rel. Benzing v. Texas, 410 F.3d 236, 242-43, 255 (5th Cir. 2005), reh'g and reh'g en banc denied, 454 F.3d 503 (5th Cir. 2006), cert. denied, 550 U.S. 917 (2007)
- Kelley v. Papanos, Case No. H-11-0626, 2012 WL 208446, at *3, *5 (S.D. Tex. Jan. 24, 2012)
- Garcia v. Univ. of Tex. Sw. Med. Ctr., Case No. 3:11-CV-3282-B, 2013 WL 1759421, at *5-6 (N.D. Tex. Apr. 24, 2013)
- Sosebee v. Steadfast Ins. Co., 701 F.3d 1012, 1024 (5th Cir. 2012)
- Butner v. United States, 440 U.S. 48, 55 (1979)
- Cantu v. Harris County, No. 4:24-cv-2447, 2025 WL 786617, at *5 (S.D. Tex. Mar. 12, 2025)
- Hockaday v. Tex. Dep't of Crim. Just., Pardons & Paroles Div., 914 F. Supp. 1439, 1447 (E.D. Tex. 1996)

- Celotex Corp. v. Catrett, 477 U.S. 317, 327 (1986)

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