

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

TXU Portfolio Management Company, L.P. n/k/a Luminant Energy Company, L.L.C. v. FPL Energy, LLC; FPL Energy Pecos Wind I, LP; FPL Energy Pecos Wind II, L.P.; Indian Mesa Wind Farm, LP

No. 05-08-01584-CV · No. No. 05-08-01584-CV · Decided May 28, 2014

SUMMARY

The Fifth District Court of Appeals at Dallas abated the appeal for administrative purposes after being notified that Luminant Energy Company, L.L.C. and its parent company had filed for bankruptcy. The court concluded that the automatic stay under 11 U.S.C. § 362 applied and stated that the case could be reinstated after the stay was lifted.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	David Evans
JURISDICTION	Texas
DECIDED	May 28, 2014
DOCKET	No. 05-08-01584-CV
DISPOSITION	other
PROCEDURAL POSTURE	Interlocutory administrative order in an appeal from the 116th Judicial District Court, Dallas County, Texas, abating the appeal because of an automatic bankruptcy stay.
PRECEDENTIAL VALUE	Published order addressing the effect of a bankruptcy filing on a pending appeal
PARTIES	TXU Portfolio Management Company, L.P. n/k/a Luminant Energy Company, L.L.C. v. FPL Energy, LLC, FPL Energy Pecos Wind I, LP, FPL Energy Pecos Wind II, L.P., Indian Mesa Wind Farm, LP

TOPICS

automatic stay

appellate procedure

bankruptcy

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the appellant's bankruptcy filing required further action in the appeal to be automatically stayed under 11 U.S.C. § 362 and Texas Rule of Appellate Procedure 8.2.
2. Whether the appeal should be abated and administratively treated as a closed case pending lifting of the bankruptcy stay.

HOLDINGS

1. The bankruptcy filing triggered an automatic stay of further action in the appeal under 11 U.S.C. § 362.
2. The appeal was abated for administrative purposes and treated as a closed case, subject to reinstatement on prompt motion after the stay is lifted.

KEY QUOTATIONS

“Pursuant to 11 U.S.C. § 362, further action in this cause is automatically stayed.”

“Accordingly, for administrative purposes, this cause is ABATED and will be treated as a closed case.”

FACTUAL BACKGROUND

The court was notified that Luminant Energy Company, L.L.C., the appellant, and its parent company, Energy Future Holdings Corporation, had filed for bankruptcy in the United States Bankruptcy Court for the District of Delaware. Because the bankruptcy filing triggered the automatic stay, the court concluded that further action in the appeal had to be stayed.

PROCEDURAL HISTORY

The appeal arose from the 116th Judicial District Court of Dallas County, Texas, trial court cause number 04-10314. The court of appeals was notified that appellant Luminant Energy Company, L.L.C. and its parent company had filed for bankruptcy in the United States Bankruptcy Court for the District of Delaware. The court applied the automatic stay, abated the appeal for administrative purposes, and treated the cause as closed subject to reinstatement after the stay is lifted.

DISPOSITION

other

REMAND INSTRUCTIONS

The cause may be reinstated on prompt motion by any party showing that the bankruptcy stay has been lifted and specifying what further action, if any, is required of the court.

OPINION

PER CURIAM.

Order entered May 28, 2014 In The Court of Appeals Fifth District of Texas at Dallas No. 05-08-01584-CV TXU PORTFOLIO MANAGEMENT COMPANY, L.P. N/K/A LUMINANT ENERGY COMPANY, L.L.C., Appellant V. FPL ENERGY, LLC; FPL ENERGY PECOS WIND I, LP; FPL ENERGY PECOS WIND II, L.P.; INDIAN MESA WIND FARM, LP, Appellees On Appeal from the 116th Judicial District Court Dallas County, Texas Trial Court Cause No. 04-10314 ORDER The Court has been notified that a petition for bankruptcy has been filed in the United States Bankruptcy Court for the District of Delaware concerning appellant Luminant Energy Company L.L.C. and its parent company Energy Future Holdings Corporation.

Pursuant to 11 U.S.C. § 362, further action in this cause is automatically stayed. See TEX. R. APP. P. 8.2. Accordingly, for administrative purposes, this cause is ABATED and will be treated as a closed case. It may be reinstated on prompt motion by any party showing that the stay has been lifted and specifying what further action, if any, is required of this Court.

See TEX. R. APP. P. 8.3. /s/ DAVID EVANS JUSTICE