

Court Of Appeals
Fourth Court of Appeals District of Texas
San Antonio



MEMORANDUM OPINION

No. 04-10-00059-CV

IN RE NRG ENERGY, INC., ET AL.

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Catherine Stone, Chief Justice
Phylis J. Speedlin, Justice
Steven C. Hilbig, Justice

Delivered and Filed: January 27, 2010

PETITION FOR WRIT OF MANDAMUS DENIED

On January 22, 2010, relators filed a petition for writ of mandamus and an emergency motion for stay. The court has considered relators' petition for writ of mandamus, the emergency motion, and real party in interest's response to the emergency motion and is of the opinion that relators are not entitled to the relief sought. Accordingly, the petition for writ of mandamus and the emergency motion for stay are DENIED. *See* TEX. R. APP. P. 52.8(a).

PER CURIAM

¹ [☐](#) This proceeding arises out of Cause No. 2009-CI-19492, styled *The City of San Antonio, Texas, Acting By and Through the City Public Service Board of San Antonio, A Texas Municipal Utility vs. Toshiba Corporation; NRG Energy, Inc., et. al.*, in the 37th Judicial District Court, Bexar County, Texas, the Honorable David A. Berchelmann presiding. The Honorable David A. Berchelmann denied Defendants' Amended Motion to Strike or Modify Agreed Scheduling Order to Continue January 25 Trial Date. However, the Honorable Michael Peden, presiding judge of the 285th Judicial District Court, Bexar County, Texas denied Defendants' Sworn Motion to Show Authority to Prosecute Suit.