

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 01-5274

September Term, 2002

(00cv01963)

Filed On: October 25, 2002 [709963]

Consolidated Edison Company of
New York, Inc., et al.
Appellants

v.

Spencer Abraham, Secretary of Energy and
George B. Breznay, Director, Office of Hearings
and Appeals, U.S. Department of Energy,
Appellees

Appeal from the United States District Court for the District of Columbia

Before: EDWARDS, RANDOLPH, and TATEL, *Circuit Judges*

JUDGMENT

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs by the parties and oral arguments of counsel. It is

ORDERED AND ADJUDGED that the judgment of the district court be affirmed.

Appellants contest the dismissal of their suit for restitution payments from a Department of Energy ("DOE") fund for end users of crude oil. The District Court granted DOE's Motion to Dismiss and, in the Alternative, for Summary Judgment, see Consolidated Edison Co. of New York, Inc., et al. v. Richardson, et al., No. 00cv1963, Mem. Op. (D.D.C. June 11, 2001), Appendix at 73, concluding that appellants had waived any claims to further payments pursuant to a binding settlement agreement. We can find no error in the District Court's decision. Accordingly, we affirm the judgment from which this appeal was taken, essentially for the same reasons provided by the District Court.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

By:

Michael C. McGrail

Deputy Clerk