

# POWER Quotes Jennifer Mersing on Appeals Court Decision in Favor of Illinois Nuclear Subsidies

IN THE NEWS

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## Key Contributors



Jennifer Mersing

206.386.7664

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Energy attorney Jennifer Mersing was quoted in *POWER* magazine in an article titled “[Appeals Court Backs Illinois’ Nuclear Subsidies](#),” published September 13, 2018. The article discusses a decision by the U.S. Court of Appeals for the Seventh Circuit holding that zero-emissions credits (ZECs) required to be bought by utilities in Illinois to subsidize nuclear plants in the state are not preempted by the Federal Power Act.

The case, brought against the state of Illinois by an advocacy group for competitive power producers, had argued that the ZEC program violated the Commerce Clause of the U.S. Constitution by usurping the authority of the Federal Energy Regulatory Commission and its jurisdiction by having an improper state interference with FERC-regulated wholesale power prices.

“Seventh Circuit noted that FERC has not treated the state subsidy programs as prohibited, and has instead worked to fashion auction rules that take into account such state programs,” Mersing said. “With this decision, the Seventh Circuit has left the door open for states to subsidize generation of their choosing as long as the state is not directly setting the wholesale market price.”

For more background on the case and on a similar case in New York, see Jennifer Mersing’s blog posts [here](#) and [here](#).