

IN THE SUPREME COURT OF THE STATE OF NEVADA

PUBLIC UTILITIES COMMISSION OF
NEVADA; AND OFFICE OF THE
ATTORNEY GENERAL, BUREAU OF
CONSUMER PROTECTION,

Appellants,

vs.

SIERRA PACIFIC POWER COMPANY,

Respondent.

No. 46994

FILED

NOV 14 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Ruben*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order vacating the decision of the Public Utilities Commission of Nevada (PUCN) and remanding to the PUCN for review of expenditures on an experimental integrated coal gasification combined turbine project to determine if they were justly and reasonably incurred. Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

Our preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(e) revealed a potential jurisdictional defect. Specifically, it appeared that the district court's order might not be substantively appealable.¹ This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule.² There is no such authorization for an order

¹See NRAP 3A(b).

²Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

remanding a case to an administrative body for further proceedings³ unless the remand “does not change the substantive finality” of the district court’s decision.⁴ Accordingly, we directed appellants to show cause why we should not dismiss this appeal.

Appellants have responded to the order to show cause. Having considered their responses, we conclude that the district court’s order is not an appealable final order because the remand contemplates substantive action by the PUCN to review respondent Sierra Pacific Power Company’s expenditures and determine whether those expenditures were just and reasonable. Additionally, we reject the PUCN’s arguments that NRS 703.376 authorizes the appeal in this matter. Because that statute provides for appeals “as in other civil cases,” a final judgment is required under NRAP 3A(b)(1). Moreover, it is appellants’ obligation to demonstrate that this court has jurisdiction⁵ and jurisdiction cannot be conferred by Sierra Pacific’s failure to challenge this court’s jurisdiction.⁶ Because appellants have not demonstrated that this appeal is authorized

³See Clark County Liquor v. Clark, 102 Nev. 654, 730 P.2d 443 (1986).

⁴Bally’s Grand Hotel v. Reeves, 112 Nev. 1487, 1489, 929 P.2d 936, 937 (1996).

⁵Moran v. Bonneville Square Assocs., 117 Nev. 525, 527, 25 P.3d 898, 899 (2001) (“[T]he burden rests squarely upon the shoulders of a party seeking to invoke our jurisdiction to establish, to our satisfaction, that this court does in fact have jurisdiction.”).

⁶Scherer v. State, 89 Nev. 372, 374, 513 P.2d 1232, 1233-34 (1973) (holding that “jurisdiction cannot be conferred upon an appellate court by the consent or stipulation of the parties or their counsel”).

by a statute or court rule, we conclude that we lack jurisdiction over this appeal. Accordingly, we

ORDER this appeal DISMISSED.

Becker, J.
Becker

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Hon. Jerome Polaha, District Judge
Philip A. Olsen, Settlement Judge
Attorney General George Chanos/Consumer Protection Bureau
Attorney General George Chanos/Consumer Protection Bureau/Las Vegas
Rebecca Ann Harold
Richard L. Hinckley
Elizabeth Elliot
Morris Pickering Peterson & Trachok/Reno
Washoe District Court Clerk