

IN THE SUPREME COURT OF THE STATE OF NEVADA

Supreme Court Case No. 78256
District Court Case No. CV 39348

Tonopah Solar Energy, LLC,
Petitioner

Electronically Filed
Jul 24 2019 12:42 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

v.

The Fifth Judicial District Court, State of Nevada, Nye County, and
the Honorable Steven P. Elliott, Senior Judge,
Respondent

and

Brahma Group, Inc.,
Real Party in Interest.

**TSE'S MOTION FOR CLARIFICATION
OF THIS COURT'S JULY 23, 2019 ORDER**

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Petitioner Tonopah Solar Energy, LLC (“TSE”) seeks clarification of this Court’s July 23, 2019 Order, attached hereto as **Exhibit 1**, which appears intended to address Real Party in Interest Brahma Group, Inc.’s (“Brahma”) Motion to Permit Late Filing of Motion to Stay Briefing (“Motion to Permit Late Filing”). As explained below, the Order, as currently written, is subject to multiple interpretations.

I. Background

On March 6, 2019, TSE filed a writ petition. On May 16, 2019, the Court ordered Brahma to file an answer to the writ petition. Brahma’s answer was due on June 13, 2019. Brahma obtained a telephonic extension under Rule 26, which extended the deadline for its answer to June 26, 2019.

On June 25, 2019, Brahma attempted to file a motion to stay. The next day, the filing was rejected because it violated NRAP 27(d)(2).

On June 28, 2019, Brahma filed the instant Motion to Permit Late Filing and a Motion to Stay Briefing (Re-Submitted). At this point, Brahma’s deadline to answer TSE’s writ petition, as extended, had passed.

In its Motion to Permit Late Filing, Brahma requested that this Court excuse the late filing of its re-submitted motion to stay. On July 8, 2019, TSE opposed Brahma’s Motion to Permit Late Filing. TSE argued that the Motion to Permit Late Filing should be denied as belated and untimely, but that Brahma should be

granted an extension of time and directed to file an answer to TSE's writ petition by July 26, 2019, or within 14 days of the denial of its Motion to Permit Late Filing, whichever comes later, so as to avoid the draconian result of not being able to file an answer to TSE's writ petition.

II. The Order

On July 23, 2019, this Court issued the following Order, which appears intended to address Brahma's Motion to Permit Late Filing:

Petitioner has filed a motion for leave to file an untimely motion to "stay" briefing of this matter. Respondent opposes the motion. Given that the motion to stay briefing was filed on June 28, 2019, the extension motion is moot and this court takes no action on it. Real party in interest shall have 7 days from the date of this order to file and serve any opposition to the June 28, 2019, motion to stay briefing.

Exhibit 1.

III. Requested Clarification

Although the Order appears intended to address Brahma's Motion to Permit Late Filing, it states that it is addressing a motion filed by Petitioner (i.e., TSE). Moreover, the third sentence seems more in line with denying the Motion to Permit Late Filing because the Court stated that "the extension motion is moot," which could refer to the Motion to Permit Late Filing. But, the last sentence seems more in line with granting the Motion to Permit Late Filing because it mentions serving

an “opposition to the June 28, 2019, motion to stay briefing.” As a result, TSE interprets the Order as intending one of two scenarios:

- Granting Brahma’s Motion to Permit Late Filing and giving TSE 7 days from the date of the Order to serve an opposition to Brahma’s Motion to Stay Briefing (Re-Submitted); or
- Denying Brahma’s Motion to Permit Late Filing and giving Brahma 7 days from the date of the Order to serve an answer to TSE’s writ petition.

Accordingly, TSE respectfully requests clarification of the Court’s July 23, 2019 Order.

In addition, if Brahma’s Motion to Permit Late Filing is granted, TSE respectfully requests that it have 7 days from the date of the resolution of this Motion for Clarification to file a response to Brahma’s Motion to Stay Briefing (Re-Submitted). And, if Brahma’s Motion to Permit Late Filing is denied, TSE submits that Brahma should receive the same extension to answer TSE’s writ petition.

Dated: July 24, 2019

/s/ Ryan T. Gormley

D. Lee Roberts, Jr., Esq.
Colby L. Balkenbush, Esq.
Ryan T. Gormley, Esq.

*Attorneys for Petitioner
Tonopah Solar Energy, LLC*

CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I hereby certify that I am an employee of Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC and that on July 24, 2019, I submitted the foregoing **TSE'S MOTION FOR CLARIFICATION OF THIS COURT'S JULY 23, 2019 ORDER** for filing via the Court's electronic filing system.

Electronic notification will be sent to the following:

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EXHIBIT 1

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TONOPAH SOLAR ENERGY, LLC,
Petitioner,
vs.
THE FIFTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF NYE;
AND THE HONORABLE STEVEN
ELLIOTT, SENIOR JUDGE,
Respondents,
and
BRAHMA GROUP, INC.,
Real Party in Interest.

No. 78256

FILED


JUL 23 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER

Petitioner has filed a motion for leave to file an untimely motion to "stay" briefing of this matter. Respondent opposes the motion. Given that the motion to stay briefing was filed on June 28, 2019, the extension motion is moot and this court takes no action on it. Real party in interest shall have 7 days from the date of this order to file and serve any opposition to the June 28, 2019, motion to stay briefing.

It is so ORDERED.

, C.J.

cc: Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC
Peel Brimley LLP/Henderson