

IN THE UTAH COURT OF APPEALS

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Beaver County, et al.,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Petitioners,)		
)	Case No. 20060637-CA	
v.)		
)		
Tax Commission and Verizon)	F I L E D	
Wireless, Inc.,)	(September 21, 2006)	
)		
Respondents.)	<table border="1"><tr><td>2006 UT App 378</td></tr></table>	2006 UT App 378
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Original Proceeding in this Court

Attorneys: David W. Scofield and Thomas W. Peters, Salt Lake City, for Petitioners
Mark L. Shurtleff and John C. McCarrey, Salt Lake City, for Respondent Tax Commission
David J. Crapo, Salt Lake City, for Respondent Verizon Wireless, Inc.

Before Judges Davis, McHugh, and Orme.

PER CURIAM:

Beaver County and other counties (the Counties) petition for review of the Tax Commission's order granting partial summary judgment in favor of Verizon Wireless, Inc. (Verizon). This is before the court on its own motion for summary disposition based on lack of jurisdiction due to the absence of a final order.

Petitions for judicial review of agency actions are available only if the action is final. See Utah Code Ann. § 63-46b-14 (2004). Under section 63-46b-14, a party "may obtain judicial review of final agency action." Id. § 63-46b-14(1). "A party shall file a petition for judicial review of final agency action within 30 days after the date that the order constituting the final agency action is issued." Id. § 63-46b-14(3).

However, there may be several final orders in agency actions. See Barker v. Public Serv. Comm'n, 970 P.2d 702, 706 (Utah 1998). "Because of the nature of agency proceedings, final actions often take place seriatim, disposing completely of

discrete issues in one order while leaving other issues for later orders." Id. "Such orders will be final as to any issue fully decided by that order and appealable any time from the date of that order to the last day to appeal the last final agency action in the case." Id.

Utah employs a three-part test to determine whether an agency action is final for purposes of review. See Union Pac. R.R. Co. v. Tax Comm'n, 2000 UT 40, ¶16, 999 P.2d 17. This test includes the following inquiries:

- (1) Has administrative decision making reached a stage where judicial review will not disrupt the orderly process of adjudication?;
- (2) Have rights or obligations been determined or will legal consequences flow from the agency action?; and
- (3) Is the agency action, in whole or in part, not preliminary, preparatory, procedural, or intermediate with regard to subsequent agency action?

Id.

Here, the order determined one aspect of a proceeding challenging an overall valuation for tax purposes. Because the issues are intertwined, a piecemeal appeal would likely disrupt the agency process. Additionally, the order is clearly intended as an intermediate order and the Commission itself considers the order non-final. Based on the circumstances here, the order granting partial summary judgment is not a final agency order for purposes of judicial review. As a result, this court lacks jurisdiction and must dismiss the petition. See Bradbury v. Valencia, 2000 UT 50, ¶8, 5 P.3d 649.

The petition is dismissed without prejudice to the timely filing of a petition for review from a final agency order.

James Z. Davis, Judge

Carolyn B. McHugh, Judge

Gregory K. Orme, Judge