

IN THE SUPREME COURT OF MISSISSIPPI

NO. 2011-CA-00350-SCT

SIERRA CLUB

v.

***MISSISSIPPI PUBLIC SERVICE COMMISSION
AND MISSISSIPPI POWER COMPANY, INC.***

DATE OF JUDGMENT: 02/28/2011
TRIAL JUDGE: HON. JAMES B. PERSONS
COURT FROM WHICH APPEALED: HARRISON COUNTY CHANCERY COURT
ATTORNEY FOR APPELLANT: ROBERT B. WIYGUL
ATTORNEYS FOR APPELLEES: OFFICE OF THE ATTORNEY GENERAL
BY: JUSTIN L. MATHENY
L. CHRISTOPHER LOMAX
HAROLD EDWARD PIZZETTA, III
SHAWN STEPHEN SHURDEN
LEO ERNEST MANUEL
BEN HARRY STONE
TIM A. FORD
WILLIAM L. SMITH
RICKY J. COX
NATURE OF THE CASE: CIVIL - STATE BOARDS AND AGENCIES
DISPOSITION: REVERSED AND REMANDED - 03/15/2012
MOTION FOR REHEARING FILED:
MANDATE ISSUED:

BEFORE DICKINSON, P.J., RANDOLPH AND PIERCE, JJ.

DICKINSON, PRESIDING JUSTICE, FOR THE COURT:

¶1. The Mississippi Power Company (“MPC”) applied to the Mississippi Public Service Commission (“Commission”) for permission to proceed with construction of a new power generation facility that would employ a new technology not in operation anywhere else in the United States, and to begin assessing the cost of construction (capped at \$2.88 billion)

to its current customers. The Sierra Club opposed the project before the Commission, but the Commission entered an order in favor of MPC. The Chancery Court of Harrison County affirmed, and the Sierra Club appealed.

¶2. When the Commission grants authority for such projects, Mississippi law requires it to make findings supporting its decision; and, according to the statute, the Commission's findings must be "supported by substantial evidence presented" which "shall be in sufficient detail to enable [this] court on appeal to determine the controverted questions presented, and the basis of the commission's conclusion."¹ We find the Commission's approval of the project fails to satisfy this requirement, so we reverse the chancery court's judgment and the Commission's order and remand to the Commission for further proceedings.

¶3. **REVERSED AND REMANDED.**

**WALLER, C.J., CARLSON, P.J., RANDOLPH, LAMAR, KITCHENS,
CHANDLER, PIERCE AND KING, JJ., CONCUR.**

¹ Miss. Code Ann. § 77-3-59 (Rev. 2009).