

COMMONWEALTH OF PENNSYLVANIA BEFORE THE ENVIRONMENTAL HEARING BOARD

SIERRA CLUB, CLEAN AIR COUNCIL AND

PENNENVIRONMENT

v. : EHB Docket No. 2012-067-L

:

COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL

PROTECTION

SETTLEMENT AGREEMENT

WHEREAS, Sierra Club, Clean Air Council and PennEnvironment ("Appellants") filed the above-captioned appeal on April 6, 2012. In the appeal, Appellants alleged that the Pennsylvania Department of Environmental Protection ("Department") failed to timely act on Title V permit renewals ("TVOP") for nine power plants, and sought to have the Department review and act on the pending applications pursuant to Section 6.1(b.3) of the Air Pollution Control Act, 35 P.S. § 4006.1(b.3);

WHEREAS, the Department has issued TVOP renewals for the following seven of the nine TVOP renewals at issue in the Notice of Appeal in this case:

- 1 AES BEAVER VALLEY issued on November 29, 2012. (Objection No. 1)
- 2 HATFIELD'S FERRY issued on November 30, 2012. (Objection No. 5)
- 3 HOMER CITY issued on November 16, 2012. (Objection No. 6)
- 4 MITCHELL issued on November 30, 2012. (Objection No. 7)
- 5 MONTOUR issued on May 30, 2012. (Objection No. 8)
- 6 SUNBURY issued on November 30, 2012. (Objection No. 9)
- 7 BRUCE MANSFIELD issued on April 2, 2013 (Objection No. 3);

WHEREAS, the parties stipulate that the issues in this litigation as to these seven TVOP renewals are resolved;

WHEREAS, the remaining two power plants, Elrama (Objection No. 4) and Armstrong



(Objection No. 2), are not currently operating;

WHEREAS, the Department has not issued TVOP renewals for the Elrama and Armstrong power plants;

WHEREAS, the Department agrees, within 20 days of receipt of any maintenance plan regarding either the Elrama or the Armstrong power plant, to provide Appellants with a copy of said maintenance plan;

WHEREAS, the Department further agrees to provide a written statement to Appellants within 10 days after November 30, 2013, stating whether any maintenance plans have been received regarding the Elrama or the Armstrong plants;

WHEREAS; Appellants agree not to pursue objections to the non-issuance of TVOP renewals for these two inoperative power plants in this proceeding, but wish to preserve the factual and legal issues raised in this appeal;

WHEREAS, the Department does not object to preserving the issues raised in this appeal regarding the two inoperative plants;

WHEREAS, under 25 Pa. Code § 1021.141(a)(2), an appeal may be terminated prior to adjudication.

NOW, THEREFORE, the parties stipulate to the entry of an Order, if acceptable to the Board, resolving this appeal as follows:

- 1. Appellants' appeal as to the claims for the following power plants is withdrawn: AES Beaver Valley, Hatfield's Ferry, Homer City, Mitchell, Montour, Sunbury, and Bruce Mansfield.
- 2. Appellants' appeal as to the claims for the Elrama and Armstrong TVOP renewals is hereby dismissed without prejudice to the right of Appellants to raise in any



proceeding any and all factual or legal issues raised in the appeal docketed at EHB Docket No. 2012-067-L.

- 3. Within 20 days of receipt of any maintenance plans regarding either the Elrama or the Armstrong power plant, the Department shall provide Appellants with a copy of said maintenance plan.
- 4. Within 10 days after November 30, 2013, the Department shall provide Appellants with a written statement stating whether any maintenance plans have been received regarding the Elrama or the Armstrong plants.

Respectfully submitted,

s/ Charles McPhedran

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FOR SIERRA CLUB, CLEAN AIR COUNCIL AND PENNENVIRONMENT

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FOR THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION

Date: June 5, 2013