

**West Virginia Environmental Quality Board
Charleston, West Virginia**

Monongahela Power Company,¹

Appellant,

v.

Appeal Nos. 11-21-EQB

11-22-EQB

14-10-EQB

**Scott G. Mandirola, Director,
Division of Water and Waste Management
West Virginia Department of Environmental
Protection,**

Appellee.

Order Scheduling Status Conference

In accordance with the motion made by Appellant and Appellee at the status conference on May 25, 2023, the Environmental Quality Board hereby orders that the above-captioned matters be set for a status conference on **August 31, 2023**. The Board's order was premised on the parties providing a summary of the status of the appeal, which is incorporated herein.:

1. The instant appeals involve numerous complex technical issues that have required extensive investigation, analysis and discussion by the parties. Monongahela Power Company (MPC) and the West Virginia Department of Environmental Protection (WVDEP) have held numerous settlement negotiations in an effort to reach a resolution that is mutually agreeable to all parties, and have arrived at an agreement-in-principle with respect to each of the issues raised in the appeals. As noted in prior submittals to this Board, the parties' settlement negotiations have resulted

¹ Since the filing of Appeal Nos. 11-21-EQB and 11-22-EQB in 2011, ownership of the Harrison Power Station has been transferred from Allegheny Energy Supply Company, LLC to Monongahela Power Company, and therefore Monongahela Power Company will become the Appellant of record in this matter.

in the preparation of a draft settlement document that memorializes the parties' resolution of the appeal issues.

2. The WV/NPDES permit that is the subject of the instant appeal, WV/NPDES Permit No. WV0005339 (the "Permit"), expired on June 30, 2015. MPC timely submitted an application for renewal of the Permit. A draft renewal permit has currently been issued.


3. While WVDEP has administratively extended the current Permit beyond its expiration date pending issuance of the renewal in accordance with W.Va. Code § 22-11-11(c), WVDEP cannot modify the Permit following the expiration date, and therefore will be unable to effectuate any changes to the terms and conditions set forth in the parties' draft Agreed Order through a permit modification following the Agreed Order's entry by the Board. Moreover, the issuance of a renewed permit that supersedes the 2011 Permit will effectively moot the instant appeal, and any objections that MPC might have with the renewed permit would require the initiation of a new appeal.

4. Although the parties have worked collaboratively in an effort to finalize the draft Agreed Order, in light of the timing limitations imposed by the expiration of the Permit, the parties now believe that their agreement on the issues raised by MPC in these appeals can be implemented most effectively and directly through the ongoing renewal process.

5. The parties agree that MPC is currently operating in compliance with its Permit, as stayed, and that there is no danger to human health or the environment posed by its continued operation at present discharge levels, and there have been no noncompliance events during the period of the appeal.

WHEREFORE, the Board, finding the foregoing status report to be an acceptable explanation of the status of the appeals before the Board and hereby sets this matter for a status conference on August 31, 2023.

Entered this 6th day of June, 2023.


for Edward Snyder, Chairman
West Virginia Environmental Quality Board

Status report provided by:

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WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD

MONONGAHELA POWER COMPANY,

Appellant,

v.

**Appeal Nos. 11-21-EQB
11-22-EQB
14-10-EQB**

**SCOTT G. MANDIROLA, DIRECTOR,
DIVISION OF WATER AND WASTE MANAGEMENT,
WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL
PROTECTION,**

Appellee.

CERTIFICATE OF SERVICE

This is to certify that I, Kenna M. DeRaimo, Clerk for the Environmental Quality Board, have this day, the 6th day of June, 2023, served a true copy of the foregoing **ORDER SCHEDULING STATUS CONFERENCE** to all parties in Appeal Nos. 11-21-EQB, 11-22-EQB, and 14-10-EQB, by mailing the same to the following:

David L. Yaussy, Esq.
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Via Interdepartmental Mail


Kenna M. DeRaimo, Clerk