PPL Sues EPA to Keep Power Plant Upgrades Secret

MATT VOLZ, Associated Press

HELENA, Mont. (AP) — PPL Montana sued the Environmental Protection Agency on Monday to prevent the federal agency from releasing data about its Colstrip power plant to two environmental groups that want to know what upgrades the 1970s-era coal-fired plant has undergone.

PPL claims in the lawsuit that the data the EPA plans to release includes 24 years' worth of capital improvement projects that the company considers confidential, and the company's competitors could use that information to gain market advantage. PPL Montana is part of PPL Corp.

The Montana Environmental Information Center and the Sierra Club had requested the information through the federal Freedom of Information Act.

Anne Hedges, the center's program director, said she first made the information request two years ago to find out what equipment has been installed at the Colstrip plant and whether it is in compliance with the law.

The plant was grandfathered in under the Clean Air Act and was not required to comply with the tougher pollution control standards unless the plant's operator made upgrades modernizing it. The industry had argued at the time that plants such as Colstrip would eventually be retired, but many have instead been upgraded and expanded without the same pollution controls as newer plants, according to the Sierra Club.

"We just want to know what has happened at that plant over the last 20 years. What equipment have they installed?" Hedges said. "This is an old, filthy, out-of-date facility that deserves the same controls" as a newer plant.

PPL spokesman David Hoffman declined to comment other than to say," I think we're in a good position and we're correct."

The first two units of the 2,000-megawatt power plant began operating in the mid-1970s, and two more units came online in 1984 and 1986. PPL's website says the Colstrip plant is the second-largest coal-fired project west of the Mississippi and uses a rail car worth of coal every five minutes.

But its sulfur dioxide emissions are less than what is required under the Clean Air Act and the plant meets EPA standards for nitrogen oxides emissions, according to the company.

The company said it received notice on April 9 that the EPA had determined that

PPL's capital improvements data was not confidential and the agency planned to release the information after 10 business days. That prompted the company to file the lawsuit asking a judge to block the release.

PPL said in the lawsuit that the EPA should have granted it an exemption to the freedom of information law that deals with trade secrets and confidential commercial or financial information. That exemption says a federal agency can't release the information under FOIA if it causes substantial harm to the competitive position of the person from whom the information was obtained.

Competitors would be able to figure out the life of the individual units of the plants and the likely timing for replacing components, "which would allow them to vie for market share through aggressive pricing and to strategically time and improve their own capital improvement processes, all to PPL Montana's detriment," the lawsuit reads.

The EPA declined to comment. Hedges dismissed the company's competitive claims.

"How upgrades to a facility that occurred years ago can be confidential information is beyond me, and it appears that the EPA doesn't agree with PPL, either," Hedges said. "Let's expose them to the light of day. If they are in compliance with the law, great, if not, they should be held to the same standards."

A hearing has not yet been set on PPL's claims.

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