

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION

HORIZON VENTURES OF
WEST VIRGINIA, INC.,
a West Virginia corporation

Plaintiff,

vs.

Civil Action No. 13-C-196G
Presiding Judge - James H. Young, Jr.
Resolution Judge - Thomas C. Evans, III

AMERICAN BITUMINOUS POWER
PARTNERS, L.P., a Delaware limited
partnership, PLEASANT VALLEY
ENERGY COMPANY, a California
corporation, AMERICAN HYDRO
POWER PARTNERS, L.P., a
Pennsylvania limited partnership,

Defendants.

AND

DEUTSCHE BANK AG,
NEW YORK BRANCH, IN ITS
CAPACITY AS AGENT FOR THE
BANK GROUP, WHICH ALSO
INCLUDES JP MORGAN CHASE
BANK, N.A.; MERRILL LYNCH
CREDIT PRODUCTS, LLC;
BNP PARIBAS; and
CREDIT AGRICOLE CORPORATE
AND INVESTMENT BANK,

Intervenor-Plaintiff,

v.

HORIZON VENTURES OF
WEST VIRGINIA, INC.; AMERICAN
PARTNERS, L.P.,

Intervenor-Defendants.

**ORDER REGARDING MOTION FOR PROTECTIVE ORDER
OF THE DEFENDANT, AMERICAN BITUMINOUS POWER PARTNERS,
L.P., AND MOTION TO COMPEL DISCOVERY OF PLAINTIFF**

On the 5th day of August, 2016, came the plaintiff, Horizon Ventures of West Virginia, Inc., by counsel, Gregory H. Schillace, the defendant, American Bituminous Power Partners, L.P., by counsel, Roberta F. Green, and the intervenor, Deutsche Bank AG, New York Branch, by its counsel, Alexander Macia and Matthew O. Gatewood. The parties appeared pursuant to Rule 26(f) of the West Virginia Rules of Civil Procedure at the request of the intervenor for a discovery conference.

Thereupon, the Court heard argument of counsel with respect to the motion for a protective order of the defendant, American Bituminous Power Partners, L.P.; the motion to compel discovery of the plaintiff; and the general status of the discovery in the above-styled action. Following argument of counsel, the Court directed counsel for the parties to reappear telephonically on August 10, 2016 at 1:30 p.m. for further hearing.

The Court directed the parties to submit any legal authority regarding the agency relationship of the intervenor, Deutsche Bank AG, New York Branch, with respect to the remaining financial institutions by the close of business on Monday, August 8, 2016. On August 10, 2016, the respective parties, by their counsel, again appeared telephonically at which time the Court invited any further argument from counsel.

Thereupon, the Court having reviewed the submissions following the August 5, 2016 hearing, **ORDERED** as follows:

- (a) The Court **FINDS** that for the purpose of the written discovery served upon the intervenor, the intervenor, Deutsche Bank AG, New York Branch, is the only party to this action in its own right and as the agent for the remaining identified financial institutions;
- (b) As the agent for the remaining financial institutions, the intervenor, Deutsche Bank AG, New York Branch, must include within its responses to discovery all responses applicable to the identified financial institutions. In responding to the outstanding discovery the intervenor, Deutsche Bank AG, New York Branch, has a duty to inquire and use due diligence to obtain all information necessary from the identified financial institutions to appropriately respond to the outstanding discovery requests;
- (c) With respect to the 30(b)(7) Deposition Notice directed to the defendant, American Bituminous Power Partners, L.P., it is **ORDERED** that the deposition be conducted during the last week of September. Based upon agreement of the parties, the Court **ORDERS** that all documents responsive to the deposition notice shall be provided to counsel for the plaintiff one week prior to the date of deposition. The parties agreed that the deposition would be conducted in Charleston, West Virginia;
- (d) The Court does not require that the defendant, American Bituminous Power Partners, L.P., provide duplicate copies of documents already disclosed in discovery, however, any such identified documents must be specifically designated with the date served upon the plaintiff, and specific information as to the particular document including the discovery or pleading to which such document was attached;
- (e) The Court **DIRECTS** the parties to confer telephonically every two (2) weeks with respect to the status of discovery in this matter. Any disagreements or difficulties with respect to discovery are to be promptly brought to the attention of the Court; and,
- (f) The expert disclosure deadline with respect to the party with the burden of proof currently set for August 15, 2016 will be reset by the Court by separate order.

The objections and exceptions of the parties are hereby preserved for the record.

The Clerk is directed to send a certified copy of this Order to all counsel of record.

ENTER: August 25, 2014

James H. Young, Jr.
James H. Young, Jr., Judge

Submitted by:

Gregory H. Schillace
State Bar No. 5597

Counsel for Plaintiff

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8/29/14 (20)

***Horizon Ventures of West Virginia, Inc. vs. American Bituminous Power Partners, L.P.,
Pleasant Valley Energy Company, American Hydro Power Partners, L.P., Business Court
Case, Civil Action No. 13-C-196, Ohio County***

Counsel for Plaintiff:

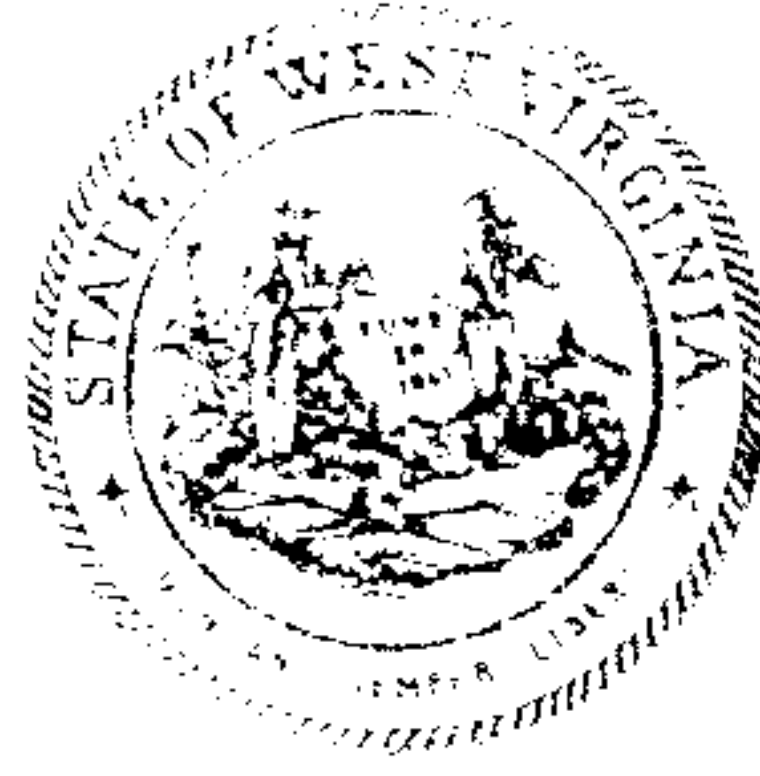
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TWENTY-FOURTH JUDICIAL CIRCUIT

WAYNE COUNTY, WEST VIRGINIA

POST OFFICE BOX 68

WAYNE, WEST VIRGINIA 25570

JAMES H. YOUNG, JR.

Judge

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August 26, 2016

Brenda L. Miller, Circuit Clerk
Ohio County Courthouse
1500 Chapline Street
Wheeling, West Virginia 26003

RE: Horizon Ventures of West Virginia, Inc. vs. American Bituminous Power
Partners, L.P., et al., Civil Action No. 13-C-196

Dear Ms. Miller:

Please find enclosed an original Order in the above-referenced matter, along with a self-addressed envelope in order that **a time-stamped copy can be returned to me. Also, please mail copies to the Business Court Division, all attorneys of record, and the Resolution Judge in this matter.** For your convenience, I have also enclosed a list of the attorneys of record.

If you need anything further, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Diana Fields".

Diana Fields
Secretary

Enclosures