



ARKANSAS RIVER POWER AUTHORITY | eNews
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ARPA Wins Lawsuit Against Boiler Manufacturer

The Arkansas River Power Authority (ARPA) won a lawsuit it filed against Babcock and Wilcox (B&W), the manufacturer of the boiler used at the Lamar Repowering Project. A federal jury ruled in favor of ARPA and awarded \$4.19 million in damages.

The jury found that B&W breached its contract with ARPA by not providing a boiler capable of meeting its performance guarantees including guarantees for emissions, and for not implementing a “Corrective Action Plan” to address the deficiencies. The jury also rejected B&W’s counterclaims that ARPA breached the contract by failing to pay B&W monies it withheld per the contract terms and to recover the costs associated with certain boiler modifications.

The lawsuit stemmed from the failure of the boiler B&W provided to ARPA for its Lamar Repowering Project (LRP) power plant located in Lamar, Colorado. The LRP is not operating and ARPA is attempting to sell the plant in its entirety. The boiler was initially placed into service in the spring of 2009 and was not able to operate within air permit limits set by the Colorado Department of Public Health and Environment. Despite the addition of pollution control equipment installed in early 2010 and further modifications in 2011, the boiler did not comply with emission permit limits. B&W had proposed further modifications to the boiler in 2012, but refused to cover the costs of installation. Subsequently, ARPA filed its lawsuit in February of 2014.

Rick Rigel, ARPA’s General Manager said that he was pleased by the outcome as the jury agreed that ARPA did not receive a boiler that could make the emission limits, and the boiler B&W delivered was not what ARPA contracted for. Rigel also said that the ruling will allow the ARPA Board more certainty in its strategic planning and in its ability to maintain stable rates for the rate payers served by ARPA’s members. “We have not taken a rate increase since 2011 and I believe that this ruling will help us maintain stable rates and rate control for the next few years,” Rigel said.

The Arkansas River Power Authority is a Joint Action Agency that provides wholesale electricity to its member communities of Holly, La Junta, Lamar, Las Animas, Springfield and Trinidad, Colorado.

ARPA | eNews is an electronic newsletter designed to keep member communities and the public up to date on developments associated with the Arkansas River Power Authority. Please forward it to anyone you think would be interested. Contact Arvenia Morris at amorris@arpapower.org to subscribe or unsubscribe.

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For more information, please contact us:

Arkansas River Power Authority
P.O. Box 70
Lamar, CO 81052
Phone: (719) 336-3496
Fax: (719) 336-5966
Email: arpa@arpapower.org