

BRB No. 04-0201 BLA  
Case Nos. 03-BLA-0025  
and 03-BLA-0026

|   |   |                         |
|---|---|-------------------------|
| MARY KOURINAKIS (Widow of   | ) |                         |
| EMMANUEL KOURINAKIS)  | ) |                         |
|   | ) |                         |
| Claimant-Petitioner   | ) | DATE ISSUED: 01/14/2004 |
|   | ) |                         |
| v.  | ) |                         |
|   | ) |                         |
| PRICE RIVER COAL COMPANY, INC.  | ) |                         |
|   | ) |                         |
| and   | ) |                         |
|   | ) |                         |
| AMERICAN ELECTRIC POWER   | ) |                         |
|   | ) |                         |
| Employer-Respondent   | ) |                         |
|   | ) |                         |
| DIRECTOR, OFFICE OF WORKERS=<br>COMPENSATION PROGRAMS, UNITED<br>STATES DEPARTMENT OF LABOR | ) |                         |
|   | ) |                         |
| Party-in-Interest   | ) | ORDER                   |

By letter dated November 20, 2003, the Board acknowledged employer=s appeal of the administrative law judge=s Order Denying Operator=s Motion to Dismiss, and Order Denying Motion for Reconsideration, dated August 28, 2003, and October 6, 2003, respectively.

Employer's appeal of the administrative law judge's Orders, is interlocutory in nature. Under certain limited circumstances, the Board will consider an interlocutory appeal. The appeal must meet the following three-pronged test. First, the order must conclusively determine the disputed question. Secondly, the order must resolve an important issue which is completely separate from the merits of the case. Finally, the order must be effectively unreviewable on appeal from a final judgment. *See Canada Coal Co. v. Stiltner*, 866 F.2d 153 (6th Cir.1989); *See also Gulfstream Aerospace Corp. v. Mayacamus Corp.*, 485 U.S. 271, 108 S.Ct. 1133 (1988).

Inasmuch as the administrative law judge's Order Denying Operator's Motion to Dismiss, and Order Denying Motion for Reconsideration do not meet the three-pronged test, the Board dismisses claimant's appeal.

Any party aggrieved by the administrative law judge's decision on the merits of the case must file a new appeal with the Board within thirty (30) days of the date the administrative law judge's decision on the merits is filed. 20 C.F.R. ' 802.205.

Service of this Order has been made on all parties, the Solicitor of Labor and the District Director.

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ROY P. SMITH  
Administrative Appeals Judge

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REGINA C. McGRANERY  
Administrative Appeals Judge

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BETTY JEAN HALL  
Administrative Appeals Judge