

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 10-1572

James F. Newport,	*	
	*	
Petitioner,	*	
	*	Petition for Review of an
v.	*	Order of the
	*	Department of Labor
United States Department of Labor;	*	Administrative Review Board.
Siemens Generation Services Company;	*	
Michael McCormick, President,	*	[UNPUBLISHED]
	*	
Respondents.	*	

Submitted: December 20, 2010
Filed: December 30, 2010

Before WOLLMAN, MELLOY, and GRUENDER, Circuit Judges.

PER CURIAM.

James Newport petitions for review of a final order of the Department of Labor Administrative Review Board (“ARB”) dismissing his administrative appeal for failure to prosecute. Having carefully reviewed the record, we conclude that the ARB’s decision is not arbitrary, capricious, an abuse of discretion, contrary to the law, or unsupported by substantial evidence in the record. *See* 49 U.S.C. § 42121(b)(4)(A) (this court reviews ARB’s decision pursuant to Administrative Procedure Act); 5 U.S.C. § 706(2) (reviewing court shall hold unlawful and set aside agency decisions if they are found to be arbitrary, capricious, abuse of discretion, or otherwise not in

accordance with law, or if unsupported by substantial evidence in record as whole); *see also Allen v. Admin. Review Bd.*, 514 F.3d 468, 476 (5th Cir. 2008) (ARB's conclusions of law are reviewed *de novo*). Accordingly, we deny the petition. *See* 8th Cir. R. 47B. We also deny all pending motions.
