



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, NY 10007-1866

February 11, 2009

Mr. William N. Viola
Director, Power Generation PJM
PSE&G Fossil LLC
80 Park Plaza
Newark, NJ 07102-4194

Re: Request for PSD Applicability Determinations for
Burlington 12 and Kearny 12 Generating Stations

Dear Mr. Viola:

This is in response to your December 3, 2008 letter to me wherein you requested PSD non-applicability determinations for the proposed relaxation of certain operating and emissions limitations contained in the existing permits for the PSE&G Burlington and Kearny Generating Stations. Specifically, you are proposing relaxations that would enable you to increase the annual heat input and resultant emissions for 8 General Electric LM6000 combustion turbines (4 of these "peaking" units are located at each facility) to address proposed NJDEP regulations regarding nitrogen oxide emissions during High Electric Demand Days. Your letter states that the proposed relaxations would allow greater use of these LM6000 units instead of older, less efficient combustion turbines during these high demand days.

In its New Jersey Title V permits, PSE&G restricted the amounts of natural gas and fuel oil to limit the LM6000 units to approximately 15.4% annual capacity at the Burlington Station, and approximately 13.2% annual capacity at Kearny. These permit limits were established upon commencement of operation of the units (the years 2000 through 2001) so that the emissions from these projects would remain below the applicability threshold limits of New Jersey's non-attainment regulations of NJAC 7:27-18. The establishment of these limits also resulted in the non-applicability of the Burlington and Kearny projects to the federal PSD regulations of 40 CFR § 52.21. The proposal that is the subject of your December 3, 2008 letter is to increase the annual capacity at the Burlington Station to 18.6% and at Kearny to 16.8%.

In order to determine PSD applicability in this case, two specific, separate and independent tests must be performed: (1) the standard PSD applicability test pursuant to 40 CFR § 52.21 (a)(2)(ii) to determine whether a significant net emissions increase under a physical change or change in the method of operation would occur; and (2) the 40 CFR 52.21(r)(4) test which treats a modification "as though construction had not yet commenced on the source or modification." Each applicability test is to have its own

baseline period and contemporaneous period that will be different for each test. The general applicability review in accordance with the first citation above would subject a modification to the PSD requirements in those cases where a physical change or a change in the method of operation would result in a significant emissions increase of a regulated pollutant. In the subject case, the change in the method of operation is the increase in the permitted annual turbine capacities, from 15.4% to 18.6% at the Burlington Station and from 13.2% to 16.8% at Kearny. PSE&G performed such an applicability review, delineated in its December 3rd letter, in which it was asserted that the Burlington and Kearny Station projects are not PSD affected under 40 CFR § 52.21 (a)(2)(ii). However, in order for EPA to evaluate your determination, as you have requested, we will need additional information, including: (1) substantiations for all calculations provided such as how they were determined, and any and all assumptions made; and (2) more documentation on the contemporaneous emission increases and decreases, including calculations, assumptions, and the federal enforceability of the emission changes. This information is especially important relative to the “retired Burlington 10 unit,” which may be outside of the contemporaneous period.

The second test, under 40 CFR § 52.21 (r)(4), has not been done. While you acknowledge in your December 3rd letter that EPA verbally communicated to your consultant our position that the aforementioned PSD provision would apply in this case, you have indicated that you disagree with this interpretation. In your letter, you state that PSE&G did not originally propose limits to these turbines with the intent of subsequently requesting minor annual capacity increases that would also avoid new source review, which you call “sham” permitting. It was also noted that at the time of initial permitting of these LM6000 turbines, PSE&G did not contemplate the need to relax the operational restrictions of the turbines within several years, and only requested the relaxations based on New Jersey’s proposed high electric demand day regulations. Regardless, EPA remains of the opinion that the (r)(4) provision applies in this case. This PSD provision does not discuss intent; it simply states that any relaxation of an established limit that would make the project “major” would at that point in time make PSD applicable. That is, the (r)(4) provision must be considered for the life of any project for which enforceable limits were established such that any subsequent requests for a relaxation of the aforementioned limitations will necessitate their review within the originally-issued permits.

To fulfill your request that we verify your PSD applicability review of the annual heat input increases for 8 General Electric LM6000 combustion turbines at the PSE&G Burlington and Kearny Generating Stations, you must provide an applicability review pursuant to 40 CFR 52.21(r)(4). Such a review must delineate the emissions from the turbines that correspond to the entire 18.6% and 16.8% capacities, as well as the contemporaneous emissions changes based upon the time of the initial permitting (that is, contemporaneous from the commencement of construction of the units, during the years 2000 and 2001). Information and documentation as described above for the emission calculations and contemporaneous emission changes should be submitted to this office for our review to be made. In this case, EPA requests that PSE&G use the actual

commencement of construction date for the contemporaneous emission period rather than the projected date of construction that we presume was originally used.

Once the requested documentation is provided to this office, we will complete our PSD applicability review. If you have any questions regarding this letter, please call me at (212) 637 – 4074 or Mr. Gerald DeGaetano at (212) 637 – 4020.

Sincerely,

/ s /

Steven C. Riva, Chief
Permitting Section
Air Programs Branch

cc: John Preczewski, NJDEP