



COMMONWEALTH of VIRGINIA

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March 23, 2006

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Via Electronic and First-class Mail

Mr. Lawrence Mansueti
Office of Electricity Delivery and
Energy Reliability
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Re: Docket No. EO-05-01

Dear Mr. Mansueti:

For filing in the above-referenced proceeding, enclosed please find the Supplemental Comments of David K. Paylor, Director of the Commonwealth of Virginia's Department of Environmental Quality.

Yours truly,

A handwritten signature in cursive script, appearing to read "Mathias Roussy, Jr.", written over a horizontal line.

D. Mathias Roussy, Jr.
Assistant Attorney General

Enclosure

cc: Service List (via electronic mail)

recognizes the Commonwealth of Virginia has the authority to effectively implement state and federal laws designed to protect the health and welfare of its citizens. Should the Secretary of Energy (“Secretary”) decline to modify his order pursuant to prior filings made by the Director, the Secretary should nevertheless modify his order so that the public health and welfare are preserved by all means available, including measures discussed below.

II. COMMENTS

A. **The Mandated Operation of the Potomac River Power Plant Continues to Compromise the Public Health of Virginia Citizens.**

DOE Order No. 202-06-1 specifically requests “comment concerning the operation of the Potomac River [Power Plant] during the days in January 2006 when it was required to operate pursuant to ordering paragraph A of Order No. 202-05-3.”

Ordering paragraph A of DOE Order No. 202-05-3 provides:

During any period in which one or both of the 230 kV lines serving the Central D.C. area is out of service, whether planned or unplanned, Mirant will operate the [Plant] to produce the amount of power (up to its full capacity) needed to meet demand in the Central D.C. area as specified by PJM for the duration of the outage.

...

When producing electricity pursuant to this paragraph, Mirant shall utilize pollution control equipment and measures to the maximum extent possible to minimize the magnitude and duration of any exceedance of the [National Ambient Air Quality Standards (“NAAQS”)].

It is the Director’s belief and understanding that the Plant operated pursuant to ordering paragraph A for approximately 21 days during January and that such operation posed a

significant health risk to Virginians.² Every day the pollutant emissions from the Plant's operations exceed air quality standards the health of Virginians is placed at risk. This harm will not subside until actions are completed that satisfactorily reduce and limit the environmental hazards posed by operation of the Plant.³

B. The Potomac River Power Plant Should Not Unnecessarily Operate at Levels That Can Be Mitigated Through Approved Transmission Upgrades.

The recent DC PSC Order granting approval of the Potomac Electric Power Company's ("PEPCO") application to construct two new 69 kV circuits and two new 230 kV circuits to address Central D.C. reliability concerns is welcomed as both timely and proper.⁴ Based on the current projected in-service date of July 1, 2006, it appears likely that the two new 69 kV circuits terminating at the Blue Plains Wastewater Treatment Plant ("Blue Plains") will be in service before Order No. 202-05-3 expires, is terminated by the Secretary, or is reversed by an appellate court.⁵ Assuming this is the case, certain statements made during the DC PSC evidentiary hearing about how the new 69 kV lines will function raise an additional important issue for consideration on rehearing.⁶

² See Supplement No. 5 to Mirant's Operating Plan, Revised Exhibit D: Mirant Potomac River Schedule of Unit Operations (Feb. 16, 2006)(indicating the Plant operated pursuant to ordering paragraph A on January 7th through 19th, 21st through 28th).

³ DOE Order No. 202-06-1 also requests "comments and information concerning the plant's current operational status." With respect to the current status of the Plant when there is not an outage of the existing 230 kV lines that supply the Central D.C. area, it is the Director's understanding that two units equipped with trona systems are regularly operating. See Supplement No. 5 to Mirant's Operating Plan, Revised Exhibit D: Mirant Potomac River Schedule of Unit Operations. The Director does not believe that operation of these units equipped with trona systems has resulted in NAAQS violations.

⁴ Order No. 13895, *In the Matter of the Emergency Application of the Potomac Electric Power Company for a Certificate of Public Convenience and Necessity to Construct Two 69 kV Overhead Transmission Lines and Notice of the Proposed Construction of Two Underground 230 kV Transmission Lines*, DC PSC Formal Case 1044 (hereinafter "DC PSC FC1044")(Mar. 6, 2006).

⁵ See PEPCO and PJM, February 2006 Progress Report at 2, FERC Docket No. EL05-145 (Mar. 8, 2006).

⁶ DC PSC FC1044.

A rehearing order should require that the new 69 kV circuits, once they are in service, be used to mitigate the public health impact of operating the Plant pursuant to ordering paragraph A of Order No. 202-05-3. The new 69 kV lines will be available to reduce reliance on the Plant to generate power and provide system reliability. They will offer additional sources of power available to Blue Plains and, thus, should be called upon before – and in order to avoid – operation of the Plant in violation of state and federal law.

The Secretary should not authorize the Potomac River Power Plant to operate at unnecessary levels if the two 69 kV circuits recently approved by the DC PSC can provide service to Blue Plains, and thereby mitigate the environmental harm caused by operation of the Plant. In the PEPCO transmission line application filed with the DC PSC, PEPCO stated that:

The construction and installation of these 69 kV circuits is needed as an immediate measure to ensure that Pepco is prepared to meet the peak load for the summer of 2006. It makes it possible to remove WASA's Blue Plains Substation from Pepco's Potomac River Substation and resupply it from Pepco's Palmer's Corner Substation in Prince George's County. This step would be taken during the summer 2006 load period to reduce the Potomac River load to close to the 475 MVA PJM local load relief warning threshold as described in Exhibit A. It also enables Pepco to provide a reliable contingency supply to the Blue Plains Wastewater Treatment Facility in the event that the electrical supply to this critical customer is lost.⁷

In the DC PSC formal evidentiary hearing, however, a Company witness testified regarding the 69 kV circuits as follows:

That's why we're pushing to have that done by this summer so that we have those lines, we have that ability to transfer Blue [Plains] over to

⁷ Emergency Application and Notice of the Potomac Electric Power Company, DC PSC FC1044 at 8-9 (Oct. 12, 2005).

another supply *in the event that something was to happen at Potomac River*.⁸

...

The 69 kV lines really are only focused on a specific location, Blue [Plains]. We're providing *additional support and backup* to that facility alone.⁹

While comments subsequently filed in the related Federal Energy Regulatory Commission proceeding appear to anticipate the proper utilization of the 69 kV circuits, the above testimony in the DC PSC evidentiary hearing appears to contemplate using the 69 kV circuits as a “backup” source of supply, serving Blue Plains during this summer *only if* supply from the Potomac River Power Plant is not available.¹⁰ For this reason, the Director seeks clarification of this matter.

C. To Clarify How the New 69 kV Circuits Will Be Used Requires the Secretary to Modify the Scope of Order No. 202-05-3 With Respect to PJM and/or PEPCO.

In clarifying how the new 69 kV circuits will be used, as requested above, it is important to modify the scope of Order No. 202-05-3 to include an obligation on either PJM Interconnection LLC (“PJM”) or PEPCO so that NAAQS exceedances allowed under the order can be avoided or minimized.¹¹ When one of the existing 230 kV circuits is not operational, ordering paragraph A currently requires only that Mirant must “utilize pollution control equipment and measures to the maximum extent possible to minimize

⁸ Tr. at 36, ll. 18-22, DC PSC FC1044 (formal hearing Feb. 2, 2006) (emphasis added).

⁹ Tr. at 55, ll. 7-9, DC PSC FC1044 (formal hearing Feb. 2, 2006) (emphasis added).

¹⁰ Potomac Electric Power Company and PJM Interconnection, L.L.C., Joint Reliability Plan, Attachment A at 6, Federal Energy Regulatory Commission Docket No. EL05-145-000 (Feb. 8, 2006)(public or confidential version).

¹¹ The Secretary of Energy’s FPA § 202(c) authority extends to the “generation, *delivery*, interchange, or *transmission* of electric energy as in its judgment will best meet the emergency and serve the public interest.” 16 U.S.C. § 824a(c)(emphasis added).

the magnitude and duration of any exceedance of the NAAQS.” Because Mirant does not own or operate the 69 kV lines, the rehearing order should clarify whose obligation it is to ensure that the 69 kV lines are used to address D.C.’s reliability concerns and reduce the need to operate the Potomac River Plant.

To the extent PEPCO lines – the new 69 kV circuits or other transmission facilities – can be used to minimize the magnitude and duration of NAAQS exceedances allowed under Order No. 202-05-3, the Director expects that obligation would fall to a party other than Mirant. PJM is the transmission system operator. Nothing in the order, however, requires PJM to consider impact on public health when conducting its security-constrained economic dispatch of generating units in the affected area. Therefore, nothing currently requires PJM to utilize the new 69 kV circuits once they are in service, even if such use would avoid or minimize NAAQS exceedances resulting from operation of the Potomac River Power Plant pursuant to ordering paragraph A. Similarly, there is no obligation on PEPCO to use its transmission facilities to avoid or mitigate NAAQS exceedances. Accordingly, the scope of the order should be modified so that PEPCO and/or PJM are required to use the new 69 kV circuits to avoid, or to minimize the magnitude and duration of, any NAAQS exceedance resulting from the Plant’s operation under the order.

III. CONCLUSION

The Director submits these comments pursuant to DOE Order No. 202-06-1. Operation of the Potomac River Power Plant that results in air pollutant emissions in excess of air quality standards, as authorized by ordering paragraph A of Order No. 202-05-3, continues to place the health of Virginians at risk. If the Secretary continues to

require the Plant to operate, the Director requests that the Secretary clarify that PEPCO's new 69 kV circuits to the Blue Plains Wastewater Treatment Plant be utilized in the future to mitigate the harm to Virginia's citizens and environment caused by the Potomac River Power Plant's operation under ordering paragraph A. To that end, the Director also requests that the scope of Order No. 202-05-3 be modified to obligate PJM and/or PEPCO to use PEPCO's new 69 kV circuits to avoid, or to minimize the magnitude and duration of, any NAAQS exceedance resulting from the Plant's operation under the order.

Respectfully submitted,
DAVID K. PAYLOR, DIRECTOR
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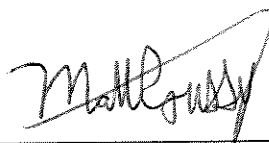
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March 23, 2006

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was on this day served by electronic mail on the persons listed below.

Dated at Richmond, Virginia, this 23rd day of March, 2006.



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