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U.S. EPA, Region 5
Office of Regional Counsel (C-14J)
77 West Jackson Blvd
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Re: Richmond Power and Light
Response to Notice of Violation and Finding of Violation
EPA-5-09-IN-03

Dear Padma:

We appreciated the opportunity to meet with you and EPA staff at Region 5 Headquarters on May 5 to discuss the Notice of Violation and Finding of Violation (EPA-5-09-IN-03) (the "NOV") issued to Richmond Power and Light ("RPL"). As we discussed, this letter provides a detailed explanation regarding why we believe the 1996 Project at Unit 2 and the 1998 Project at Unit 1 (the "Projects") did not trigger PSD/NSR review and/or permitting requirements.[1]

Several reasons support this conclusion. First, the 1996 Project constituted an allowable restoration of normal operating conditions and capability at Unit 2 after installation of the federally-sponsored LIFAC Clean Coal Technology ("CCT") Demonstration Project/Pollution Control Project ("PCP"). Second, the 1998 Project was specifically determined to be exempt from PSD/NSR by the United States Environmental Protection Agency ("EPA") through its delegated agency, the Indiana Department of Environmental Management ("IDEM"). Third, RPL reasonably concluded that neither Project would cause a significant net emissions increase because neither would increase the unit's capacity, would cause additional steam flow from the unit, or would cause an increase in coal usage.[2] An additional reason which demonstrates the

[1] The Projects involved the following maintenance activities:

Unit 1 1998 Project

- Replacement of pulverizer and associated controls
- Re-tubing of generating bank section of the boiler
- Re-tubing of superheat section of the boiler
- Replacement of ID/FD fan and motor

Unit 2 1996 Project

- Re-tubing of economizer section of the boiler

[2] Additionally, we note that both projects should be classified as exempt routine maintenance, repair and replacement ("RMRR") projects because they were relatively low cost, short in duration, generally completed within scheduled outages, and involved maintenance activities commonly performed within the industry.

reasonableness of RPL's conclusions is that with regard to both Projects, the post-change representative actual emissions and coal usage decreased from the pre-change actual emissions and coal usage at each respective Unit.

I. The 1996 Project Was Exempt from PSD/NSR Because It Constituted an Allowable Restoration of Normal Operating Conditions and Capability at Unit 2 After Installation of the LIFAC CCT Demonstration Project/PCP.

A. The 1996 Project Was Exempt from PSD/NSR Because It Restored the Normal Operational Conditions of Unit 2 After Installation of the CCT Demonstration Project.

1. LIFAC was a CCT Demonstration Project.

The LIFAC Project was a CCT Demonstration Project which went on-line at RPL in March 1993 with testing continuing through the summer of 1994. In 1988, the United States Department of Energy ("DOE") was provided with federal funding to cost-share the design, construction, and demonstration of Clean Coal Technology ("CCT") projects. The purpose of the program was to demonstrate new technologies capable of reducing air emissions of SO_2 and NO_x on existing coal-burning power plants.

A CCT Project is defined as:

> [A]ny technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of November 15, 1990.

42 U.S.C. § 7651n(a).

RPL's LIFAC project clearly satisfied the definition of a CCT. It received funds from, and was sponsored by, the federal government (the DOE) and was specifically designated as a CCT. It was temporary in nature as it was operated for a period of five years of less. It was chosen from 48 other proposals as a demonstration project to reduce SO_2 emissions. RPL operated the project pursuant to a variance issued by the State of Indiana (IDEM). *See Attachment 1.*

2. EPA has Determined that Restoration of a Unit's Pre-CCT Demonstration Project Condition Does Not Trigger PSD/NSR.

In the *WEPCO* rule, EPA stated:

> Further, EPA proposed that at the end of a temporary project, the facility must be returned to pre-demonstration conditions and