STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

WILLIAM J. RICHARDS
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P.O. Box 30218
LANSING, MICHIGAN 48909

JENNIFER MULHERN GRANHOLM
ATTORNEY GENERAL

February 17, 2000

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48911

Dear Ms. Wideman:

Re: MPSC Case No. U-12266

I am enclosing for filing an original and 4 copies of the "Attorney General's Petition for Rehearing" along with a proof of service. This filing is also being submitted electronically as part of the Commission's electronic filing pilot.

Sincerely,

Donald E. Erickson

Donald E. Erickson
Assistant Attorney General

c All Parties
sld/cases/U-12266

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of THE DETROIT EDISON COMPANY for certain determinations pursuant to Sections 32(c) and (d) of the Public Utility Holding Company Act of 1935 and for accounting approval for the transfer of certain assets /	MPSC Case No. U-12266

Attorney General's Petition for Rehearing

Pursuant to 1992 AACS, R 460.17403, Attorney General Jennifer M. Granholm (Attorney General) requests the Michigan Public Service Commission (MPSC or Commission) to rehear its Order dated February 3, 2000. In support of this petition the Attorney General says:

1. On January 11, 2000, The Detroit Edison Company (DECo or the Company) filed its Application in the captioned case, which was amended by an Errata filed on January 14, 2000.

2. The Association of Businesses Advocating Tariff Equity (ABATE), Energy Michigan Inc. (Energy Michigan), the Attorney General, and PG&E Corporation (PG&E) filed interventions and requested the Commission to conduct hearings in this case.

3. DECo filed a response to ABATE, Energy Michigan, and the Attorney General and a separate objection to PG&E's petition.

4. On February 3, 2000, the Commission issued its "Order" in this case. The Commission ruled:

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; MSA 22.151 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; 15 USC 79z-5a; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.

b. Detroit Edison should notify the Commission within 10 days of this order's issuance if the conditions in this order are unacceptable.

c. With the conditions set forth in this order, allowing Rouge No. 1 to be an eligible facility will benefit consumers, is in the public interest, and does not violate any state law.

d. The proposed accounting entries should be authorized except for any modifications to the asset transfer price that would become necessary if applicable legislation is enacted this year.

e. Ex parte approval is appropriate.

THEREFORE, IT IS ORDERED that:

A. The request of The Detroit Edison Company for determinations regarding Sections 32(c) and 32(d)(2) of the Public Utility Holding Company Act is granted unless The Detroit Edison Company notifies the Commission within 10 days of this order's issuance that the conditions required by this order are unacceptable.

B. The request by The Detroit Edison Company for approval of accounting entries is granted, except for any modifications to the asset transfer price that would become necessary if applicable legislation is enacted this year.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

As of the morning of February 17, 2000, the listings on the Commission's electronic web site for documents filed and-for the pilot project revealed no filing by DECo within 10 days of the Commission's order in this case.

5. **Pages 6-7** of the Commission's order say that the restart of Rouge No 1 will provide additional generating capacity, but neither DECo's responsive filings nor the Commission's order suggests that DECo could not restart Rouge No. 1 without approval of the asset transfer. DECo filed an Air Use Permit Application dated July 20. 1999, with the Michigan Department of Environmental Quality (MDEQ) **(Attorney General's Attachment No. 1),** and on December 15, 1999, the MDEQ approved DECo's permit application subject to specified conditions **(Attorney General's Attachment No. 2).**

6. This demonstrates that DECo has planned the restart project for some time and that DECo can restart the project without transferring the Rouge No. 1 assets. Therefore, the benefits of restarting Rouge No. 1 do not flow from the transfer of the assets, and the benefits of restarting do not support the MPSC's finding that approving a transfer of the Rouge No. 1 assets is in the public interest within the meaning of 15 USC 79z-5a(c).

7. Page 7 of the MPSC's order says that generation from Rouge No. 1 will be used for competitive sale to electric retailers serving load in the Michigan electric market, and the third condition stated on page 9 of the MPSC's order requires that the output from the plant will first be offered to retail marketers participating in retail open access programs in Michigan in 2000 and 2001.

8. These statements do not demonstrate that the asset transfer will serve the public interest within the meaning of 15 USC 79z-5a(c). Paragraph 3 (c) of the affidavit filed by David B. Harwood says that current environmental permit limitations restrict Rouge No. 1 operations to approximately 2,150 hours of full-load operation per year. Retail marketers must purchase open access service capacity for a full year, and there is no evidence that parties planning to take open access service can use 225 MW of peaking service in 2000 and 2001. In fact, under the tariff approved by the MPSC in its March 9, 1999, order in Case Nos. U-11451 and U-11452,

the Commission established a standby tariff provision, which would belie any conclusion that retail marketers will need capacity or energy from Rouge No. 1. In other words, offering capacity from Rouge No. 1 to retail marketers does not satisfy the public interest within the meaning of 15 USC 79z-5a(c) because there is no evidence to support a conclusion that Rouge No. 1 could operate in a manner which will in fact benefit retail marketers who need capacity to serve customers throughout each year.

9. On the other hand, the public interest would not be served by restarting Rouge No. 1 under conditions that would cost Michigan customers more for electricity than restarting the plant as a rate base plant would cost customers.

10. DECo is transferring the plant to DTE River Rogue No. 1 LLC for the price of $6.6 million, but the transfer price actually has a zero cost when the revenues for DECo and the costs to DTE River Rouge No. 1 LLC are netted on the books of DTE Energy, Inc. Furthermore, based upon projected market costs for seasonal call-option purchases which have been presented in DECo's 2000-2004 PSCR plan/forecast case, DECo is transferring $98.2 million in market revenue value to its affiliate, calculated as follows.

11. In U-12121 for the year 2000, DECo has estimated that call option purchases will average $295.48/MWh ($120,262 ÷ 407) and that 1,400 MW of call options will generate 407 GWh during the 2000 summer season which represents an approximate capacity factor of 10%. This means that 225 MW of Rouge No. 1 capacity would have a market revenue value of $19,147,104 in 2000 (225 MW x 120 days x 24 hours/day x 10% x $295.48/MWh).

12. In U-12121 for the year 2001, DECo has estimated that call option purchases will average $296.95/MWh ($126,798 ÷ 427) and that 1,450 MW of call options will generate 427 GWh during the 2001 summer season which represents an approximate capacity factor of 10%. This means that 225 MW of Rouge No. 1

capacity would have a market revenue value of $19,242,360 in 2001 (225 MW x 120 days x 24 hours/day x 10% x $296.95/MWh).

13. In U-12121 for the year 2002, DECo has estimated that call option purchases will average $303.32/MWh ($138,009 ÷ 455) and that 1,550 MW of call options will generate 455 GWh during the 2000 summer season which represents an approximate capacity factor of 10%. This means that 225 MW of Rouge No. 1 capacity would have a market revenue value of $19,655,136 in 2002 (225 MW x 120 days x 24 hours/day x 10% x $303.32/MWh).

14. In U-12121 for the year 2003, DECo has estimated that call option purchases will average $304.83/MWh ($156,685 ÷ 514) and that 1,750 MW of call options will generate 514 GWh during the 2003 summer season which represents an approximate capacity factor of 10%. This means that 225 MW of Rouge No. 1 capacity would have a market revenue value of $19,752,984 in 2003 (225 MW x 120 days x 24 hours/day x 10% x $304.83/MWh).

15. In U-12121 for the year 2004, DECo has estimated that call option purchases will average $314.88/MWh ($180,113 ÷ 572) and that 1,950 MW of call options will generate 572 GWh during the 2004 summer season which represents an approximate capacity factor of 10%. This means that 225 MW of Rouge No. 1 capacity would have a market revenue value of $20,404,224 in 2004 (225 MW x 120 days x 24 hours/day x 10% x $314.88/MWh).

16. Thus, if Rouge No. 1 operates only at a capacity factor of 10% during each summer (288 hours at full capacity), the revenues during the next 5 years from Rouge No. 1 would total $98,201,808 at market prices forecast by DECo. Of course, there is no evidence that the restarted plant will be able to operate only for the next five years.

17. It is neither just nor reasonable to approve a transfer of assets having a market value of $98.2 million over the next 5 years without providing the

opportunity for evidentiary hearings to determine whether the asset transfer will actually serve the public interest or will increase customers' total and/or average costs when compared with restarting Rouge No. 1 as a rate base plant.

18. Sections 711-714 of the Energy Policy Act of 1992" require state commissions to make several different reviews, and state con-missions should conduct meaningful reviews. See, *Bristol Energy Corp v New Hampshire Public Utilities Comm'n, 13* F 3d 471, 475-477 (CA 1, *1994).*

19. **Pages** 10-11 of the MPSC's order describe the "Hobson's choice" with which the Commission felt itself confronted. As indicated above, there is no evidence that approval of the asset transfer is a necessary condition precedent to restarting Rouge No. 1; furthermore, as Attorney General's Attachment Nos. 1 and 2 indicate, DECo had and has the necessary permit from the Michigan Department of Environmental Quality to allow the restart without the transfer. Thus, the MPSC is not actually presented with a Hobson's choice of choosing between losing capacity for this summer or granting approval without any hearings. In this case the MPSC should implement statements about artificial time limits which the order in this case has cited from prior orders and should require hearings. If after hearings evidence proves the transfer is in the public interest, then the transfer can be approved. If not, then approval can be denied, but ex parte approval is inappropriate.

20. The first condition stated on page 9 of the MPSC's order proposes to "cap" the alternate valuation methods which might be adopted by the Legislature this year. This is either unlawful or unreasonable; furthermore, if no legislation is passed this year, then DECo could evade netting. In addition, this condition is speculative, and the cap may conflict with the terms of any legislation which passes.

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[1] *15* USC 79, 79z-5a, and 79k, 16 USC 2621, and 16 USC 824 [106 Stat 2905-2911].

21. The second condition stated on page 9 of the MPSC's order is at best incomplete, and the accounting approval granted on page 12 may defeat or frustrate this condition. First, an offset for the gain on this sale is needed in base rates as well as in direct access transition charges because, as the Commission has already recognized, stranded costs are being recovered via base rates as well as via transition charges. Second, it is not clear how customers will actually receive any benefit from the $6.6 million price. DECo is booking a $3.3 million gain in Account 411.6 and capitalizing that as a regulatory asset in Account 182.3; furthermore, DECo's accounting provides no rate relief for the $3.3 million recovery of current net plant balances which occurs via DECo's accounting entry Nos. 1 through 4.

Relief Reauested

For the reasons stated above, Attorney General Jennifer M. Granholm requests the Michigan Public Service Commission to grant this petition for rehearing, to set this case for hearings, and to reconsider the potential transfer of revenues and the need for additional customer credits which are identified above.

Respectfully submitted,

JENNIFER M. GRANHOLM
Attorney General

Donald E. Erickson

Donald E. Erickson
Assistant Attorney General
Special Litigation Division
6520 Mercantile Way, Suite 2
I?. 0. Box 30218
Lansing, MI 48909

(517) 373-1123

February 17, 2000

Wayne

DEQ

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY - AIR QUALITY DIVISION

AIR USE PERMIT APPLICATION

For authority to install, construct, reconstruct, relocate, modify, or alter process, fuel-burning or refuse burning equipment and/or control equipment (permits to install are required by administrative rules pursuant to section 5505 of act 451, p.a. 1994 as amended).

FOR DEQ USE ONLY
APPLICATION NUMBER
269-99

AIR QUALITY DIVISION
JUL 22 1999
PERMIT SECTION

Please type or print clearly. For further instructions, see the reverse side of this form or contact the Air Quality Division at

1. APPLICANT NAME (Business License Name of Corporation, Partnership, Individual Owner, Government Agency)
The Detroit Edison Company

2. APPLICANT ADDRESS (Number and Street)
2000 Second Avenue

CITY (City or Village): Detroit | STATE: MI | ZIP CODE: 48226

3. EQUIPMENT OR PROCESS LOCATION (Number and Street) (If different than item 2)
Rouge River Power Station, 1 Belanger Park Dr. | COUNTY: Wayne

CITY (City or Village): River Rouge | ZIP CODE: 48214

4. GENERAL NATURE OF BUSINESS:
Producer of electric energy

5. EQUIPMENT OR PROCESS DESCRIPTION. A Description MUST Be Provided Here. (Attach additional sheets, if necessary. Include Source Classification Codes (SCC).)

Conversion of the existing Rouge 1 Boiler rated at 2400 mmBtu/hr and originally designed to burn coal and converted in the 70's to burn No, 6 fuel oil, to burn natural gas using low NOx burners and flue gas recirculation. Refer to attached Technical Support Document for additional information. (SCC: 10206601)

6. FACILITY CODES.
STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE: 491 | STATE REGISTRATION (EMISSION INVENTORY) NO: B2810

7. ACTION AND TIMING. (Enter dates for those which apply)	ESTIMATED STARTING DATE	ESTIMATED COMPLETION DATE
INSTALLATION, CONSTRUCTION, RECONSTRUCTION OR ALTERATION:		
RELOCATION:		
CHANGE OF OWNERSHIP:		

8. NAME OF PRIOR OWNER, IF ANY: | PRIOR AIR USE PERMIT NUMBER, IF ANY:

9. AUTHORIZED FIRM MEMBER CERTIFICATION

PRINTED OR TYPED NAME: Michael F. Rodenberg
TITLE: Supervisor - Regulatory & Compliance Strategies
PHONE NUMBER (Include Area Code): 313-235-8618
SIGNATURE: Michael F. Rodenberg
DATE: 7/20/99

10. CONTACT PERSON NAME (If different than name in item 9): Wayne A. Rugenstein
PHONE NUMBER (Include Area Code): 313-235-7023

11. DISPOSITION OF APPLICATION: FOR DEQ USE ONLY. DO NOT WRITE BELOW

DATE OF RECEIPT OF ALL INFORMATION REQUIRED BY RULE 203: 10-29-99

DATE PERMIT TO INSTALL APPROVED: 12-2-99	SIGNATURE: Lynn Fiedler
DATE APPLICATION / PERMIT VOIDED:	SIGNATURE:
DATE APPLICATION / PERMIT DENIED:	SIGNATURE:

SUBJECT TO COMPLIANCE WITH ALL DEPARTMENT RULES AND THE CONDITIONS STIPULATED IN THE ATTACHED SUPPLEMENT.

EQP 5615 (Rev 3/99)

Attorney General's Attachment No. 1

STATE OF MICHIGAN

JOHN ENGLER, Governor

DEPARTMENT OF ENVIRONMENTAL QUALITY

"Better Service for a Better Environment"

HOLLISTER BUILDING, PO BOX 30473, LANSING MI 48909-7973

INTERNET: www.deq.state.mi.us

RUSSELL J. HARDING, Director

REPLY TO:

AIR QUALITY DIVISION
PO BOX 30260
LANSING MI 48909-7760

December 15, 1999

Mr. Michael Rodenberg
Supervisor, Regulatory & Compliance
The Detroit Edison Company
2000 Second Avenue
Detroit, Michigan 48226

Dear Mr. Rodenbarg:

This letter is in reference to your Permit to Install application for modification of the existing wall-fired steam boiler (Boiler No. 1) to bum natural gas located at the River Rouge Power Station, 1 Belanger Park Drive, River Rouge, Michigan.

A 30-day public comment period was held which ended December 1, 1989. A public heating was also held on December 1, 1999. No comments were received during the comment period nor at the heating. Pursuant to the delegation of authority from the Director of the Michigan Department of Environmental Quality, I have approved Permit to Install, No. 269-99.

This approval is based upon and subject to compliance with all administrative rules of the Department and conditions stipulated in the attached supplement. Please review these conditions thoroughly so that you may take the actions necessary to ensure compliance with all of these conditions.

You are advised that contaminants discharged to the surface waters and/or groundwaters; materials disposed of on land; hazardous waste storage, treatment, and disposal; and resource recovery facilities must be approved by other divisions of the Department of Environmental Quality. Additionally, your plant environment must be in compliance with all applicable requirements of the Departments of Community Health and Consumer & Industry Services.

Please contact me if you have any questions regarding this permit.

Sincerely,

Lynn Fiedler

Lynn Fiedler, Supervisor
Permit Section
Air Quality Division
517-373-7087

LF:bcw
Enclosure
cc: County Of Wayne
City of River Rouge
Mr. Robert Miller, EPA, Region V
Ms. Kay Bedenis, Wayne County Air Quality

EQP 0100e
(Rev. 1/98)

__ Attorney General's Attachment No. 2__

SUPPLEMENT TO PERMIT NO. 269-99

The **Detroit Edison Company**
River Rouge Power Plant
Detroit, Michigan
December 2, 1999

GENERAL CONDITIONS

1. Rule 201(1) - The process or process equipment covered by this permit shall not be reconstructed, relocated, altered, or modified, unless a Permit to Install authorizing such action is issued by the Department, except to the extent such action is exempt from the Permit to Install requirements by any applicable rule.

2. Rule 201(4) - if the installation, reconstruction, relocation, or alteration of the equipment for which this permit has been approved has not commenced **within 18 months, or has been interrupted for 18 months, thts permit** shall become void unless otherwise authorized by the Department. Furthermore, the person to whom this permit **was** issued, or the designated authorized agent, shall notify the Department via the Supervisor, Permit Section, Air Quality Division, Michigan Department of Environmental Quality, P.O. Box 30260, Lansing, Michigan 48909, ***if it* is** decided not to pursue the installation. reconstruction, relocation, or alteration **of** the equipment allowed by this Permit to Install.

3. Rule 201(6>(a) . If this Permit to Install is issued for a process or process equipment located at a stationary source that is subject to the Renewable Operating Permit program requirements pursuant to R 336.1210, trial operation is allowed by this permit if the equipment performs in accordance with the terms and conditions of this Permit to install and until the appropriate terms and conditions of this Permit to Install have been incorporated into the Renewable Operating Permit, Upon incorporation of the appropriate terms and conditions into the Renewable Operating Permit, this Permit to Install shall **become void.**

4. Rules **201(6)(b) - If this** Permit **to** Install is issued **for a process or** process equipment located at **a stationary source that is not subject** to the Renewable Operating Permit program **requirements pursuant to** R **336.1210, operation of the process** or process equipment is allowed by this permit if the equipment performs in accordance with the terms and condition of this Permit to Install.

5. Rule 201(8) and Section 5510 of Act 451, PA, 1994 - The Department may, after notice and opportunity for a hearing, revoke this Permit to Install if evidence indicates the process or process equipment is not performing in accordance with the terms and conditions **of this permit or is violating the Departments' rules or the Clean** Air Act.

6. Rule 219 - The terms and conditions of this **Permit to Install shall apply to any person or legal** entity that now or hereafter owns or operates the process or process equipment at the location authorized by this Permit to Install. If the new owner or operator submits a written request to the Department pursuant to R 336.1219 and the Department approves the request, this permit **will be amended to reflect the** change of ownership or operational control. The request must include all of the information required by subrules (l)(a), **(b)** and (c) of R 336.1219. The written request shall be sent to the District Supervisor, Air Quality Division, Michigan Department of Environmental Quality.

7. Rule 901 - Operation of this equipment shall not result in the emission of an air contaminant which causes injurious effects to human health or safety. animal life, plant life of significant economic value, or property, or which causes unreasonable interference with the comfortable enjoyment of life and **property.**

8. Rule 912 . The owner or operator of a source, process, or process equipment shall provide notice of an abnormal condition, start-up, shutdown, or malfunction that results in emissions of a hazardous or toxic air pollutant in excess of standards for more than one hour, or of any air contaminant in excess of standards for more than two hours, as required in this rule, to the District Supervisor, Air Quality Division. The notice shell be provided not later than two *business days afler start-up, shutdown. or discovery of the abnormal condition or malfunction. Written reports, if required, must be filed with the District Supervisor within 10 days, with the information required in this rule.

9. Approval of this permit does not exempt the person to whom this permit was issued from complying with any future applicable requirements which may be promulgated under Part 55 of Act 451, P.A. 1994 or the Clean Air Act.

10. Approval of this permit does not obviate the necessity of obtaining such permits or approvals from other units of government as required by law.

11. Operation of this equipment may be subject to other requirements of Part 55 of Act 451, P.A. 1994, end the rules promulgated thereunder.

12. Rule 301 - Except as provided in subrules (2) and (3) or unless the special conditions of this Permit to Install include an alternate opacity limit established pursuant to subrule (4) of R 336.1301, a person shall not cause or permit to be discharged into the outer air from a process or process equipment a visible emission of density greater than the most stringent of the following. The grading of visible emissions shall be determined in accordance with R 336.1303.

    a) A &minute average of 20% opacity, except for one 6-minute average per hour of not more than 27% opacity.
    b) A visible emission limit specified by an applicable federal new source performance standard.
    c) A visible emission limit specified as a special condition of this permit to install.

13. Rule 370 - Collected air contaminants shall be removed as necessary to maintain the equipment at the required operating efficiency. The collection and disposal of air contaminants shalt be performed in a manner so as to minimize the introduction of contaminants to the outer air. Transport of collected air contaminants in Priority I and II areas requires the use of material handling methods specified in R 336.1370(2).

14. Rule 285 - Except as allowed by Rule 285 (a), (b), and (c), applicant shall not substitute any fuels, coatings, nor raw materials for those described in the application and allowed by this permit, nor make changes to the process or process equipment described in the application, without prior notification to and approval by the Air Quality Division.

15. The Department may require the applicant to conduct acceptable performance tests, at the applicant's expense, in accordance with R 336.2001 and R 336.2003, under any of the conditions listed in R 336.2001.

SPECIAL CONDITIONS
(15 Special Conditions)

1. For the purposes of this permit, all requirements for notifications or submittal of records to or 'approval by the District Supervisor, Air Quality Division, should be submitted to the Director of Compliance and Enforcement, Air Quality Management Division, Wayne County Department of Environment, unless the applicant is otherwise notified in writing by the Air Quality Division. At no time shall notifications or submittals to or approvals by both agencies be required pursuant to this permit. This condition is necessary to ensure compliance with Michigan Act 451, 324.5523.

2. The applicant is permitted to convert Boiler No. 1 at the River Rouge Power Plant (the Plant) to bum natural gas with a fated heat input of approximately 2,400 million Btu per hour. The applicant intends to operate the Plant as a cycling facility. The boiler shall be equipped with flue gas recirculation and low NOx burner(s), Once converted, the boiler shall be operated firing natural gas only. Applicant shall not operate the boiler unless the low NOx burner(s) and flue gas recirculation system are installed and operating properly. This condition is necessary to ensure compliance with the Best Available Control Technology (BACT) determination established pursuant to the federal Prevention of Significant Deterioration regulations (PSD). 40 CFR $52.21.

3. The particulate matter/particulate matter less than 10 micron in diameter (PM/PM-10) emission mte from Boiler No. 1 when firing natural gas shall not exceed either 0.03 pound per million Btu heat input or 72.0 pounds per hour. These emission rates include periods of startup and shutdown with the exception of malfunction. Malfunction is defined in Rule 113. The PM/PM-10 emission rate from Boiler No. 1 when firing natural gas shall not exceed 77.4 tons per year for all periods of operation of the boiler including periods of startup, shutdown, and malfunction conditions. Following the end of each month, applicant shall determine the monthly PM/PM10 emission rate by multiplying the monthly heat input in million BTU's by the emission rate in pounds per million BTU. The annual limit shall be based upon a 12-month rolling time period as determined at the end of each calendar month. The 12 month rolling *time period* emissions shall be calculated by addlng the previous 12 months of calculated emissions. This condition is necessary to comply with BACT emission limits, which have been established pursuant to the federal PSD regulations 40 CFR § 52.21 and federal New Source Performance Standards, Subparts A and Da requirements.

4. The nitrogen oxides (NOx) emission rates from Boiler No. 1 when firing natural gas shall not exceed either 0.13 pound per million Btu heat input or 312.0 pounds per hour based on the average of al operating hours in a calendar day. These emission rates include periods of startup and shut down with the exception of malfunction. Malfunction is defined in Rule 113. The NOx emission rate from Boiler No. 1 when firing natural gas shall not exceed 335.4 tons per year for all periods of operation of the boiler including periods of startup, shutdown, and malfunction conditions. This annual limit shalt be based upon a 12-month rolling time period as determined at the end of each calendar month. The 12-month rolling time period emissions shall be calculated by adding me previous 12 months of calculated emissions. The continuous emission monitor systems (CEMS) for NOx shell be used for compliance demonstration with all NOx permit limitations. This condition is necessary to comply with BACT emission limits, which have been established pursuant to the federal PSD regulations 40 CFR § 52.21.

5. The carbon monoxide (CO) emission rate from Boiler No. 1 when firing natural gas shall not exceed either 0.11 pound per million Btu heat input or 264.0 pounds per hour based on the average of all operating hours in a calendar day with the exception of malfunction, Malfunction is defined in Rule 113. The CO emission rate from Boiler No. 1 when firing natural gas shall not exceed 283.8 tons per year for ail periods of operation of the boiler include periods of startup, shutdown, and malfunction conditions. Following the end of each month, applicant shall determine the monthly CO emission rate by multiplying the monthly heat input in million BTU's by the emission rate in pounds per million BTU. The annual limit shall be based upon a 12-month rolling time period as determined at the end of each calendar month. The 12 month rolling time period emissions shall be calculated by adding the previous 12 months of calculated emission. A record of all data and emission calculations shall be kept on file for a period of at least 5 years and made available to the AQD upon request. The performance test data for CO shall be used for compliance demonstration with the 0.11 pound per million BTU heat input and 264.0 pound per hour limitations. This condition is necessary to comply with BACT, which has been established pursuant to the federal PSD regulations 40 CFR § 52.21.

6. Applicant shall not fire more than 5.160 million cubic feet of pipeline quality natural gas per year. This annual limit shall be based upon a 12-month rolling time period as determined at the end of each calendar month. The 12 month rolling time period of natural gas usage shall be calculated by adding the previous 12 months of measured natural gas usage. Applicant shall monitor and record the hourly natural gas feed rate for the boiler on a continuous basis in a manner and with instrumentation acceptable to the Air Quality Division. These monitors and associated monitoring data shell be used for compliance demonstration purposes. These conditions are necessary to ensure compliance with the emission limits established pursuant to the federal PSD regulations, 40 CFR § 52.21.

7, Rules 1001, 1003 and 1004 – Within 60 days after achieving 80% of the maximum production rate, but not later than 100 days after the initial startup of Boiler No 1, verification of CO emission rates from the boiler by testing, at owner's expense, in accordance with Air Quality Division requirements, will be required. Verification of emission rates includes the submittal of a complete report of the test results. No less than 30 days prior to testlng, a complete stack testing plan must be submitted to the Air Quality Division. The final plan must be approved by the Air Quality Division prior to testing. Stack test results shall be submitted to the Air Quality Division within 30 days after testing.

8. Within 60 days after achieving the maximum production rate, but not later than 180 days after the initial startup, federal Standards of Performance for New Stationary Sources require verification of NOx, SO, and PM/PM-10 emission rates from the Boiler No.1 by testing at owner's expense, in accordance with 40 CFR, Part 60, Subparts A and Subpart Da. Verification of emission rates includes the submittal of a complete report of the test results. Applicant shall notify the District Supervisor in writing within 15 days of the actual date of initial startup in accordance with 40 CFR, Part 60.7 (a}(3). Stack testing procedures and the location of stack testing ports shall be in accordance with the applicable federal Reference Methods. 40 CFR, Part 60, Appendix A. No less than 30 days to prior to testing, a complete stack testing plan must be submitted to the Air Quality Division. The final plan must be approved by the Air Quality Division prior to testing,

9. Applicant shall monitor and record the NOx concentration, the percent CO_2, and natural gas consumption on a continuous basis in a manner and with instrumentation acceptable to the Air Quality Division and according to the monitoring requirements in 40 CFR Part 75, which also satisfy the monitoring requirements in 40 CFR Part 60, Subparts A and Da. Prior to operation

of Boiler No, 1, the applicant shall submit to the Air Quality Division a CEMS Monitoring Plan for review and approval. The CEMS Monitoring Plan shall include drawings showing locations and descriptions of all monitors. This condition is necessary to ensure compliance with the emission limits established pursuant to the federal New Source Performance Standards, Subparts A and Da requirements and the federal PSD regulations, 40 CFR § 52.21.

10. Applicant shall not operate Boiler No, 1, unless all the requirements of the federal New Source Performance Standards as set forth in 40 CFR Part 60, Subparts A and Da are being *met* The applicant shall comply with all notice requirements, emission standards and continuous emissions monitoring, recordkeeping and reporting requirements as required in 40 CFR Part 60, Subparts A and Da. All emission data and operating data shall be kept on file for a period of at least five years and made available to the AQD upon request

11. Ail emissions monitoring and fuel usage data shall be summarized and submitted within 30 days after the end of each quarter to the Air Quality Division, The emissions and fuel usage report shall include, but not be limited to, the calendar daily average NOx and CO emission rates in pounds per hour, the calendar daily average NOx emission fate in pounds per million Btu, 30-day rolling average NOx emission rate in pounds per million Btu, 12-month rolling time period NOx and CO emission rates in tons per year, total daily natural gas usage in million cubic feet, monthly heat content in BTU per cubic foot and the 12-month rolling time period of the natural gas usage in million cubic feet per year. Periodic reports and QA/QC results required in accordance with 40 CFR § 60.7(c) and (d), 40 CFR § 60.49(a), and 40 CFR Part 75, Appendii B, shall be submitted in a format acceptable to the Air Quality Division within 30 days following the end of each quartet, All source emissions data, operating data and emission calculations shall be kept on file for a period of at least five years and made available to the Air Quality Division upon request. This condition is necessary to ensure compliance with the emission limits established pursuant to the federal New Source Performance Standards, 40 CFR Part 60, Subparts A and Da requirements and the federal PSD regulations. 40 CFR § 52.21.

12. The exhaust gases from Boiler No. 1 shall be discharged unobstructed vertically upwards to the ambient air from a stack with a maximum diameter of 142 inches at an exit point not less than 385 feet above ground level, This condition is necessary to ensure compliance with the requirements of the National Ambient Air Quality Standards pursuant to the federal Clean Air Act and the PSD increments.

13. At least 14 days prior to commercial operation, applicant shall submit to the Air quality Division for approval a Malfunction Abatement Plan and a Maintenance Procedures and Schedules Plan for the following equipment: Boiler No. 1. low NOx burner(s), flue gas recirculation, and monitoring equipment. In addition, these plans shall address abnormal conditions, startup/shutdown/malfunctions, and excess emissions abatement. These plans and procedures must be approved by the Air Quality Division within 12 months after commencement of operation of the Plant, If the Air Quality Division has not approved these plans and procedures within 12 months after commencement of operation of the Plant, the Air Quality Division must notify the applicant and provide a written report of the reasons that the plans and procedures have not been approved. Within 60 days after receipt of the written report, the applicant shall submit revised plans and procedures. Applicant shall implement and maintain the above plans and procedures once they have been approved. This condition is necessary to ensure compliance with the requirements of Rule 911.

14. Applicant shall not operate the boilers unless all the requirements of the federal PSD regulations, 40 CFR 52.21, are being met. This permit is issued pursuant to the determination that the equipment covered by this application can comply with ail of the requirements under these regulations.

15. Applicant shall comply with the requirements of Title IV of the Clean Air Act, of 1990, as Amended.

PROOF OF SERVICE

MPSC Case No. U-12266

The undersigned certifies that a copy of the Attorney General's Petition for Rehearing was served upon the parties listed below by mailing the same to them at their respective addresses with first class postage fully prepaid thereon, or by State Interdepartmental mail as indicated, on the 17th day of February, 2000.

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