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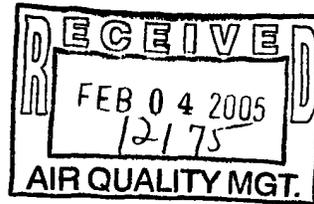
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February 4, 2005

*VIA FACSIMILE AND U.S. MAIL*

Mr. Mark A. Prettyman  
DNREC  
Division of Air Quality Management  
156 South State Street  
Dover, DE 19901

Re: Draft #3, Proposed Regulation No. 44  
"Control of Distributed Generator Emissions"

Dear Mr. Prettyman:

On behalf of the Delaware Municipal Electric Corporation ("DEMEC"), we submit these comments regarding Draft 3 of Proposed Regulation No. 44 "Control of Distributed Generator Emissions" (the "Proposed Regulation"). DEMEC is a joint action agency formed under Delaware law. The Members of DEMEC are the Delaware Cities and Towns of Newark, New Castle, Seaford, Milford, Lewes, Smyrna, Clayton, Middletown, and Dover, Delaware. DEMEC is a generation owner and a load serving entity member of the PJM Interconnection. DEMEC and its nine municipal distribution utility members provide reliable, low cost electric service to over 100,000 Delaware citizens and businesses. We appreciate the opportunity to work with DNREC and provide comments upon the proposed regulation prior to its promulgation and publication.

DEMEC and its member towns and cities are concerned that as drafted, the Proposed Regulation exceeds the scope of the Governor's Energy Task Force recommendations, proposes emission standards for existing generators that are too stringent, cannot be achieved without costly after-treatment, and are not economically practical, fails to recognize the applicability of other DNREC air quality regulations, creates duplicative regulatory requirements and will ultimately degrade reliability and affordability of electric power in the Delaware communities served by DEMEC and its members.

DEMEC has reviewed the comments submitted on January 7, 2005 by the Delaware Electric Cooperative ("DEC"). We concur with the comments submitted by DEC. While we will not recite

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all of the concerns raised in the DEC letter, we would like to highlight some of the issues of primary importance to DEMEC and its members:

1. The Proposed Regulation was developed by DNREC as the result of the Governor's Energy Task Force. Secretary Hughes approved a "Start Action Notice" on July 21, 2003. According to the Notice, small to medium capacity on-site electric generators are currently "uncontrolled" in Delaware, and the Proposed Regulation seeks to address this issue. While the Proposed Regulation will clearly affect owners of emergency generators as well as those business and commercial entities that are part of demand side management programs, the Proposed Regulation incorrectly defines existing central power plant generating facilities as "distributed generators" thus making such sources subject to the Proposed Regulation. The Governor's Energy Task Force Final Report recommends the State promote clean distributed generation and defines distributed generation as "small-scale power generation located close to the end user." While "small scale" is not defined in the Final Report, the Task Force states, "small scale DG systems are unlikely to be more than 5 or 10MW..." Delaware Energy Task Force Final Report, p.84 (September 2003).

DEMEC believes the broad regulation of power plant generating facilities, as set forth in the Proposed Regulation is contrary to the recommendations of the Governor's Energy Task Force.

2. The Proposed Regulation will make all existing peaking power plants located throughout the State meet, within a one-year time frame, stringent emission efficiency standards for oxides of nitrogen emissions, carbon monoxide, particulate matter, volatile organic compounds, sulfur dioxide and carbon dioxide. In establishing these proposed emissions standards for existing sources, DNREC has not considered the ability of the source to comply with the proposed emission limitations, the potential technologies that are appropriate or available to retrofit specific sources or the cost of such technologies.

Additionally, in establishing air regulation for existing sources that have the potential to emit non-attainment pollutants, DNREC is required to follow the Clean Air Act's Reasonably Available Control Technology ("RACT") review requirements for such source. DEMEC respectfully submits that DNREC has not complied with the current RACT rules in its formulation of the Proposed Regulation.

3. The Proposed Regulation imposes additional standards on those generating units that are already permitted and regulated by DNREC. As such, we believe the Proposed Regulation fails to recognize potential inconsistencies with existing federal regulations, such as the Clean Air Act, as well as current DNREC regulations governing emission standards, such as Regulation No. 2 "Permits," No. 3 "Ambient Air Quality Standards," No. 4 "Particulate Emissions from Fuel Burning Equipment," No. 8 "Sulfur Dioxide Emissions from Fuel Burning Equipment," No. 14 "Visible Emissions," and No. 19 "Control of Odorous Air Contaminants."
4. Most importantly, DNREC has not considered how the Proposed Regulation impacts electric reliability to customers in the State of Delaware. The Delmarva Peninsula,

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and specifically the state of Delaware, already has serious problems regarding the ability of the existing electric transmission infrastructure to provide reliable delivery of electric service. If existing generation facilities are forced to shut down due to these new regulations, electric service reliability will be further compromised. It will simply be too cost prohibitive for certain of our power generation facilities to retrofit existing equipment to comply with the Proposed Regulation. Those sources will likely elect to shut down their generating units rather than comply with the new requirements. This will not only reduce active load management, but it will also deprive local communities located in our member towns and cities of a source of electric supply in the event of an outage in those communities.

We thank you for the opportunity to provide comments on Proposed Regulation No. 44, and we look forward to working with you.

Very truly yours,



Christine P. Schiltz

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