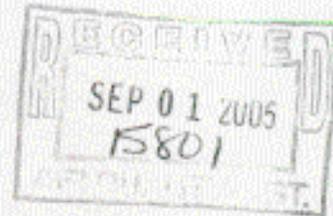




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VIA FAX



August 31, 2005

Mr. Mark A. Prettyman
Environmental Scientist
Delaware Department of Natural Resources and Environmental Control
Air Quality Management Section
156 S. State Street
Dover, DE 19901

**RE: Comments on Delaware's Proposed Regulations No. 1144 -
Control of Stationary Generator Emissions and Regulation No. 1102 - Permits**

Dear Mr. Prettyman:

I am writing on behalf of Delmarva Power and Light Company (DP&L), a subsidiary of Pepco Holdings, Inc.¹ Currently, DP&L provides electric and gas service to more than 500,000 customers in the State of Delaware and on the Delmarva Peninsula.

This correspondence provides DP&L's comments regarding the Delaware Department of Natural Resources and Environmental Control's (DNREC or Department) Proposed Regulation No. 1144 (Reg. 1144) – Control of Stationary Generator Emissions as well as the Department's proposed modifications to Regulation No. 1102 – Permits, associated with Delaware's Regulations Governing the Control of Air Pollution. DP&L currently owns and maintains a number of facilities in Delaware that are equipped with generators solely for the purpose of providing emergency power. In addition, occasional events do arise for the urgent need of

¹ DP&L has discontinued its use of the doing business as (d/b/a) name Conectiv Power Delivery.

existing or newly placed emergency generation in support of DP&L's transmission and distribution systems and the communities we serve.

After participating in the stakeholder process, reviewing the proposed regulations, and attending the August 24th Public Hearing, DP&L would like to offer some additional comments for the Department's consideration. They are as follows:

I. Mobile Generators Exemptions:

Mobile generators by definition are exempt from the proposed Reg. No. 1144 yet are not exempt from Regulation No. 1102 (Reg. 1102). Hypothetically speaking; in the event of an emergency where mobile generation is utilized to service a community, hospital, emergency shelter, etc; such generators would still require a Reg. 1102 permit if they are above 450 kw in size, even though they are exempt from proposed Reg. 1144 requirements.

Under the proposed amendment to Reg. 1102, an internal combustion engine associated with a stationary electrical generator with a standby power rating of 450 kilowatts or less that is used only during emergencies and internal combustion fuel burning equipment not associated with a stationary electrical generator and with an engine power rating of 450 hp or less are exempt from permitting requirements. DP&L asks that the Department also exempt *mobile generators* in times of *emergency* generation in Reg. 1102 as well. Such mobile generators vary in size and may exceed the 450 kilowatts or 450hp standby power rating. The Department should clarify that mobile generators, regardless of standby power rating should be exempt from Reg. 1102 permitting.

In times of emergencies brought on by power outages, disasters, public service emergencies, severe weather conditions, etc; the time required for preparing an application for and receiving Department approval of a Reg. 1102 permit makes Reg. 1102 permitting simply not feasible. Recent events along the Gulf Coast of the United States demonstrate that electrical generation is

an essential service necessary for the successful implementation of rescue and recovery efforts. In order to ensure that DP&L can continue to fulfill its mission of providing an adequate and reliable supply of power to its Delaware customers, DP&L respectfully requests that Reg. 1102 be clarified to exempt mobile generators of any size from the permitting process.

II. Registration Time Extension for Existing Emergency Generators:

Proposed Reg. 1144 Section 7.3.1 requires the owner of an emergency generator to submit to the Department "any maintenance or operating requirements/instructions provided by the generator manufacture..." in order to verify emissions. This registration information is due to the Department within three months of the Regulation becoming effective. The gathering of such information for such entities as DP&L, who have upwards of a dozen emergency generators at varying locations throughout Delaware, has several constraints:

- o Varying types of generators necessitates the collection and analysis of a significant amount of information that an owner must submit to the Department.
- o Many generator models currently installed may be older and no longer in production making collection of requested manufacturer information difficult to obtain.
- o The Department's proposal to ensure that each emergency generator is equipped with a non-resettable hour meter may require the procurement, engineering, installation and testing of such devices should the machines not be presently equipped with these devices.
- o The Department's desire to ensure the use of 0.05% low sulfur oil may necessitate fuel supply contract changes

Given the above constraints, DP&L believes that a registration time extension of six months from the effective date of the Regulation (in lieu of the three months prescribed in the Proposal) is warranted for existing emergency generators. DP&L also requests that the use of existing emergency generators not equipped with a non-resettable hour meters remain permissible provided that a thorough run-time logbook is maintained in lieu of a non-resettable hour meter.

III. Regulation of CO₂ as an Air Contaminant:

Proposed Reg.1144 establishes CO₂ emission standards for existing and proposed distributed generators. DP&L does not believe that the Department has the authority to regulate CO₂ emissions from such facilities.

According to the Department's Start Action Notice (Notice) authorized by Secretary Hughes, the Department has developed this Regulation in an effort to control ozone precursors (NO_x and VOC) as well as fine particulate matter (PM and PM precursors such as SO₂ and NO_x). The Notice does not address limits on CO₂ emissions from distributed generators or provide any justification for such limits. Limitation or control of CO₂ emissions from distributed generators will not provide any benefit to the Department's desire to improve concentrations of ozone or fine particulate matter in the ambient air.

In addition, DP&L contends that, in the absence of any legislative mandate, the Department does not have authority to regulate CO₂ emissions unless it can demonstrate (1) CO₂ emissions are air contaminants and contribute to "air pollution" and (2) DNREC makes a determination that emissions of CO₂ from sources in Delaware pose a threat to the public health, safety and welfare of Delaware citizens. CO₂ emissions have not been shown to clearly cause harm to humans, plants and animals. Additionally, regulating only Delaware's CO₂ emissions would not have noticeable effect on ambient air concentrations. CO₂ concentrations, whether nationally or globally, tend to be uniform and do not rise or fall in specific areas.

Absent a clear legislative mandate, the regulation of CO₂ emissions must be based upon proof that such emissions do, in fact, contribute to air pollution. So far, based on the complexity of evaluating CO₂ emissions and any impact on climate change the Department does not possess the needed facts in order to regulate CO₂ emissions in the State of Delaware. Based on the above

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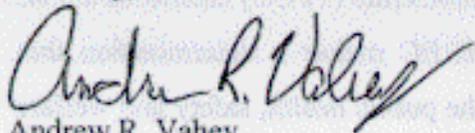
provided information DP&L respectfully requests that DNREC withdraw the proposed regulation of CO₂ emissions from this Proposal.

IV. Definition of "Emergency"

Proposed Reg. 1144 defines "Emergency" in terms of an electric power outage due to, among other things, "a failure of the electric grid" or in situations "where there is a deviation of voltage or frequency from the electrical provider to the premises. . . ." (Proposed Reg. 1144, Section 2.0). DP&L requests that the definition be revised to clearly reflect the intent of the regulation to allow the owner of the electric grid to be included in the definition of "Emergency," and that such owner is entitled to any exemptions under proposed Reg. 1144.

Thank you again for the opportunity to submit DP&L's comments on the proposed regulation. DP&L requests that these comments be incorporated into the hearing record. If you have any questions or comments, feel free to contact me at (302) 454 4900.

Sincerely,



Andrew R. Vahey
Environmental Coordinator
Delmarva Power & Light

cc: Ms. Lisa Vest – Hearing Officer