



STATE OF DELAWARE  
**DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL**

OFFICE OF THE  
SECRETARY

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**Secretary's Order No. 2014-A-0001**

**Re: Application of Calpine Mid-Atlantic Generation, LLC to Renew an Air Pollution Control Permit (Regulation 1130's Title V State Operating Permit Program) for the Hay Road Energy Center, Wilmington, New Castle County**

**Date of Issuance: January 15, 2014**

**Effective Date: January 15, 2014**

**Background**

This Order of the Secretary of the Department of Natural Resources and Environmental Control (Department) considers Calpine Mid-Atlantic Generation, LLC's (Applicant) application to renew its air pollution control permit for its Hay Road Energy Center (Facility) located at 198 Hay Road, Wilmington, New Castle County, and the draft permit prepared by the Department's Division of Air Quality (DAQ).

The application is reviewed pursuant to the Department's *Regulations Governing the Control of Air Pollution*, 7 DE Admin C. §1130 and Title V of the 1990 amendments to the federal Clean Air Act (CAA), which established a permit program for large sources of air emissions of pollutants. Applicant's Title V permit is to aggregate all the Facility's air pollution control permits into a single permit and would not change any of the Facility's operations or limits in the permits for any sources. The Facility's sources include 6 combustion turbines with combined cycle heat recovery steam generators and 2 cooling towers for the steam generators, and 2 degreasers. The Facility's two power blocks each generate 565 megawatts of power.

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On November 7, 2013, the Department's held a public hearing, and the Department's presiding Hearing Officer prepared the attached Report, which recommends issuance of an Order approving DAQ's draft permit. Public written comments were received, and which were the subject of a comprehensive reply by DAQ prior to the hearing.

### **Findings and Discussion**

The Department finds that the Report's recommendations to adopt the proposed permit, as prepared by DAQ in response to the public comments, should be adopted as well-supported in the record. The Report is adopted to the extent it is consistent with this Order. The Department finds that the renewal of the Facility's Title V Operating permit will allow the Department to exercise more regulatory authority over the Facility's air emissions than possible if the permit was not issued. The permit approved by this Order will reflect the reasonable terms and conditions already imposed in the separate permits issued for the Facility's air emission sources that are subject to permit regulation. The issuance of the Title V permit will allow the Department to effectively regulate the air emissions and seek enforcement of any permit violations under the federal CAA.

### **Conclusions**

In sum, as more fully described in the reasons and findings above and in the Report, the Department adopts the following as a final order of the Department:

1. The Department has jurisdiction under its statutory authority to make a determination in this proceeding;
2. The Department provided adequate public notice of the proceeding and the public hearing in a manner required by the law and regulations;

3. The Department held a public hearing in a manner required by the law and regulations;

4. The Department considered all timely and relevant public comments in making its determination;

5. The Department shall submit to EPA a proposed permit, subject to reasonable conditions determined by DAQ and pursuant to the DAQ's Regulations, to allow EPA to conduct its review and obtain EPA approval so that the Department may issue a final permit to the Applicant;

6. The Department shall issue a permit to Applicant as soon as possible once the EPA has reviewed and approved such action and in a manner consistent with EPA's approval; and that

7. The Department shall provide notice of this action as required by law and regulation and otherwise determined by the Department.



Collin P. O' Mara,  
Secretary

## HEARING OFFICER'S REPORT

TO: The Honorable Collin O'Mara  
Secretary, Department of Natural Resources and Environmental Control

FROM: Robert P. Haynes, Esquire  
Senior Hearing Officer, Office of the Secretary  
Department of Natural Resources and Environmental Control

RE: Application of Calpine Mid-Atlantic Generation, LLC to Renew its Air Pollution Control Permit Under Regulation 1130 and Title V for its Hay Road Energy Center in Wilmington, New Castle County

DATE: January 09, 2014

### I. PROCEDURAL HISTORY

This Report makes recommendations to the Secretary of the Department of Natural Resources and Environmental Control (Department) on Calpine Mid-Atlantic Generation, LLC's<sup>1</sup> (Applicant) July 26, 2012 application (DNREC Ex. 1) submitted to the Department's Division of Air Quality's (DAQ) Engineering and Compliance Branch. Applicant seeks to renew its Regulation 1130/Title V air pollution control permit<sup>2</sup> for its Hay Road Energy Center, located at 198 Hay Road, Wilmington, New Castle County (Facility).

In a September 6, 2012 letter, DAQ notified the Applicant that the application was timely and complete, and that it would prepare a draft permit. DNNREC Ex. II. In a June 25, 2013 memorandum, DAQ prepared a technical memorandum (DNREC Ex. III) to support its draft permit. DNREC Ex. IV. The draft permit and application were the subject of public notice on June 30, 2013. DNREC Ex. V.

In a July 29, 2013 letter, the Applicant provided comments on the draft permit. DNREC Ex. VI. A request for a public hearing was made in a July 24, 2013 letter on behalf of Delaware

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<sup>1</sup> Applicant is a subsidiary of Calpine Corporation.

<sup>2</sup> The permit is a state Title V operating permit ("Title V permit") authorized pursuant to Title V of the 1990 amendments to the federal *Clean Air Act*, U.S.C. §§501-507, ("CAA"), 7 Del C. Subchapter VIII and Section 7.0 of Regulation 1130 (formerly Regulation 30 before its codification in the Department's *Regulations Governing the Control of Air Pollution "Regulations"*).

Concerned Residents for Environmental Justice (DCREJ). The letter also asked questions and provided comments on the application. DNREC Ex. VII. In an August 6, 2013 email from DAQ's Tammy Henry, the Department replied to DCREJ's comments and questions, and indicated that if the reply sufficiently satisfied the request for a public hearing, then the request could be withdrawn. DNREC Ex. VIII. DCREJ notified DAQ by telephone that a public hearing still was requested.

On October 20, 2013, the Department published public notice of a public hearing to be held November 20, 2013 at the Department's offices at 391 Lukens Drive, New Castle. The hearing was held before this hearing officer. DAQ also provided evidence of its personal notice sent to DCREJ's representative Amy Roe. DNREC Ex. X. No member of the public attended the public hearing. DAQ representatives Paul Foster, P.E., Program Manager, Engineering and Compliance Branch, Joanna French, P.E., and Tammy Henry, P.E were present. Calpine representatives included Jim Klickovich, Regional Director for Environmental Services, Stu Widom, Director of Government and Regulatory Affairs, Eric Graber, the Facility's manager, and Robert Whetzel, outside counsel. The public comment period closed at the end of the hearing. I determined that no post-hearing Technical Memorandum was needed to develop the record to support this Report.

## **II. SUMMARY OF THE RECOMMENDED RECORD**

The documents in the public hearing record were summarized above.<sup>3</sup> Calpine provided a slide presentation at the public hearing that provided an overview of its corporate operations as the nation's largest independent power producer and the largest power supplier for Delaware's demand. Calpine Ex. 1. The presentation also described the Facility, which as a combined cycle

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<sup>3</sup> The Department develops a record at the public hearing in order to assist the public in making public comments. The Department does not have any burden of proof at a public hearing, which instead is held solely to hear from the public on the draft permit and application.

process as one of the cleanest, most efficient means to produce electricity. The Facility has two power blocks each capable of producing 564 megawatts. Each power block uses three natural gas-fired combustion turbines, and the waste heat from the turbines is used in heat recovery steam generator to generate energy that makes it a combined cycle process.

Mr. Foster provided an overview of the permit process in his presentation.

DAQ provided me the final permit that reflects small changes from the draft permit and it is attached hereto.

DAQ's reply to DCREJ's comments comprehensively addressed the comment. The comment that questioned the Facility's air quality monitoring was answered by DAQ by noting that the Facility's air emissions from natural gas combustion are low and subject to air pollution controls to further reduce emissions and these emissions are subject to continuous emission monitoring. DAQ also noted that any change to oil as a primary fuel would require a permit modification and that the Facility never has burned coal as a fuel.

### **III. RECOMMENDED FINDINGS AND REASONS**

I find that the permit proposed by DAQ is consistent with the Regulations and will allow the Department to effectively regulate the Facility's air emissions to protect the environment and public health. I find that the proposed permit is factually accurate and conclude that it is legally consistent with the CAA and the Department's *Regulations*. Consequently, I recommend that the proposed permit and its reasonable terms and conditions be adopted by the Secretary in a final order, which will be submitted to EPA for its further review and approval consistent with CAA procedures.

The administrative record and the Department's experts provide ample support for an Order approving the permit prepared by DAQ.

### **IV. CONCLUSION**

I recommend that the attached Order be adopted that approves the issuance of the permit consistent with the permit prepared by DAQ.



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Robert P. Haynes, Esquire  
Senior Hearing Officer