

AGREED BOARD ORDER

LOUISVILLE METRO AIR POLLUTION CONTROL BOARD

This order is issued by the Louisville Metro Air Pollution Control Board (Board) pursuant to Kentucky Revised Statutes, Chapter 77 (Air Pollution Control).

COMPANY: Louisville Gas & Electric Company

FACILITY INVOLVED: Mill Creek Generating Station
14660 Dixie Highway
Louisville, Kentucky

REGULATIONS INVOLVED: 2.16 (Title V Operating Permits)

POLLUTANT: Particulate Matter (as measured by Opacity)

BACKGROUND AND DISCUSSION:

The Company operates a coal-fired steam electric generating station (the Station) pursuant to Air Pollution Control District (District) Operating Permit No.145-97-TV, which requires, among other things, that the Company demonstrate compliance with its opacity standard by installing and testing a continuous extractive opacity emission monitoring system in a stack at one of three plants owned by the Company before June 30, 2004. If, after testing, the extractive opacity monitoring (EOM) system is approved by the District, the permit requires the Company to install an EOM system in one stack at the Station by October 31, 2004, and to install an EOM system in each of the other three stacks at the Station by January 31, 2005, April 30, 2005, and July 31, 2005, respectively.

The Company notified the District by letter dated June 24, 2004, that it had installed and begun testing an EOM system at its Trimble County Station. There is a dispute between the District and the Company as to whether the testing was completed by June 30, 2004. The Company requested an extension of the deadlines in order to conduct further testing. The District has met with the Company and has agreed to an extension of time to test the EOM system and to submit the system for approval by the District.

In addition to the extension of time, this Agreed Board Order provides for the Company to (1) install and test a particulate matter continuous emissions monitoring system (PM CEMS); and (2) to install on all four stacks at the Station the monitors approved by the District.

The Company has advised the District that it has completed testing an EOM system and is awaiting results of the testing from the Electric Power Research Institute (EPRI). The Company has also agreed to install a PM CEMS for a trial evaluation by January 31, 2005. By September 1, 2005, the Company shall submit a report to the District evaluating the reliability of both the EOM and the

PM CEMS systems based upon its testing conducted by that date. If the District approves either system as set forth herein, the Company shall install one of the approved systems as provided below.

On December 15, 2004, a public hearing was held before the Board on the proposed agreement. Based upon the evidence presented at that hearing, the Board determined that the proposed resolution and requirements were reasonable under the circumstances.

NOW THEREFORE, BE IT ORDERED THAT:

1. The Company shall be excused from compliance with the provisions of Title V Operating Permit No. 145-97-TV requiring testing of a continuous extractive opacity emission monitoring (EOM) system before June 30, 2004, and installing four continuous opacity monitoring systems for each of the four stacks by October 31, 2004, January 31, 2005, April 30, 2005, and July 31, 2005, respectively.

2. No later than January 31, 2005, the Company shall install a PM CEMS on one stack at the Station for testing and evaluation. No later than September 1, 2005, the Company shall submit to the District an evaluation of the EOM and the PM CEMS systems and a recommendation based upon the testing conducted by the Company. The District shall determine by November 1, 2005, whether to approve either system, and will specify whether the system shall be used to determine compliance or as an indicator of performance. If the District approves the use of either system as reliable and representative under appropriate regulatory standards, the Company shall install an approved system in one stack at the Station by January 31, 2006, and in the three remaining stacks by April 30, 2006, July 31, 2006, and October 31, 2006, respectively, unless the only approved system is not commercially available.

3. The requirement to install one of the systems will replace any requirement to operate any other continuous opacity monitoring system. If the District determines that neither the EOM system nor the PM CEMS can be used, even as an indicator of performance, or if other necessary regulatory approvals are not obtained, the Company shall install continuous opacity monitors in the precipitator pant leg ducts of each unit in accordance with the schedule in paragraph 2 of this Order.

4. The District shall issue a revised permit that reflects the provisions of this Order. However, failure of the District to revise the Company's permit shall not affect the Company's obligations to comply with this Order.

5. The Company shall be exempt from compliance with District Regulations 6.02, 7.02 and 7.06 to the extent necessary to comply with this Order.

6. The Company has reviewed this Order and consents to all its requirements and terms. Further, the Company agrees to pay the cost of publishing legal notice of the public hearing.

7. In the event that it is necessary for the District to seek a court order to enforce this Order, the Company agrees to pay filing fees and costs of such action.

Dated this 15th day of December, 2004.

Louisville Metro Air Pollution Control Board

Louisville Gas & Electric Company

By: _____
Karen Cassidy
Chair

By: _____
Sharon Dodson
Director, Environmental Affairs

Louisville Metro Air Pollution Control
District

By: _____
Jesse Goldsmith, P.E.
Engineering/Enforcement Manager

Approved as to form and legality:

By: _____
Lauren Anderson
Assistant County Attorney