



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOUTHEAST REGIONAL OFFICE
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Commissioner

October 20, 2004

Barry A. Ketschke
USGen New England, Inc.
Brayton Point Station
Brayton Point Road
Somerset, Massachusetts 02726

RE: **AMENDED EMISSION CONTROL PLAN FINAL APPROVAL**

Application for: BWP AQ 25
310 CMR 7.29 Power Plant Emission Standards
Transmittal Number: W053650
Application Number: 4B04021
Source Number: 0061
Action Code: E-V7

AT: USGen New England, Inc.
Brayton Point Station
Brayton Point Road
Somerset, Massachusetts 02726

Dear Mr. Ketschke:

The Southeast Region of the Department of Environmental Protection, Bureau of Waste Prevention, has reviewed your amended application for approval of the Emission Control Plan (ECP) application dated July 29, 2004 and draft approval public comments received by the Department during the public comment period. This amended application has been submitted to describe how emission limitations and compliance schedules for the control of certain designated pollutants contained in 310 CMR 7.29, "Emission Standards for Power Plants," will be implemented for equipment and processes located at the USGen New England, Inc. – Brayton Point Station ("USGen") at Brayton Point Road in Somerset, Massachusetts. This application for approval of the ECP bears the signature of Barry A. Ketschke as the company contact responsible for compliance with 310 CMR 7.29.

The amended ECP application, and inconsideration of public comments received, proposes to utilize less than 20% by weight aqueous ammonia, for use in Units 1 and 3 Selective Catalytic Reduction (SCR) systems and to establish the facility-wide mercury emission cap. The use of aqueous ammonia will result in no volatile organic compound (VOC) emissions associated with the SCR systems. The urea to ammonia option that was approved by the Department on June 27, 2003 will remain an approved option since USGen's aqueous ammonia plans have not been finalized. The use of aqueous ammonia in lieu of the urea to ammonia option will result in reduced VOC emissions from the facility and will improve the reliability of the SCR systems.

This information is available in alternate format. Call Donald M. Gomes, ADA Coordinator at 617-556-1057. TDD Service - 1-800-298-2207.

This proposed approval supersedes the existing Emission Control Plan (ECP) Final Approval, dated June 7, 2002.

LEGAL AUTHORITY

The Department has adopted 310 CMR 7.29 - a regulation to lower emissions of sulfur dioxide (SO₂), carbon dioxide (CO₂), nitrogen oxides (NO_x) and mercury (Hg) from certain power plants, and to establish a framework for reductions in emissions of carbon monoxide (CO) and fine particulate matter (PM 2.5) - pursuant to the Massachusetts General Laws, Chapter 111, Sections 142 A-M.

Regulation 310 CMR 7.29 requires any person who owns, leases, operates or controls an affected facility to comply with 310 CMR 7.29 in its entirety. An affected facility means a facility which emitted greater than 500 tons of SO₂ and 500 tons of NO_x during any of the calendar years 1997, 1998, or 1999, and which includes a unit which is a fossil fuel fired boiler or indirect heat exchanger that: (1) is regulated by 40 CFR Part 72 (the Federal Acid Rain Program); (2) serves a generator with a nameplate capacity of 100 megawatts (MW) or more; (3) was originally permitted prior to August 7, 1977; and (4) had not subsequently received a Plan Approval pursuant to 310 CMR 7.00: Appendix A or a Permit pursuant to the regulations for Prevention of Significant Deterioration, 40 CFR Part 52, prior to October 31, 1998.

The purpose of 310 CMR 7.29 is to control emissions of NO_x, SO₂, Hg, CO, CO₂, and PM 2.5 (together, "pollutants") from affected electric generating facilities in Massachusetts.

310 CMR 7.29 accomplishes this by establishing maximum output-based emission rates for NO_x, SO₂, and CO₂, establishing maximum output-based emission rates or minimum removal efficiencies for Hg, and establishing a cap on CO₂ and Hg emissions from affected facilities. Emission limits for CO and PM 2.5 have not been addressed at this time.

Applicable requirements and limitations contained in 310 CMR 7.29 shall not supersede, relax or eliminate any more stringent conditions or requirements (e.g. emission limitation(s), testing, record keeping, reporting, or monitoring requirements) established by regulation or contained in a facility's previously issued source specific Plan Approval(s) or Emission Control Plan(s). The facility must amend its Operating Permit application and revise their Operating Permit to include the Amended ECP Final Approval.

Based upon the above, the Department has determined that the referenced Amended ECP Application is administratively and technically complete and that the proposed modifications are in conformance with current air pollution control engineering practices and hereby issues this **Amended ECP FINAL Approval** for the proposed modifications of your power plant unit(s), with the conditions listed below.

1. EQUIPMENT DESCRIPTION

The following emission units (Table 1) are subject to and regulated by this Amended ECP Final Approval:

Table 1 *				
EU #	DESCRIPTION OF EMISSION UNIT	EU DESIGN CAPACITY		POLLUTION CONTROL MEASURES (PCM) ¹
		(MMBTU/HR)	MW (NET)	
EU 1	Combustion Engineering MFR # 19407 Type CC, Water Tube Boiler	2,250	255	Selective Catalytic Reduction
				Ash Reduction Process
				Electrostatic Precipitators
				Low NO _x Burners with Overfire Air
				Management of Lower Sulfur Fuels
EU 2	Combustion Engineering MFR # 19617 Type CC, Water Tube Boiler	2,250	255	Ash Reduction Process
				Electrostatic Precipitators
				Low NO _x Burners with Overfire Air
				Management of Lower Sulfur Fuels
				EPRICON Flue Gas Conditioning
EU 3	Babcock & Wilcox Model # UP - 52 Water Tube Boiler	5,655	633	Selective Catalytic Reduction
				Ash Reduction Process
				Electrostatic Precipitators
				Low NO _x Burners with Overfire Air
				Management of Lower Sulfur Fuels Wet Flue Gas Desulfurization with a new GEP stack
EU 4	Riley Stoker Model # 1SR Water Tube Boiler	4,800	446	Electrostatic Precipitators
				Low NO _x Burners
				Management of Lower Sulfur Fuels
				Flue Gas Recirculation

Table 1 Notes:

- Details of the Proposed Pollution Control Measures including alternatives under consideration are described in Sections E, F, and G of the application.

* Legend to Abbreviated Terms within Tables 1 through 6:

EU # = Emission Unit Number
 NO_x = Nitrogen Oxides
 SO₂ = Sulfur Dioxide
 Hg = Mercury
 CO = Carbon Monoxide
 CO₂ = Carbon Dioxide
 PM 2.5 = Fine Particulate Matter
 MMBTU/HR = fuel heat input in million British Thermal Units per hour
 MW (NET) = net electrical output in Megawatts
 lbs/MWh = pounds per Megawatt-hour of net electrical output
 lbs/GWh = pounds per Gigawatt-hour of net electrical output
 MFR = Manufacturer
 NA = not applicable

CEMS = Continuous Emission Monitors
GEP = Good Engineering Practice

2. APPLICABLE REQUIREMENTS

A. EMISSION LIMITS AND RESTRICTIONS

USGen shall comply with the emission limits/restrictions as contained in Table 2 below. The schedule for compliance with these emission limitations is contained in Table 6 of this **Amended ECP Final Approval**.

Table 2 *			
EU #	POLLUTANT	EMISSION LIMIT/STANDARD	APPLICABLE REGULATION AND/OR APPROVAL NUMBER
EU 1, EU 2, EU 3, EU 4	NO _x	Shall not exceed 1.5 lbs/MWh calculated over any consecutive 12 month period, recalculated monthly.	310 CMR 7.29(5)(a)1.a.
		Shall not exceed 3.0 lbs/MWh calculated over any individual month.	310 CMR 7.29(5)(a)1.b.
	SO ₂	Shall not exceed 6.0 lbs/MWh calculated over any consecutive 12 month period, recalculated monthly.	310 CMR 7.29(5)(a)2.a.
		Shall not exceed 3.0 lbs/MWh calculated over any 12 month period, recalculated monthly.	310 CMR 7.29(5)(a)2.b.i.
		Shall not exceed 6.0 lbs/MWh calculated over any individual month.	310 CMR 7.29(5)(a)2.b.ii.
	EU 1, EU 2, EU 3	Hg	Total annual mercury emissions from combustion of solid fuels in units subject to 40 CFR Part 72 located at an affected facility or from re-burn of ash in Massachusetts shall not exceed the average annual emissions of 146.6 pounds per calendar year, calculated using the results of the stack tests required in 310 CMR 7.29(5)(a)3.d.ii..
85% Removal Efficiency or 0.0075 lbs/GWh			7.29(5)(a)3.e.i. or ii.
95% Removal Efficiency or 0.0025 lbs/GWh			7.29(5)(a)3.f.i. or ii.
EU 1, EU 2, EU 3, EU 4	CO	Reserved. ¹	310 CMR 7.29(5)(a)4.
	CO ₂	Emissions of carbon dioxide from the affected facility in the calendar year, expressed in tons, from Part 72 units located at the affected facility shall not exceed historical actual emissions of 8,585,152 tons. ²	310 CMR 7.29(5)(a)5.a.
		Shall not exceed 1800 lbs/MWh in the calendar year.	310 CMR 7.29(5)(a)5.b.
	PM 2.5	Reserved. ¹	310 CMR 7.29(5)(a)6.

Table 2 Notes:

1. The Department has reserved these areas in the regulations for further development.

2. If the Department has received a technically complete Plan Approval application under 310 CMR 7.02 for a new or re-powered electric generating unit subject to 40 CFR Part 72 at an affected facility prior to May 11, 2001, then the emissions from the new or re-powered unit may be included in the calculation of historical actual emissions. The calculation of historical actual emissions which includes emissions from a new or re-powered unit shall not include emissions from any unit shutdown or removed from operation at the affected facility that is included in the technically complete Plan Approval application pursuant to 310 CMR 7.02. The Department is in the process of developing provisions for the quantification and certification of Greenhouse Gas (GHG) reductions for use in demonstrating compliance with the CO₂ emission limitations contained in 310 CMR 7.29. The Department will review and approve or deny proposals for off-site, sequestration, or non-contemporaneous reductions (i.e. early on-site reductions) of CO₂ or other GHG after adoption of amendments to 310 CMR 7.00: Appendix B, and other regulatory sections, if necessary.

B. COMPLIANCE DEMONSTRATION

The facility is subject to the monitoring/testing, record keeping, and reporting requirements as contained in Tables 3, 4 and 5 below and 310 CMR 7.29, as well as the applicable requirements contained in Table 2:

Table 3 *	
EU#	MONITORING/TESTING REQUIREMENTS
EU 1, EU 2, EU 3, EU 4	<p>Actual emissions shall be monitored for individual units and monitored as a facility total for all units included in the calculation demonstrating compliance. Actual emissions shall be monitored in accordance with 40 CFR Part 75 for SO₂, CO₂, and NO_x. The Department shall detail the monitoring methodology for CO and PM 2.5 at the time regulations are promulgated by the Department for those parameters.</p> <p>Monitor actual net electrical output, expressed in megawatt-hours. Actual net electrical output shall be provided for individual units and as a facility total for all units included in the calculation demonstrating compliance.</p>
EU 1, EU 2, EU 3	<p>In accordance with 310 CMR 7.29(5)(a)3.c.i. and 310 CMR 7.29(5)(a)3.d.iii., the portion of total annual mercury emissions from combustion of solid fossil fuel in units subject to 40 CFR 72 located at or from re-burn of ash at an affected facility, determined using emissions testing at least every other calendar quarter from October 1, 2006 until mercury CEMS are used to demonstrate compliance with the standards contained in 310 CMR 7.29(5)(a)3.e. or f. and using mercury CEMS thereafter. Stack tests for mercury shall consist at a minimum of three runs at full load on each unit firing solid fossil fuel or ash according to a testing protocol acceptable to the Department. Stack tests for mercury, and certification and annual Relative Accuracy Test Audits for mercury CEMS, shall determine total and particulate-bound mercury.</p> <p>In accordance with 310 CMR 7.29(5)(a)3.c.ii. (i), when ash produced by an affected facility is used in Massachusetts as a cement kiln fuel, as an asphalt filler, or in other high temperature processes that volatilize mercury, the mercury content of the utilized ash shall be measured weekly using a method acceptable to the Department.</p> <p>In accordance with 310 CMR 7.29(5)(a)3.e. and f., any person who owns, leases, operates or controls an affected facility which combusts solid fossil fuel or ash shall monitor a facility's average total mercury removal efficiency or emissions rate for those units combusting solid fossil fuel or ash. This will be based on a mercury CEMS using the methodology approved by the Department in the monitoring plan required under 310 CMR 7.29(5)(a)3.g. and shall be calculated on a rolling 12 month basis.</p> <p>In accordance with 310 CMR 7.29(5)(a)3.g.i., by January 1, 2008, any person who owns, leases, operates or controls an affected facility which combusts solid fossil fuel or ash shall install, certify, and operate CEMS to measure mercury stack emissions from each solid fossil fuel- or ash-fired unit at a facility subject to 310 CMR 7.29.</p> <p>Actual emissions shall be monitored for individual units and monitored as a facility total for all units included in the calculation demonstrating compliance. Actual emissions shall be monitored in accordance with 310 CMR 7.29(7)(b)1.b., c., and d. for Hg.</p> <p>In accordance with 310 CMR 7.29(5)(a)3.g.i. (ix), operate each continuous emission monitoring system at all times that the emissions unit(s) is operating except for periods of CEMS calibrations checks, zero span adjustment, and preventive maintenance as described in the monitoring plan approved by the Department and as determined during certification. Notwithstanding such exceptions, in all cases obtain valid data for at least 75% of the hours per day, 75% of the days per month, and 90% of the hours per quarter during which the emission unit is combusting solid fossil fuel or ash</p>

Table 4 *

EU#	RECORD KEEPING REQUIREMENTS
EU 1, EU 2, EU 3, EU 4	<p>Maintain a record of actual emissions for each regulated pollutant for each of the preceding 12 months. Actual emissions shall be recorded for individual units and as a facility total for all units included in the calculation demonstrating compliance. Actual emissions provided under this section shall be recorded in accordance with 40 CFR Part 75 for SO₂, CO₂, and NO_x. The Department shall detail the monitoring methodology for CO, and PM 2.5 at the time regulations are promulgated by the Department for those parameters.</p> <p>Maintain a record of actual net electrical output for each of the preceding 12 months, expressed in megawatt-hours. Records of actual net electrical output shall be maintained for individual units and as a facility total for all units included in the calculation demonstrating compliance.</p> <p>Maintain a record of the resulting output-based emission rates for each of the preceding 12 months, and each of the 12 consecutive rolling month time periods, expressed in pounds per megawatt-hour. Output based emission rates shall be provided for individual emission units and as a facility total for all units included in the calculation demonstrating compliance.</p> <p>Keep all measurements, data, reports and other information required by 310 CMR 7.29 on-site for a minimum of five years, or any other period consistent with the affected facility's Operating Permit.</p>
EU 1, EU 2, EU 3	<p>In accordance with 310 CMR 7.29(5)(a)3., keep records of required mercury stack testing and ash testing.</p> <p>In accordance with 310 CMR 7.29(5)(a)3.g.i.(xi), maintain a record of all measurements, performance evaluations, calibration checks, and maintenance or adjustments for each mercury continuous emission monitor.</p> <p>In accordance with 310 CMR 7.29(7)(e), for units that apply carbon or other sorbent injection for mercury control, the records shall be kept until such time as mercury CEMS are installed at that unit.</p> <p>In accordance with 310 CMR 7.29(7)(g), any person subject to 310 CMR 7.29(5)(a)3. shall submit the results of all mercury emissions, monitor, and optimization test reports, along with supporting calculations, to the Department within 45 days after completion of such testing.</p> <p>Maintain a record of actual emissions for Hg for each of the preceding 12 months. Actual emissions shall be recorded for individual units and as a facility total for all units included in the calculation demonstrating compliance. Actual emissions shall be recorded in accordance with 310 CMR 7.29(7)(b)1.b., c. and d. for Hg.</p> <p>In accordance with 310 CMR 7.29(7), by January 30 of the year following the earliest applicable compliance date and January 30 of each calendar year thereafter, the facility shall submit a report to the Department demonstrating compliance with the emission standards contained in 310 CMR 7.29(5)(a) and in an approved emission control plan. For the mercury standards at 310 CMR 7.29(5)(a)3.c., the compliance reports due January 30, 2007 and 2008 shall include the quarterly emissions for each quarter beginning October 1, 2006. For the mercury standards at 310 CMR 7.29(5)(a)3.c., e., and f., the compliance report due January 30, 2009 and each report thereafter shall demonstrate compliance with any applicable annual standard for the previous calendar year and with any applicable 12-month standard for each of the 12 previous consecutive 12-month periods.</p>

Table 5 *

EU#	REPORTING REQUIREMENTS
EU 1, EU 2, EU 3, EU 4	<p>By January 30 of the year following the earliest applicable compliance date for the affected facility under 310 CMR 7.29(6)(c), and January 30 of each calendar year thereafter, the company representative responsible for compliance shall submit a compliance report to the Department demonstrating the facility's compliance status with the emission standards contained in 310 CMR 7.29(5)(a) and in an approved Emission Control Plan. The report shall demonstrate the facility's compliance status with applicable monthly emission rates for each month of the previous calendar year, and each of the twelve previous consecutive 12-month periods. The compliance report shall include all statements listed in 310 CMR 7.29(7)(b)4.¹</p> <p>The Department may verify the facility's compliance status by whatever means necessary, including but not limited to requiring the affected facility to submit information on actual electrical output of company generating units provided by the New England Independent System Operator (ISO), or any successor thereto.</p>
EU 1, EU 2, EU 3	<p>In accordance with 310 CMR 7.29(5)(a)3.d.iii., the results of each stack test for mercury shall be reported to the Department within 45 days after conducting each stack test.</p> <p>In accordance with 310 CMR 7.29(5)(a)3.c.ii.(iv), when ash produced by an affected facility is used in Massachusetts as a cement kiln fuel, as an asphalt filler, or in other high temperature processes that volatilize mercury, a proposal shall be submitted for Department approval at least 45 days prior to such use, or at least 45 days prior to October 1, 2006, whichever is later, detailing the proposed measurement methods to be used to comply with 7.29(5)(a)3.c.ii.(i) and (ii).</p> <p>In accordance with 310 CMR 7.29(5)(a)3.g.i.(i) and (ii), submit a preliminary CEMS monitoring plan for Department approval at least 180 days prior to equipment installation including, but not limited to, a sample calculation demonstrating compliance with the emission limits using conversion factors from 40 CFR Part 60 or Part 75 or other proposed factors.</p> <p>In accordance with 310 CMR 7.29(5)(a)3.g.i.(iii) and (iv), submit for Department approval a CEMS certification protocol at least 90 days prior to certification testing for the CEMS, and any proposed adjustment to the certification testing at least seven days in advance.</p> <p>In accordance with 310 CMR 7.29(5)(a)3.g.i.(vi), submit a certification report within 60 days of the completion of the certification test for Department approval.</p> <p>In accordance with 310 CMR 7.29(5)(a)3.g.i.(vii), certify each CEMS in accordance with the quality assurance and quality control procedures contained in 40 CFR Part 60 Appendix F and continue to comply with the requirements of 40 CFR Part 60 Appendix E.</p> <p>In accordance with 310 CMR 7.29(5)(a)3.g.i.(xii), submit to the appropriate Department regional office by the 30th day of April, July, October, and January, a report detailing any of the following that have occurred within the previous calendar quarter; in the event none of the following items have occurred, such information shall be stated in the report:</p> <ul style="list-style-type: none"> • the date and time that any mercury CEMS stopped collecting valid data and when it started to collect valid data again, except for zero and span checks and • the nature and date of system repairs

Table 5 *	
EU#	REPORTING REQUIREMENTS
EU 1, EU 2, EU 3	<p>In accordance with 310 CMR 7.29(7)(a), for the mercury standards at 310 CMR 7.29(5)(a)3.c., the compliance reports due January 30, 2007 and 2008 shall include the quarterly emissions for each quarter beginning October 1, 2006. For the mercury standards at 310 CMR 7.29(5)(a)3.c., e., and f., the compliance report due January 30, 2009 and each report thereafter shall demonstrate compliance with any applicable annual standard for the previous calendar year and with any applicable 12-month standard for each of the 12 previous consecutive 12-month periods. <u>The compliance report shall contain items listed in 310 CMR 7.29(7)(b).</u></p> <p>In accordance with 310 CMR 7.29(7)(g), any person subject to 310 CMR 7.29(5)(a)3. shall submit the results of all mercury emissions, monitor, and optimization test reports, along with supporting calculations, to the Department within 45 days after completion of such testing.</p>
FACILITY	<p>Submit by January 15, April 15, July 15 and October 15 for the previous three months respectively, a 7.29 construction status report which identifies the construction activities which have occurred during the past three months, and those activities anticipated for the following three months, and progress toward achieving <u>compliance with the implementation dates identified in Table 6 below.</u></p>

Table 5 Notes:

1. If the ISO final settlement of actual electrical output is not available, the facility shall submit a compliance report based on provisional values of actual electrical output. Upon receiving certified ISO values of actual electrical output for all provisional months within the calendar year, the facility shall submit a revised compliance report within 30 days thereafter.

3. COMPLIANCE SCHEDULE

The affected facility shall be in full compliance with the applicable requirements in accordance with the dates below:

TABLE 6 *		
COMPLIANCE PATH		
POLLUTANT	STANDARD	DATE
NO _x SO ₂	310 CMR 7.29(5)(a)1.a. 310 CMR 7.29(5)(a)2.a.	October 1, 2006
NO _x SO ₂	310 CMR 7.29(5)(a)1.b. 310 CMR 7.29(5)(a)2.b.	October 1, 2008
CO ₂	310 CMR 7.29(5)(a)5.a.	Calendar Year 2006
CO ₂	310 CMR 7.29(5)(a)5.b.	Calendar Year 2008
Hg	310 CMR 7.29(5)(a)3.c.	October 1, 2006
Hg	7.29(5)(a)3.e.i. or ii.	January 1, 2008
Hg	7.29(5)(a)3.f.i. or ii.	October 1, 2012

The affected facility is subject to receiving a Plan Approval pursuant to 310 CMR 7.02 for the alterations/construction of selective catalytic reduction (SCR) NO_x emission control systems that will use aqueous ammonia as the primary reagent. The SCR ammonia slip will result in an increase in potential emissions of ammonia from Emission Units 1 and 3, and will result in an increase in ammonia ambient air impacts. The Department issued a Conditional Approval (Approval No. 4B02012) pursuant to 310 CMR 7.02 on June 27, 2003, approving the use of urea (liquid or solid pellets) which as proposed in the amended ECP will be a back-up alternative for the supply of ammonia to the SCRs. VOC emissions will decrease and ammonia emissions will not increase as a result of the use of aqueous ammonia versus urea (liquid or solid pellets). Details of the compliance schedule/milestones are described in Section H of the amended ECP application.

4. SPECIAL CONDITIONS FOR ECP

1. The Department may verify compliance with 310 CMR 7.29(5) by whatever means necessary, including but not limited to: inspection of a unit's operating records; requiring the facility to submit information on actual electrical output of company generating units provided to that person by the New England Independent System Operator, or any successor thereto; testing emission monitoring devices; and, requiring the facility to conduct emissions testing under the supervision of the Department.

2. The Department is not approving or denying any off-site or non-contemporaneous proposed CO₂ reduction measures at this time. 310 CMR 7.29(5)(a)5.c. and d. provide that compliance with the CO₂ emission limitations may be demonstrated by using offsite reductions or sequestration in addition to onsite reductions, as long as certain established conditions are met. However, while there is a provision for using early reductions of SO₂ to meet the SO₂ emissions limit in 310 CMR 7.29(5)(a)2.a., there is no similar regulatory provision for use of early reductions of CO₂ for compliance with 310 CMR 7.29(5)(a)5. The Department is in the process of developing provisions for the quantification and certification of Greenhouse Gas (GHG) reductions for use in demonstrating compliance with the CO₂ emission limitations contained in 310 CMR 7.29. The Department will review and approve or deny proposals for off-site, sequestration, or non-contemporaneous reductions (i.e. early on-site reductions) of CO₂ or other GHG after adoption of amendments to 310 CMR 7.00: Appendix B, and other regulatory sections, if necessary.

5. GENERAL CONDITIONS FOR ECP

1. The facility shall maintain continuous compliance at all times with the terms of this Amended ECP Final Approval and the applicable emission rates in 310 CMR 7.29.
2. This Amended ECP Final Approval may be suspended, modified, or revoked by the Department, if at any time the facility is violating any applicable Regulation(s) or condition(s) of this Amended ECP Final Approval letter.
3. This Amended ECP Final Approval consists of USGen's application materials and this Amended ECP Final Approval letter. If conflicting information is found between these two documents, then the requirements of the Amended ECP Final Approval letter shall take precedence over the documentation in the application materials.
4. Should a condition of air pollution occur as a result of the operation of these units, then the facility shall immediately take appropriate steps to abate said condition even though the facility is otherwise in compliance with this Amended ECP Final Approval.
5. This Amended ECP Final Approval does not negate the responsibility of the facility to comply with this or any other applicable federal, state, or local regulations now or in the future. Nor does this Amended ECP Final Approval imply compliance with any other applicable federal, state, or local regulations now or in the future.
6. If provisions or requirements from any other regulation or permit conflict with a provision of 310 CMR 7.29, the more stringent of the provisions will apply unless otherwise determined by the Department in the affected facility's Operating Permit.
7. Failure to comply with any of the above stated provisions will constitute a violation of the "Regulations", and can result in the revocation of the Amended ECP Final Approval granted herein.

6. MODIFICATION TO THE ECP

Amendments may be proposed to this approved Emission Control Plan. If the Department proposes to approve such amendments, or approve such amendments with conditions, then the Department will publish a notice of public comment on an Amended ECP Draft Approval, in accordance with M.G.L. c. 30A. The Department will allow a 30-day public comment period following publication of the notice, and may hold a public hearing. Modifications to an affected facility's monitoring systems approved pursuant to the requirements of 40 CFR Part 72 are not subject to such public comment prior to approval. All terms and conditions of this Amended ECP Final Approval shall remain in effect until otherwise modified by the Department in a subsequent Amended ECP Final Approval.

7. MASSACHUSETTS ENVIRONMENTAL POLICY ACT

The Department has determined that the filing of an Environmental Notification Form (ENF) with the Secretary of Environmental Affairs, for air quality control purposes, was not required prior to this action by the Department. Notwithstanding this determination, the Massachusetts Environmental Policy Act (MEPA) and Regulation 301 CMR 11.00 Section 11.04, provide certain "Fail Safe Provisions" which allow the Secretary to require the filing of an ENF and/or Environmental Impact Report at a later time.

8. APPEAL OF APPROVAL

This Amended ECP Final Approval is an action of the Department. If you are aggrieved by this action, you may request an adjudicatory hearing. A request for a hearing must be made in writing and postmarked within twenty-one (21) days of the date of issuance of this Amended ECP Final Approval.

Under 310 CMR 1.01(6)(b), the request must state clearly and concisely the facts which are the grounds for the request, and the relief sought. Additionally, the request must state why the Amended ECP Final Approval is not consistent with applicable laws and regulations.

The hearing request along with a valid check payable to The Commonwealth of Massachusetts in the amount of one hundred dollars (\$100.00) must be mailed to:

The Commonwealth of Massachusetts
Department of Environmental Protection
P.O. Box 4062
Boston, MA 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver as described below.

The filing fee is not required if the appellant is a city or town (or municipal agency) county, or district of the Commonwealth of Massachusetts, or a municipal housing authority.

The Department may waive the adjudicatory hearing filing fee for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file, together with the hearing request as provided above, an affidavit setting forth the facts believed to support the claim of undue financial hardship.

Should you have questions concerning this matter or regarding the terms or conditions of this **Amended ECP Final Approval**, please do not hesitate to contact the undersigned at the Southeast Region at (508) 946-2779.

Verv truly yours.
This final document copy is being provided to you electronically by the
Department of Environmental Protection. A signed copy of this document
is on file at the DEP office listed on the letterhead.

John K. Winkler, Chief
Permit Section
Bureau of Waste Prevention

ecc: Kenneth Small, USGen New England, Inc., Somerset, MA
David Shotts, P.E., TRC Environmental Corp., Lyndhurst, NJ
Christina A. Wordell, Agent, Somerset Board of Health
Somerset Board of Selectmen
Stephen Rivard, Chief, Somerset Fire Department
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Seth Pickering, MA DEP-SERO
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Cynthia Luppi, Clean Water Action
Seth Kaplan, CLF MA Senior Attorney
Christopher A. D'Ovidio, CLF RI Director