



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
AIR AND RADIATION

Ronald Tabroff
Supervising Electrical Engineer
Peabody Municipal Light Plant
Warren Street Extension
Peabody, MA 01960

Dear Mr. Tabroff:

This letter is U.S. EPA's official response to your January 30, 1998 letter, in which you asked EPA to reconsider whether the Peabody Municipal Light Plant's Waters River Unit 2 is subject to the Acid Rain Program. According to your letter, because of your misunderstanding of the definition of "commence commercial operation,"¹ you previously provided EPA with an erroneous date for the unit's commencement of commercial operation. You have now submitted a new date with supporting documentation and asked us to reevaluate the status of the unit. EPA has reviewed the new information, along with the information previously submitted, and has concluded that, for the reasons given below, Waters River Unit 2 is not an affected unit under the Acid Rain Program. This determination, on reconsideration, supercedes the contrary determination in EPA's October 24, 1997 letter to you that the unit is an affected unit.

EPA issued an applicability determination for Waters River Unit 2, a simple combustion turbine, on October 24, 1997. In the determination, EPA maintained that Waters River Unit 2 was an affected unit under the Acid Rain Program because, among other things, it commenced commercial operation after November 15, 1990. This assertion was based on your April 20, 1995 letter to EPA Region 1 in which you indicated that Waters River Unit 2 commenced commercial operation on January 24, 1991.

¹Under 40 CFR 72.2, "commence commercial operation" means "to have begun to generate electricity for sale, including the sale of test generation"; according to your letter, you did not realize the definition of "commence commercial operation" included the sale of test generation.

The new information we have received indicates that Waters River Unit 2 commenced commercial operation on November 5, 1990. This date is supported by two letters from Mark Axford, Vice President of S&S Products, the company that installed Waters River Unit 2. In these letters dated June 4, 1998 and June 17, 1998, Mr. Axford states that his company operated the generator set at Waters River Unit 2 for approximately 1.5 hours on November 5, 1990 and that the resulting electricity was delivered to the grid for distribution to Peabody Municipal Light Plant customers. He further explains that there was no dummy load connected to the generator which could have absorbed the output generation at the unit. Since, as a logical matter, the electricity generated either had to be absorbed by a dummy load or go onto the grid, EPA concludes that this information is sufficient to support a commence-commercial-operation date of November 5, 1990.

Based on the new information, EPA agrees that Waters River Unit 2 commenced commercial operation on November 5, 1990. It follows that because 40 CFR 72.6(b)(1) states that a simple combustion turbine that commenced commercial operation² before November 15, 1990 is not an affected unit subject to the requirements of the Acid Rain Program, Waters River Unit 2 is not an affected unit under the Acid Rain Program.

This determination is based on the representations in your letters and attachments of December 22, 1994, April 20, 1995, January 30, 1998, June 8, 1998, and June 19, 1998 and is made in reliance on the accuracy and completeness of those representations, and is appealable under 40 CFR part 78. If you have further questions regarding the Acid Rain Program, please contact Donna Deneen at (202) 564-9089.

Sincerely,

/s/ (June 26, 1998)

Brian J. McLean, Director
Acid Rain Division

cc: Ian Cohen, EPA Region 1
James E. Belsky, Massachusetts DEP
Karen Regas, Massachusetts DEP

² Forty CFR 72.6(b)(1) actually uses the term "commenced operation"; however, this term is interpreted to refer to commencement of commercial operation for the reasons discussed in EPA's October 24, 1997 letter to you.