

January 4, 2012

Jessica Hartley
Environmental Specialist
Veolia Energy Philadelphia, Inc.
2600 Christian Street
Philadelphia, PA 19146

Re: CAIR and Transport Rule Applicability Determination for the Veolia Energy Philadelphia, Inc., Edison Station Facility (Facility ID (ORISPL) 880006)

Dear Ms. Hartley:

This letter is EPA's determination of applicability, under the EPA-administered trading programs under the CAIR Federal Implementation Plans (FIPs) and Transport Rule (TR) FIPs, for Veolia Energy Philadelphia Inc.'s (Veolia) Edison Station facility located in Philadelphia, Pennsylvania. This determination is made in response to Veolia's petition dated October 21, 2011 requesting that EPA issue a determination that the four boilers located at the Edison Station are not subject to the trading programs under the Clean Air Interstate Rule (CAIR). On December 12, 2011, Veolia also requested that EPA issue an applicability determination with regard to the trading programs under the TR FIPs.¹

Petition for Applicability Determination

In its October 21, 2011 petition, Veolia stated that the boilers at Edison Station are not subject to the CAIR and TR trading programs. According to Veolia, this is because the units produce only steam that is used for heating and process applications, the units have not served electrical generators at any time since installation, and none of the steam produced from the boilers serves electrical generators. See October 21, 2011 petition and supplemental information dated December 8, 2011.

¹ Sources in Pennsylvania were subject to the CAIR FIPs in 2009, which provide that sources may request applicability determinations by EPA. The same applicability provisions apply in the trading programs under the CAIR FIPs and in the CAIR SIP trading programs that replaced the CAIR FIPs for 2010 and 2011 through SIP revisions submitted by Pennsylvania and approved by EPA. Consequently, EPA's determination in this letter concerning applicability with regard to 2009 is also applicable to 2010 and 2011. In addition, the TR FIPs provide that sources may request applicability determinations by EPA, and the applicability provisions in the TR FIPs and any TR SIPs approved by EPA are the same (except for the limit on generator size in the TR NO_x ozone season program, which is not relevant here). Consequently, EPA's determination in this letter applies to the TR trading programs for 2012 and thereafter.

EPA's Determination

Edison Station consists of four oil-fired boilers, firing #6 oil as the primary fuel with #2 oil firing used for ignition purposes, located in Philadelphia, Pennsylvania, and owned and operated by Veolia. The four boilers have a maximum rated heat input capacity of 283, 283, 335, and 335 mmBtu/hr respectively. See supplemental information dated November 9, 2011.

Applicability of CAIR and TR trading programs.

Under the EPA-administered CAIR trading programs and the EPA-approved Pennsylvania SIP CAIR trading programs for NO_x annual and ozone season and SO₂, a unit that is a stationary fossil-fuel-fired boiler, or combustion turbine, serving at any time since November 15, 1990 a generator with nameplate capacity of more than 25 MWe producing electricity for sale is generally a CAIR NO_x, CAIR SO₂, and CAIR NO_x Ozone Season unit subject to the requirements of the trading programs. See 40 CFR 97.104(a)(1), 97.204(a)(1), and 97.304(a)(1). The Edison Street units do not meet these criteria as the units have never produced steam that serves at any time generators used to produce electricity.

Under the EPA-administered TR trading programs for NO_x annual and ozone season and SO₂, a unit that is a stationary fossil-fuel-fired boiler, or combustion turbine, serving at any time, since January 1, 2005, a generator with nameplate capacity of more than 25 MWe producing electricity for sale is generally a TR NO_x, TR Group 1 SO₂, and TR NO_x Ozone Season unit subject to the requirements of the trading programs. See 40 CFR 97.404(a)(1), 97.504(a)(1), and 97.604(a)(1). The Edison Station units do not meet these criteria as the units have never produced steam that serves at any time generators used to produce electricity.

EPA concludes that the Edison Station units are not covered units under the CAIR and TR trading programs. EPA notes that the Edison Station units continue to be subject to the requirement, under Pennsylvania's SIP, to meet the monitoring, reporting, and recordkeeping requirements under 40 CFR part 75 with regard to the unit's NO_x emissions during the ozone season (May 1-September 30). 25 Pa. Code § 145.8.(d)(2).

CAIR and TR allowances allocated, recorded, and deducted for the Edison Station units

For the 2009 control periods, EPA allocated and recorded a total of 52 CAIR NO_x Annual allowances and 17 CAIR NO_x Ozone Season allowances for the Edison Station units under the CAIR FIPs. Under §§97.142(e) and 97.342(e), if a unit (here, each Edison Station unit) that is not actually a CAIR NO_x or CAIR NO_x Ozone Season unit is allocated an amount of allowances (here, allowances for 2009) in the respective trading program, EPA will deduct from the allowance account for the unit's source (here, the Edison Station facility) an equivalent amount of allowances (here, allowances allocated for 2009) in that trading program and transfer them to the new unit set-aside for the State, unless the Administrator has already completed deductions for compliance with the requirements to hold allowances to cover emissions. See 40

CFR 97.154(b) and 97.354(b). If the compliance deductions have been completed for the CAIR NO_x Annual Trading Program or the CAIR NO_x Ozone Season Trading Program, the Administrator will not take any further action to account for the allocation of allowances in the respective program.

EPA has already completed compliance deductions under the CAIR NO_x annual trading program, having deducted 38 CAIR NO_x Annual allowances to cover the Edison Station units' emissions. EPA will therefore not take any further action concerning the CAIR NO_x Annual allowances allocated for 2009. With regard to the CAIR NO_x ozone season trading program, EPA has not made any compliance deductions for the Edison Station units. EPA will therefore deduct the 17 CAIR NO_x Ozone Season allowances allocated and recorded for 2009, transfer them to the new unit set-aside for 2009 for Pennsylvania, and, because that new unit set-aside has already been allocated to new units, allocate the allowances to existing units in the State in accordance with §§97.142(d). EPA will make these deductions and allocations within 30 days after the issuance of this letter.

For the 2010 control periods, the Pennsylvania Department of Environmental Protection (PaDEP) did not allocate CAIR NO_x Annual allowances or CAIR NO_x Ozone Season allowances to the Edison Station units under Pennsylvania's CAIR SIP trading program regulations, and EPA did not make any compliance deductions. Consequently, EPA will not take any further action with regard to 2010 CAIR allowances.

For the 2011 control periods, PaDEP allocated and recorded 1 CAIR NO_x Annual allowance for Edison Station (Unit 3) and no CAIR NO_x Ozone Season allowances under Pennsylvania's CAIR SIP trading program. Pennsylvania's regulations do not address what happens when allocations are made to a unit that is not actually a CAIR unit. The PaDEP has indicated that it intends to reallocate the allocated allowance to existing units. See December 6, 2011 e-mail from Randy Bordner (PaDEP) to Charles Frushour (EPA). Under these circumstances, EPA will deduct the allowance for 2011 from Edison Station's compliance account and transfer the allowance to the general reserve account for Pennsylvania for reallocation to existing units. EPA will make this deduction and transfer within 30 days after the issuance of this letter.

For the 2012 control periods, EPA allocated and recorded a total of 102 TR NO_x Annual allowances, 55 TR NO_x Ozone Season allowances, and 198 TR SO₂ Group 1 allowances for Edison Station. The TR trading program regulations include provisions analogous to those in the CAIR FIP trading programs concerning the treatment of allocations to units that are not actually covered units. See 40 CFR 97.411(c), 97.511(c), and 97.611(c). EPA will therefore deduct the allowances for 2012 from Edison Station's compliance account and transfer them to the applicable new unit set-asides for the 2012 for the State. EPA will make these deductions and transfers within 30 days after the issuance of this letter.

Finally, for the 2013 control periods, EPA allocated and recorded a total of 102 TR NO_x Annual allowances, 55 TR NO_x Ozone Season allowances, and 198 TR SO₂ Group 1 allowances

for Edison Station. EPA will deduct the allowances for 2013 from Edison Station's compliance account and transfer them to the applicable new unit set-asides for the 2013 for the State in accordance with §§97.411(c), 97.511(c) and 97.611(c). EPA will make these deductions and transfers within 30 days after the issuance of this letter.

Conclusion

EPA's determination concerning the applicability of the CAIR and TR trading programs to the Edison Station units and the disposition of CAIR and TR allowances relies on the accuracy and completeness of the information provided by Veolia in the October 21, 2011 letter and the supplemental information dated November 9 and December 8 and 12, 2011. This determination is appealable under 40 CFR part 78. If you have any questions regarding this determination, please contact Charles Frushour at (202) 343-9847.

Sincerely,

/s/

Sam Napolitano, Director
Clean Air Markets Division

cc: Marilyn Powers, EPA Region III
Randy Bordner, PaDEP