

LUTHIN ASSOCIATES

Energy Management Consulting

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May 24, 2002

Alison Crocker
General Counsel Office
NY State Department of Energy Conservation
625 Broadway
Albany, NY 12233 - 1500

Re: Title V Restrictions

Dear Ms. Crocker

Consumer Power Advocates (CPA), an association of non-profit commercial energy users in the Consolidated Edison Company of New York, Inc.'s service territory (Con Edison) respectfully submits this letter regarding concerns over current Title V restrictions on emergency generator usage.

Last summer, the Department of Environmental Conservation encouraged customers to participate in summer incentive programs by relaxing Title V permitting standards. Title V seeks to ensure that, under normal conditions, generators meet certain environmental requirements and reduce violations of air pollution laws. Emergency incentive programs such as EDRP compensate participants who reduce load, primarily through the use of emergency generation, when called upon by the NYISO. New York State DEC guidelines allow the use of emergency generators if there is a power shortage emergency but do not allow their use for compensation without meeting newer, more stringent emissions guidelines. However, an August 11, 2000 an Office of Air and Radiation letter addressed to the CEO of the California ISO clarified the EPA's position that backup generators used to avert a power blackout also be considered emergency generators provided that a power shortage emergency exists". This clarification, in our opinion, opens the door to a discussion on how New York may better manage the continuing power crisis it faces this summer. (Note: the EPA letter revises Federal guidance operating criteria for emergency generators but does not address State and local permitting requirements).

While many of the Title V permitted institutions represented by CPA are willing to participate in these programs, several have expressed concern that by doing so they may place their facilities under the same scrutiny and standards as apply to new generation

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projects. The concern is that, in effect, they will be subject to a new source review if they apply for emergency incentive program benefits. Although operating within the guidelines of their original permitting requirements, several CPA members currently burn #6 oil which may no longer pass emissions requirements which have become more stringent over the past several years. In fact, new emissions limits are so strict that even newer diesel generators using low-sulfur fuel may not be able to comply.

Rumors exist among industry professionals that emergency generation standards are applied on a case-by-case basis and that no clear signals are evident for how to best navigate the application process. It is the CPA's position that enforcement discretion is unacceptable. Any additional scrutiny placed upon emergency generation represents a barrier to incentive program participation and is counter to the intent to provide additional power system reliability. Despite recent press to the contrary, the recession economy and resulting impact on demand have not fundamentally changed New York State's need for additional power generation and emergency measures are still the first line of defense against a power blackout.

The members of Consumer Power Advocates welcome your comments or suggestions.

Very truly yours,

Catherine Luthin
Executive Director
Consumer Power Advocates

cc.

Harvey Arnett, Department of Public Service

Maureen Helmer, NY State Public Service Commission

Peter Savio, NYSERDA

David Lawrence, NYISO

CPA Members