

7/28/78

DEPARTMENT OF HEALTH AND MENTAL
HYGIENE OF THE STATE OF MARYLAND

Plaintiff

vs.

POTOMAC ELECTRIC POWER COMPANY

Defendant

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IN THE CIRCUIT COURT

FOR

MONTGOMERY COUNTY

No. 49352 - Equity

AMENDED CONSENT ORDER

On May 30, 1974, the Maryland Department of Health and Mental Hygiene (the Department) filed suit against the Potomac Electric Power Company (PEPCO or the Company), pursuant to Article 43, Section 703 of the Annotated Code of Maryland. The Department contended that the Dickerson and Chalk Point generating stations of PEPCO were in violation of an administrative order of the Secretary of Health and Mental Hygiene dated September 24, 1971, and that the Dickerson, Chalk Point and Morgantown stations of PEPCO violated air quality control regulations of the Department which generally prohibit the discharge of visible emissions into the atmosphere. PEPCO demurred to the Department's Bill of Complaint.

On June 7, 1976, this Court approved a Consent Order which the parties agreed and stipulated would provide full settlement of this proceeding if accepted by the Federal Environmental Protection Agency pursuant to Section 110 of the Federal Clean Air Act. The Consent Order was never formally submitted to EPA, however, and the parties now agree that an Amended Consent Order regarding the Dickerson station should partially replace the Order of June 7, 1976. A similar Amended Consent Order has been entered into by the parties regarding the Chalk Point station.

NOW, THEREFORE, pursuant to Article 43, §703 of the Annotated Code of Maryland, upon the stipulations and consent of the parties that this Amended Consent Order, with respect to the Dickerson station as hereinafter set forth, will become effective in lieu of the Consent Order dated June 7, 1976, it is this 28th day of July, 1978, by the Circuit Court for Montgomery County, ORDERED:

I. Dickerson General Requirement

That PEPCO shall, from the date hereof, operate its electric power generating station at Dickerson, Maryland, in full and continuous compliance with all Regulations Governing the Control of Air Pollution in Area IV of the State of Maryland, except as hereinafter specified.

II. Dickerson Particulate Control Program

PEPCO shall reduce particulate matter emissions from Units ST₁ and ST₂ to the level required by Regulation 10.03.39.03B for solid fuel burning equipment by effecting the following actions:

1. The existing electrostatic precipitators on Units ST₁, ST₂ and ST₃ have been refurbished and modified to assure maximum possible effectiveness of the equipment. Shrouded discharge electrode wires shall be ordered and installed at the time of the regularly scheduled outage following equipment delivery if it is determined by the Department that such installation is necessary to assure continuing compliance.

2. PEPCO has commenced construction of particulate scrubbers on Units ST₁ and ST₂ suitable for cleaning particulate matter from approximately 50% of the emanating flue gas. Construction of one of these scrubbers shall be completed by no later than October 31, 1978, and the second scrubber shall be completed by no later than December 17, 1978. The existing Chemico two-stage scrubber on Unit ST₃ presently operates as a particulate scrubber.

3. Not later than October 31, 1978, PEPCO shall complete all construction relating to wet ash, drying, storage and loading facilities necessary to support the three particulate scrubbers.

4. Not later than January 19, 1979, the Company shall complete adjustment and performance tests of the first completed scrubber and shall achieve full and continuous compliance with Regulation 10.03.39.03B. Not later than April 14, 1979, the Company shall complete adjustment and performance tests on the second particulate scrubber and achieve full and continuous compliance with Regulation 10.03.39.03B.

5. This Order does not apply to particulate emissions from Unit ST₃.

III. Dickerson Visible Emissions

Until each unit has been upgraded to meet the requirements of this Order, visible emissions may not be darker in shade than No. 2 on the Ringelmann Smoke Chart or of such opacity as to obscure an observer's view to a degree equal to or greater than smoke designated as No. 2 on the Ringelmann Smoke Chart. When each unit has been upgraded to meet the requirements of this Order, but in no case later than April 14, 1979, visible emissions may not exceed the limitations specified in Regulation 10.03.39.02A.

IV. Dickerson Fuel Ash Content

Until such time as full and continuous compliance with Regulation 10.03.39.03B for solid fuel burning equipment is achieved, the ash content of the coal used as fuel in Units ST₁, ST₂ and ST₃ shall not exceed an average of fifteen (15) percent for any month, based on a minimum of four (4) weekly composite samples collected and tested by the Company. The samples shall be representative of the coal burned in each unit. The test results of this sampling shall be reported to the Department upon request and in accordance with the requirements of Part V.

V. Reporting (Particulate Control Program)

Semi-annual progress reports shall be submitted to the Department by July 10 and January 10 of each year until compliance is achieved.

VI. Dickerson Sulfur Oxides Control Program

PEPCO shall limit sulfur oxide emissions from Units ST₁, ST₂ and ST₃ by effecting the following actions:

A. Until July 1, 1980, sulfur oxide emissions from the plant may not exceed 2.8 pounds per million Btu input averaged over a 24-hour period as determined by continuous in-stack measurement. PEPCO shall erect a new stack equipped with in-stack monitoring equipment which is acceptable to the Department. This installation shall be completed by October 31, 1978. This equipment shall be operated, maintained and calibrated in accordance with the requirements of the Department's publication BAQNC TM 77-01 "Minimum Require-

ments for Reporting Continuous Emission Monitoring Results".

B. On or before July 1, 1979, PEPCO shall report emissions and ambient air quality levels in the vicinity of the plant for the period commencing with the date of this Order to July 1, 1979, and shall project the emissions and ambient air quality levels, including emissions and levels caused by any additional units, through January 1, 1985. The Department shall review this data and any other pertinent data to determine if applicable ambient air quality standards are attained and will be maintained at all times through the year 1985.

C. Should the Department determine that any applicable ambient air quality standard for sulfur oxides or other compound of sulfur is or will be exceeded at any time through the year 1985, the Company shall proceed to purchase fuel which meets the requirements of Regulation 10.03.39.04B in accordance with the following schedule:

October 1, 1979: PEPCO shall be informed by the Department in writing that it is necessary for the Company to secure a complying fuel. PEPCO shall immediately commence to contact fuel suppliers regarding the availability of complying fuel.

January 1, 1980: PEPCO shall make a decision as to the selection of a complying fuel and the supplier of such fuel. The Company shall commence equipment modifications which may become necessary to burn complying fuel.

May 1, 1980: PEPCO shall complete equipment modifications to burn complying fuel. Provide the Department with all pertinent data relative to the purchase and delivery of the complying fuel.

October 31, 1980: PEPCO shall achieve full compliance with Regulation 10.03.39.04B.

D. Should the Department determine that any applicable ambient air quality standard for sulfur oxides or other compound of sulfur is not likely to be exceeded at any time through the year 1985, the emissions of sulfur oxides from Dickerson Units ST₁, ST₂ and ST₃ may continue at a rate of 2.8 pounds per million Btu input averaged over a 24-hour period as determined by the methods stated in Paragraph VI-A, above.

E. A review process similar to that described in Paragraph VI-B, above, shall be repeated by both parties in five year intervals beginning in the year 1985 and continuing thereafter. If at any time the Department determines that any applicable ambient air quality standard for sulfur oxides or other compound of sulfur is likely to be exceeded, the Department shall notify PEPCO of such a determination and the Company shall submit a timetable for purchase and use of a complying fuel and achieve compliance within one (1) year after notification with interim milestones similar to the schedule in Paragraph C, above.

VII. Civil Penalty and Effective Date

A. The Company shall pay a civil penalty to the State of Maryland in the amount of Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750.00). Payment of the civil penalty is not to be construed as an admission of liability for the facts alleged for purposes of this action or any other action based on the same or similar set of facts. Payment of the civil penalty shall be made not later than thirty (30) days after this Amended Consent Order is approved by EPA for inclusion in the Maryland Implementation Plan as required by Section 110 of the Federal Clean Air Act, 42 U.S.C. 1857, c-5.

B. This Amended Consent Order is not effective until approved by the United States Environmental Protection Agency. Pending EPA approval, however, the Department agrees not to bring any enforcement action against the

Company involving matters covered by this Order so long as the Company is acting in compliance with the terms of this Order.

VIII. Consistency with Other Requirements

This Amended Consent Order is not to be construed as altering or voiding the requirements applicable to the Dickerson Units ST₁, ST₂ and ST₃ contained in the Certificate of Public Convenience and Necessity (the Certificate) issued by the Public Service Commission (the PSC) on September 17, 1973, for Dickerson Unit ST₄ (PSC Order No. 60444 in Case No. 6545). It is the understanding of the Department that the Company will apply for a revision to its Certificate for Dickerson Unit ST₄ prior to operation of that unit. In the event that Dickerson Unit ST₄ is brought into operation prior to issuance by the PSC of a modified Certificate, those requirements of the September 17, 1973 Certificate applicable to the Units ST₁, ST₂ and ST₃ which are more restrictive than the provisions of this Order, will supersede such provisions of this Order and shall immediately become part of this Consent Order. In the event that a modified Certificate for Dickerson Unit ST₄ contains provisions applicable to Dickerson Units ST₁, ST₂ and ST₃ which are more restrictive than the provisions of this Order, the provisions of the modified Certificate will supersede the provisions of this Order and become part of this Order.

IX. Enforcement

This Order may be enforced by the Department in any manner provided by law, including:

1. An action pursuant to Article 43, Section 703 for injunctive relief and/or civil penalty. Each day of violation of the Order shall constitute a separate violation as specified in Section 703(b).

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2. The issuance of a Notice of Violation and/or
Corrective Order under Article 43, Section 698.

In the event of violation of this Order, the Department may also bring any action permitted by law to enforce the provisions of Article 43 and the air quality regulations on which this Order is based.

18/ Stanley B. Frost
Judge, Circuit Court for Montgomery County

True Copy Test
Howard M. Smith
Clerk

CONSENT

The Plaintiff and the Defendant, by the signatures of their attorneys hereafter, indicate their consent to the passage of this Order.

DEPT. OF HEALTH AND MENTAL HYGIENE

POTOMAC ELECTRIC POWER COMPANY

By: Jeffrey E. Howard 7/21/78
Jeffrey E. Howard, Assistant
Attorney General

By: Alan G. Kirk II
Alan G. Kirk II, Vice President
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Francis B. Burch 7/21/78
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APPROVED:

Neil Solomon
Neil Solomon, M.D., Ph.D
Secretary of Health and Mental Hygiene

7/26/78
Date

