INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
*We Protect Hoosiers and Our Environment.*
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**Michael R. Pence**
*Governor*

**Carol S. Comer**
*Commissioner*

STATE OF INDIANA )
) SS:
COUNTY OF MARION )

BEFORE THE INDIANA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: )
ORDER OF THE COMMISSIONER )
PURSUANT TO IC 13-14-2-1 )
FOR CLIFTY CREEK GENERATING STATION )
OF INDIANA )
)

# NOTICE AND ORDER OF THE COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

This Notice and Order of the Commissioner of the Department of Environmental Management ("Order") is issued pursuant to Indiana Code ("IC") 13-14-1-9, IC 13-14-2-1, and IC 13-14-2-7. During the Commissioner's review, it was determined that the Petition should be granted according to the terms specified below:

## PETITION

Petitioner is the Indiana Kentucky Electric Corporation's, Clifty Creek Generating Station ("Petitioner"), a stationary electric power plant with Source I.D. Number 077-00001, located at 1335 Clifty Hollow Road in Madison, Jefferson County, Indiana, and permitted under the Part 70 air operating permit program.

On March 2, 2015, the U.S. District Court for the Northern District of California accepted a Consent Decree between the U.S. Environmental Protection Agency ("U.S. EPA"), the Sierra Club, and the Natural Resources Defense Council to resolve litigation concerning deadlines for completing one (1) hour sulfur dioxide ("$SO_2$") National Ambient Air Quality Standard ("NAAQS") designations. Under the Consent Decree, U.S. EPA must designate certain areas as nonattainment, attainment, or unclassifiable in three phases.

The first Consent Decree phase requires U.S. EPA to designate areas that contain stationary sources that had not been announced for retirement as of March 2, 2015 and either emitted more than 16,000 tons of $SO_2$ in 2012 or emitted more than 2,600 tons of $SO_2$ and had an annual average emission rate of more than 0.45 pounds of $SO_2$ per one million British thermal units ("lb/MMBtu") in 2012, according to U.S. EPA's Air Quality Markets Database.

On March 20, 2015, U.S. EPA identified five (5) sources in Indiana that met the criteria for the first phase of the Consent Decree designations. U.S. EPA's list included the Petitioner, Clifty Creek Generating Station.

On September 16, 2015, the Indiana Department of Environmental Management ("IDEM") recommended designation of the area surrounding Clifty Creek Generating Station as attainment. The recommendation was based on modeling that included operation of a flue gas desulfurization system that became operational in July 2013.

On January 22, 2016, the Petitioner submitted a request to the Commissioner to impose a permanent and enforceable $SO_2$ mass emission rate on the Petitioner in order to ensure continued attainment of the $SO_2$ NAAQS in the area surrounding Clifty Creek Generating Station. The Petitioner proposed a facility-wide $SO_2$ mass emission rate of 2,624.5 $SO_2$ pounds per hour ("lb/hr"), 720 operating hour rolling average, applicable to Unit No. 1 through Unit No. 6, combined.

## FINDINGS

Pursuant to IC 13-14-2-1(b) and IC 13-14-2-7(1), the Commissioner may issue Orders to secure compliance with Indiana's environmental statutes and rules, including the ambient air quality standard for $SO_2$ at 326 Indiana Administrative Code ("IAC") 1-3-4(b)(1)(A).

Based on the foregoing information, IDEM finds the following:

1. A permanent and enforceable $SO_2$ mass emission rate for Clifty Creek Generating Station is required in order to model continued attainment of the one (1) hour $SO_2$ NAAQS in the area surrounding the Petitioner.

2. Issuance of a Commissioner's Order will ensure the $SO_2$ mass emission rate remains permanent and enforceable, as required by 42 U.S.C. § 7407(d)(3)(E)(iii). Whereas revising a Part 70 Operating Permit would not create an adequately "permanent" requirement.

3. Approval by U.S. EPA of the Commissioner's Order as part of the Indiana State Implementation Plan ("SIP") will make the Order requirements federally enforceable. Upon approval as part of the Indiana SIP, the Order requirements become applicable requirements as defined in 326 IAC 2-7-1(6).

4. Based on modeling conducted by IDEM, the $SO_2$ mass emission rate proposed by the Petitioner is adequate to assure continued attainment of the $SO_2$ NAAQS.

## ORDER

1. This Order approves the Petition submitted by the Petitioner according to the terms specified below. This Order imposes on the Petitioner the $SO_2$ mass emission rate described below.

2. When any of Unit No. 1 through Unit No. 6, or any combination thereof, is operating, the combined $SO_2$ mass emission rate shall not exceed 2,624.5 lb/hr, as a 720 operating hour rolling average.

3. The Petitioner shall comply with the 720 operating hour rolling average $SO_2$ mass emission rate beginning April 19, 2016.

4. As required by 326 IAC 2-7-2(d)(1) and 326 IAC 2-7-5, the Petitioner shall apply to incorporate these Order requirements, including reporting and recordkeeping requirements and methods to determine compliance, into its Part 70 Operating Permit within ninety (90) days of U.S. EPA's approval of the Commissioner's Order as part of the Indiana SIP.

5. From April 19, 2016 until IDEM issues a Permit incorporating these Order requirements, the Petitioner shall comply with the reporting and recordkeeping requirements and methods to determine compliance specified in this paragraph.

a. Reporting: The Petitioner shall submit to IDEM, on a quarterly basis, a report of the facility-wide maximum 720 operating hour $SO_2$ rolling average mass emission rate for each day that any of Unit No. 1 through Unit No. 6, or any combination thereof, operates, beginning the second quarter reporting period, which is July 2016.

b. Recordkeeping: The Petitioner shall maintain records adequate to document compliance with the 720 operating hour rolling average $SO_2$ mass emission rate.

c. Method to determine compliance: Compliance shall be determined by a continuous emission monitoring system (CEMS) in accordance with 326 IAC 3-5; except that data substituted in accordance with 40 Code of Federal Regulations ("CFR") Part 75 will not be considered in this evaluation. The Petitioner may use the existing certified CEMS to meet this requirement.

6. This Order shall apply to and be binding upon the Petitioner, its successors and assigns. No change in ownership, corporate, or partnership status of the Petitioner shall in any way alter its status or responsibilities under this Order.

7. The requirements of this Order supersede any less stringent requirements applicable to the Petitioner.

## EFFECTIVE DATE OF ORDER

Pursuant to IC 13-14-2-1(d), IC 4-21.5-3-1, IC 4-21.5-3-5(a)(6), and 40 CFR 51.102, IDEM will give notice of this Order to each entity to whom the Order is directed and affected neighbors by mailing and to the general public by web publication.

Pursuant to IC 4-21.5-3-7(a)(3), IC 4-21.5-3-2(e), and IC 4-21.5-3-5, this Order may be appealed by filing a Petition for review within eighteen (18) days after the date affected persons were given notice of the Order by U.S. mail. Information on petitions for review of this Order can be found at IC 4-21.5-3-7.

Pursuant to IC 4-21.5-3-5(f) and IC 4-21.5-3-2(e), the Order is effective eighteen (18) days from mailing of notice unless a Petition for review has been filed before or on the eighteenth ($18^{th}$) day. However, the compliance date for the $SO_2$ mass emission rate in this Order is April 19, 2016.

Pursuant to 40 CFR 51.103, IDEM will submit this Order to U.S. EPA as a revision to the Indiana SIP. Upon approval by the U.S. EPA, this Order will be part of the Indiana SIP.

Persons seeking judicial review of this Order may do so in accordance with IC 4-21.5-5.

If you have procedural or scheduling questions regarding your request for review, you may contact the Office of Environmental Adjudication at (317) 232-8591. If you have questions regarding this Order, please contact Mark Derf, Office of Air Quality, by telephone at (317) 233-5682 or email at MDERF@idem.IN.gov.

Dated at Indianapolis, Indiana this 1ST day of February 2016.

Carol S. Comer
Commissioner
Indiana Department of Environmental Management