



7/19/11 Adoption Hearing
OTC Policy Amendment
Deadline: 7/5/11 by 12:00 noon

July 5, 2011

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



Re: Comment Letter - OTC Policy Amendment

Dear Ms. Townsend,

GenOn West, LP, and GenOn Delta, LLC (collectively “GenOn”) submit these comments on the State Water Resources Control Board’s (“State Board”) Proposed Amendment to the Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (“Policy”). GenOn owns and operates four facilities subject to the Policy.¹ GenOn West, LP, owns and operates the Mandalay Generating Station (MGS) and the Ormond Beach Generating Station (OBGS), both located in Oxnard, California. GenOn Delta, LLC, owns and operates the Pittsburg Generating Station (PGS) located in Pittsburg, California, and the Contra Costa Generating Station (CCGS), located near Antioch, California. GenOn submitted timely Implementation Plans for all of the subject facilities on April 1, 2011. At MGS and OBGS, GenOn has proposed to achieve compliance under Track 2 no later than December 31, 2020, the prescribed date in the Policy. At PGS, GenOn has proposed to achieve compliance under Track 1 no later than the prescribed date of December 31, 2017. GenOn has also committed to permanently retire CCGS in 2013, thereby achieving compliance with the Policy well in advance of the prescribed 2017 deadline.

GenOn does not oppose and has no comments on the compliance deadline extensions proposed for those facilities owned and operated by the Los Angeles Department of Water and Power (LADWP). However, GenOn believes that the newly proposed section 2(C)(4) of the Policy is unnecessary. The intent of section 2(C)(4) appears to be to establish new, interim compliance measures for facilities like LADWP’s that have proposed to replace their OTC facilities over a timeline that extends beyond the relevant 2020 compliance deadline that applies to many OTC facilities. As written, however, section 2(C)(4) establishes a confusing and conflicting timeline, fails to account for implementation schedule adjustments that may occur in the future, and penalizes facilities that will have already achieved compliance under Track 2, as explained

¹ A third affiliate, GenOn Potrero, LLC, owns the Potrero Power Plant, which permanently retired on February 28, 2011 and has therefore already achieved compliance with the Policy.

below. Given that Section 2(C) already establishes interim mitigation requirements that would continue to apply to any facilities with compliance extended beyond 2020, GenOn suggests simply deleting section 2(C)(4). If the State Water Board's intent is to establish specific additional conditions for LADWP's facilities, then such conditions can be provided in the individual NPDES permits for those facilities rather than substantially re-writing the Policy in a way that affects all OTC facilities, including GenOn's.

Alternatively, if the State Water Board chooses to adopt section 2(C)(4), GenOn believes several problems need to be addressed. First, as written, section 2(C)(4) would appear to penalize Track 2 facilities such as MGS and OBGS, which would still be "fossil fueled units that utilize OTC after December 31, 2020" but would have already achieved full compliance with the Policy by 2020 by meeting the requisite entrainment and impingement mortality reduction standards. Requiring Track 2-compliant facilities to "commit to eliminate OTC for all units at the facility" (see proposed section 2(C)(4)(a)), for example, would entirely defeat the purpose of the Track 2 compliance path. Furthermore, to account for the possibility that a Track 2 facility may require an extension beyond its current compliance deadline for reliability purposes, as contemplated by sections 3(B) and (C) of the Policy, GenOn suggests limiting the proposed revision to those facilities proposing to achieve compliance under Track 1. For example, if the State Board were to modify the implementation schedule for a Track 2 facility to address reliability concerns and extend a 2020 deadline to 2022, it would make no sense for that facility to be required to comply with the requirements imposed by section 2(C)(4) for the period 2020-2022. Finally, the requirements in subsections 2(C)(4)(b) and (c) to conduct studies and submit a post-2020 entrainment and impingement minimization plan by December 31, 2015 presume that a facility knows far in advance of that date that its compliance deadline has been extended beyond 2020 and that it is therefore subject to Section 2(C)(4). It is entirely possible that a 2020 compliance deadline would not be extended until sometime *after* 2015. GenOn suggests requiring compliance with the Section 2(C)(4) requirements by a relative, rather than absolute, date to provide for potential future Policy amendments that may extend compliance deadlines for other facilities without the same advance notice proposed for LADWP's facilities in this Proposed Amendment.

Accordingly, to make the proposed section 2(C)(4) consistent with the apparent intent of the Proposed Amendment, GenOn suggests the following revisions (added language is in underline, deleted language is in ~~strikeout~~):

- Section 2(C)(4): "Owners or operators of fossil fueled units that intend to comply with this Policy under Section 2(A)(1) and that are subject to compliance dates later than December 31, 2020, as specified in Section 3.E, below, ~~that utilize OTC after December 31, 2020~~ shall..."

- Section 2(C)(4)(c): “Submit the results of the study and a proposal to minimize entrainment and impingement to the Chief Deputy Director no later than three years after the date on which the State Water Board established a compliance date for those units that is later than December 31, 2020, as specified in Section 3.E, below~~no later than December 31, 2015.~~”
- Section 2(C)(4)(d): “~~Upon approval of the proposal by the Chief Deputy Director,~~ Complete implementation of the proposal no later than five years following the Chief Deputy Director’s approval of the proposal.”

GenOn appreciates your consideration of these comments. Please feel free to contact me with any questions at peter.landreth@genon.com or 925-427-3567.

Sincerely,

A handwritten signature in cursive script that reads "Peter Landreth". The signature is written in dark ink and includes a small flourish at the end.

Peter Landreth
Director, California Environmental Policy & Associate General Counsel