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May 2, 2014

VIA Electronic Transmission

Eric Cornwell
Georgia Environmental Protection Division
4244 International Parkway
Atlanta, Georgia 30354

Re: Draft Permit Amendment No. 4911-303-0051-P-01-3
Plant Washington, Washington County, GA

Dear Mr. Cornwell:

I am writing on behalf of my client, Power4Georgians (“P4G”), concerning the above-referenced draft permit amendment.

P4G Urges EPD to Act Quickly to Issue the Permit Extension

P4G appreciates the proposal by the Environmental Protection Division (“EPD”) on April 1, 2014 to approve P4G’s request to extend the commence construction date past the initial 18 months allowed by state and federal Prevention of Significant Deterioration (“PSD”) regulations and the underlying permit. As P4G explained in its request dated September 12, 2013, the unavoidable delays associated with the legal challenges to the PSD permit and the first amendment, combined with the United States Environmental Protections Agency’s (“EPA’s”) various proposed power plant regulations, subsequent withdrawals and re-proposals, created a situation that made beginning on-site work on Plant Washington impossible. Notwithstanding these obstacles, P4G has continued to move forward by ordering the boiler for the plant. Once the proposed extension is granted P4G intends to commence construction on the balance of the facility. As

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explained in P4G's September 12 letter, the request for the extension is justified, and the Director of EPD has full authority under the applicable law and regulations to grant the extension.

As further support for its requested extension, P4G is attaching a January 2014 EPA guidance document that addresses extending the commence construction dates for PSD permits. Because Georgia has a SIP-approved program, this guidance is not binding on EPD. However, the guidance demonstrates that EPA policy is consistent with the grant of the extension requested by P4G. In fact, EPA's guidance discusses that the litigation over a permit is grounds for an extension.

EPA's recent guidance also dismisses any notion that a new BACT analysis is necessary for this extension. Moreover, as you know, since Plant Washington's PSD permit was issued, no new coal fired power plant has been proposed in the United States. Consequently, the pollution control technology that Plant Washington has committed to employ was and remains the "state-of-the-art." The fact that the emission limits in P4G's PSD permit also comply with EPA's recent revisions to the NSPS for coal-fired power plants is further evidence of the advanced design of this facility and the strictness of EPD's original permit.

P4G Requests One Modification to the Permit Revision

P4G requests that EPD make one further change to the draft permit. In Condition 2.1, EPD has established a deadline whereby P4G must commence construction of Plant Washington by October 15, 2015. Assuming that EPD issues the permit amendment by May 15, 2014, and assuming that someone opposed to the project files a request for administrative review of the permit within 30 days thereafter (i.e., on or before June 15, 2014), the extension will be stayed by operation of law. *See* O.C.G.A. § 12-2-2(c)(2)(B). As you know, until the requested administrative review is resolved, which will take at least 120 days, P4G's efforts to commence construction will legally be barred, and a significant portion of the extension that the Amendment seeks to grant to the project will be lost. Assuming that a final resolution of an administrative appeal occurs by October 15, 2014, and allowing an additional 10 days for the stay to expire as provided in the statute, P4G would then have less than a year remaining to close on its construction financing, complete the design of the plant and "commence construction." This would be a daunting task. If EPD adds one sentence to the

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draft permit amendment as suggested below, any time lost to a possible appeal can be conserved.

P4G urges EPD to add the following sentence to Condition 2.1:

In the event an administrative appeal of Permit Amendment No. 4911-303-0051-P-01-3 is filed, then for each day that construction of Plant Washington is stayed by operation of law as provided in O.C.G.A. § 12-2-2(c)(2)(B), or by court order, the October 15, 2015 date will be extended for one day.

Given that every permit that EPD has issued to Plant Washington has been appealed, this additional change makes sense. This revision might also avoid the need for EPD to devote its scarce resources to another request for extension.

We urge EPD to insert this additional sentence into the revised permit and then to move expeditiously to issue the permit.

Sincerely,



Les Oakes

LO:ab

Electronic Attachment

cc: Dean Alford (w/attach.)
Patricia Barmeyer (w/attach.)