

RICHARD L. GRIFFITH, LLC

ATTORNEY

1580 LINCOLN STREET, SUITE 700
DENVER, COLORADO 80203-1501
TEL (303) 534-4615 FAX (303)
825-3202
CELL (303) 725-0446
RickLGrif@aol.com

April 19, 2007

BY ELECTRONIC MAIL

Ms. Elena Guilfoil
Washington Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

**Re: TransAlta Centralia Generation LLC's Proposed Revisions to Ecology's
Draft Rule on Mercury from Coal-Fired Power Plants**

Dear Ms. Guilfoil:

TransAlta Centralia Generation has reviewed the Department of Ecology's March 2007 draft mercury emission rule and respectfully requests that Ecology consider several revisions.

The first major revision would be to set a mercury control compliance date of 2016 rather than 2013 (see draft WAC 173-406-120). This would allow more time for development of mercury control technology. Although the technology is developing more quickly than anticipated a few years ago, mercury-specific technologies still have not been demonstrated to be effective over the long-term. The current preferred option, activated carbon injection upstream of a particulate control device, can render the ash and the scrubber sludge un-recyclable for other uses, *e.g.*, cement and wallboard, due to elevated carbon content. This is an issue that could also affect local businesses in the Centralia area which purchase the Plant's fly ash and gypsum, such as Georgia Pacific and Headwaters. By 2016, these and other developmental issues should be resolved. Note that compliance by 2016 will require installation and operation prior to 2016, so the mercury reduction benefits will begin in 2015.

The second major revision would be to allocate 376 lbs. of allowances to the Centralia Plant through 2017 (Phase 1 of the program) and to allow trading on the national market of allowances. This is important for several reasons. First, there is significant uncertainty whether Ecology's proposed allowance of 277 lbs/year will be sufficient. The current stack testing data shows that current actual emissions could be between 220 and 1424 lbs/year. Until the CEMs are installed and certified in mid-2008, the Plant's actual emissions are uncertain.

Even more importantly, increasing the allowances would be an economic incentive for the Plant to reduce emissions as soon as possible to create excess allowances for sale on the EPA trading market. Very preliminary and conceptual estimates of the capital costs of mercury controls are about \$18 million for activated carbon injection and, if necessary, \$200 million for baghouses, and annual operating costs of between \$6 and \$10 million. The proposed rule would provide that any revenues from sale of allowances be spent on air pollution controls.

TransAlta supports Ecology's original proposal for a 16 lb. public set aside (10% of the EPA state cap) for the period after 2017. We note that based on Ecology's calculations in the draft rule, the result of a 10% public set aside under Ecology's draft rule would be to leave no allowances for a second new IGCC plant in the state. However, even without the public set aside, there are insufficient allowances for a second IGCC plant.

In addition to the public set aside, if new plants are not built or do not use the entire new source allowance, TransAlta's proposal would allocate such allowances to the Centralia Plant to sell. The proceeds from such sales would be used to set up an Emissions Reduction Technology Fund controlled by Ecology to fund emission controls throughout the state. Over time, this Fund could provide substantial amounts for emission projects.

The third major revision would be to allow trading of excess allowances on the EPA trading market during the period after the Centralia Plant becomes subject to the mercury emission standard. Trading would provide an economic incentive for the Plant to reduce emissions by retiring, repowering with alternative fuels, or installing additional pollution controls. Under TransAlta's proposal, the funds from selling excess allowances would be required to be donated to the emissions reduction technology account or spent on air pollution control. In considering the issue of participation in the national trading market, the Centralia Plant's importance to regional grid security and energy balance should be a factor.

Another proposed revision is to set the mercury emission standard at .0087 lbs/mmBtu rather than .008 lbs/mmBtu. TransAlta's proposed emission standard is based on the Arizona Department of Environmental Quality's, which was based on an assumed 90 percent reduction in mercury emissions using a national average of mercury levels in subbituminous. To our knowledge, neither of these levels has been demonstrated on a continuous basis using Powder River Basin coal, so at this point the availability of technology to achieve the .0087 lbs/mmBtu standard is speculative.

We have a couple of comments on the intrastate trading market. Although in theory Ecology's proposal for an intrastate trading market would allow the construction of clean coal technology plants, the major problem with the concept is that there are not multiple existing coal facilities among which reductions and trading could occur. If the state does not participate in the EPA trading market, the only source of allowances for a

new plant will be from the Centralia Plant. Whether the Plant will be able to reduce emissions for sale to a proposed new plant will depend on the cost to the Plant of reducing emissions below the proposed emission standard and at that cost whether the new plant would justify the investment. At this time, there is too much uncertainty in the cost of such incremental reductions to predict whether this type of transaction would be economical.

If there is no demand for mercury credits within the state and no sales of allowances are allowed outside of the state, then there will be no economic incentive for the Centralia Plant to either repower to a cleaner technology or to retire and sell the allowances. Also, one of the benefits of participation in the EPA trading program is to reduce the state's resources necessary to implement this rule.

TransAlta's specific rule language is attached. This draft rule follows the concepts and format of Department of Ecology's draft mercury emission rule dated March 2007 to the extent consistent with the proposed changes.

The following summarizes the significant, proposed changes to Ecology's March 2007 draft. Several editorial revisions are also proposed in the text.

- a. 173-406-050 Definitions: Definitions related to in-state trading program are removed because trading would be performed through the EPA trading market.
- b. 173-406-060 Mercury Allowance Allocations for Calendar Years 2011 and 2012:

The primary changes are: (a) Phase 1 (statewide trading budget of 396 lbs.) is expanded to include the years 2011 to 2017, (b) for 2011 and 2012 the Centralia Plant's allocation would be 376.2 pounds rather than 277 pounds, (c) for 2013 through 2017 the Centralia Plant's allocation would be 338.4 pounds plus up to 37.8 pounds of allowances if new sources are not constructed, (d) allocation to the Centralia Plant of allowances unused by new plants, (e) a requirement for the Centralia Plant to sell 19.8 lbs. of allowances from the new plant account and to pay the proceeds into an Emissions Reduction Technology Fund for Ecology's use to fund emission projects throughout the state, and (f) a requirement to use all other proceeds from the sale of allowances for air pollution controls.

- c. 173-406-090 Washington Mercury Allowance Allocations for Calendar Year 2013 and Beyond:

The primary changes are: (i) Phase 2 (reducing the statewide allocation to 156 lbs.) would commence in 2018, (ii) units may participate in the

EPA trading program, and (iii) a public health set aside of 249.6 oz. (16 lbs) would be established.

d. 173-406-110 Distributing Mercury Allowances for Calendar Year 2013 and Beyond

Subsection (2): Provides that allowances remaining after allocation to new sources would be distributed to the Centralia Plant. The Centralia Plant would be required to sell 19.8 lbs. of allowances from the new plant account and to pay the proceeds into an Emissions Reduction Technology Fund for Ecology's use to fund emission projects throughout the state. Any additional funds from sale of allowances would be devoted to air pollution controls [see proposed rule 173-406-150(1)(b)].

Subsection (4): Adds a procedure for Ecology to develop "provisional" allowance allocations at the beginning of each control period year. This allows units to project their need for allowances for the coming year and take steps to ensure that their compliance accounts will have sufficient allowances.

Subsection (6): Under the assumption that units would participate in EPA's trading program, EPA's penalty provision deducting three times the number of excess allowances from a compliance account would apply. Ecology's proposed penalty of deducting two times the excess emissions would be unnecessary and is deleted. Deducting allowances without allowing the option of replacing them by purchases on the EPA market could result in significantly reduced generation of electricity by the Centralia Plant. The risk of civil penalties for violations will be sufficient to deter excess emissions. Ecology's proposal is an unnecessary, and unusually harsh, incentive for the Plant to maintain compliance.

e. 173-406-120 Emission Standards for a Mercury Budget Unit

Proposes an emission standard of 0.0087 lbs/GWh for pulverized coal power plants based on the standard adopted by the Arizona Department of Environmental Quality.

f. 173-406-130 Temporary Alternate Standard for Calendar Year 2016 and 2017

Based on a compliance date of 2016, the temporary alternate standard would be available in 2016 and 2017.

g. 173-406-140 Compliance with Washington State Mercury Emission Budget Beginning January 1, 2016

This section is proposed to be deleted. As noted above, EPA's penalty under the national trading program deducts allowances equal to three times the excess emissions is more than enough incentive to ensure compliance.

Individual unit exceedances of permit limits should be handled through enforcement discretion. Curtailing production to achieve compliance should not be mandatory but would remain an enforcement option in egregious cases.

h. 173-406-150 Trading of Mercury Emissions

- (i) Allows mercury budget sources to participate in the national mercury emissions market operated by EPA.
- (ii) Clarifies that mercury budget units that reduce their emissions below the emissions standards in WAC 173-406-120 may apply for a lower enforceable permit limit and sell or transfer allowances equivalent to the difference between the old and new permit limits. Mercury budget units that retire may sell or transfer allowances to which they would otherwise be entitled under WAC 173-406-060 or 173-406-110.

Please contact me if you have any questions.

Sincerely,



Richard L. Griffith

cc: Washington Stakeholders
Doug Jackson, TransAlta
Richard DeBolt, TransAlta