

NEW YORK STATE BOARD ON ELECTRIC
GENERATION SITING AND THE ENVIRONMENT

CASE 00-F-2057 - Application by Besicorp-Empire Development Company, LLC for a Certificate of Environmental Compatibility and Public Need to Construct and Operate a 505 Megawatt, Combined Cycle Cogeneration Plant in the City of Rensselaer, Rensselaer County

AND

CASE No. 4-3814-00052/00001 – 00006

In the Matter of the Application of Besicorp-Empire Development Company, LLC for a Part 201 Air State Facility Permit; a State Pollutant Discharge Elimination System (SPDES) Permit; a Title IV Acid Rain Permit; a Water Quality Certification; a Construction Stormwater SPDES Permit; and, an Excavation and Fill in Navigable Waters Permit

Joint Settlement Agreement

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JS-A	Best Management Practices for Control of Odors
JS-B	Gray Water Operation and Maintenance Best Management Practices manual outline
JS-C	Draft Post Remediation Construction Plan
JS-D	Waste Handling Plan Objectives and Criteria
JS-E	Health and Safety Plan Objectives and Criteria
JS-F	Noise Plan
JS-G	Best Management Practices for On-Site Rail Operations Objectives and Criteria
JS-H	Additional Lighting Design Criteria
JS-I	Recommended Certificate Conditions

- JS-J Recommended Findings of the Siting Board and of NYSDEC as Lead Agency
- JS-K List of Exhibits

RECITALS

Besicorp-Empire Development Company, LLC (“BEDCO” or the “Applicant”), as the Applicant for a Certificate of Environmental Compatibility and Public Need (“Certificate”) and air and water permits from the New York State Department of Environmental Conservation (“NYSDEC”) in connection with the proposed Cogeneration Plant and the proposed Recycled Newsprint Manufacturing Plant, the staffs of the New York State Department of Public Service (“NYSDPS”), NYSDEC, and New York State Department of Health (“NYSDOH”), and other signatories hereto agree to this Joint Settlement and submit it to the Presiding and Associate Examiners for their review and consideration.

WHEREAS, on December 20, 2001, BEDCO submitted an Application and Draft Environmental Impact Statement (“Application”) pursuant to Article X of the Public Service Law (“PSL”) and the State Environmental Quality Review Act (“SEQRA”) to the New York State Board on Electric Generation Siting and the Environment (“Siting Board”) and the NYSDEC. *See Exhibit 001*

WHEREAS, on May 8, 2002, BEDCO submitted a Supplement to its Application (“Supplement”) in response to certain questions posed by NYSDPS Staff, NYSDEC Staff, and NYSDOH Staff. *See Exhibit 002*

WHEREAS, on May 28, 2002, the Chairman of the Siting Board issued a determination that BEDCO’s Application complied with the requirements set forth under PSL Section 164. At the same time, NYSDEC issued draft air and water permits for the proposed Projects.

WHEREAS, on May 29, 2002, the NYSDEC and NYSDPS issued Notices of Hearing pursuant to NYSDEC and Article X regulations.

WHEREAS, the Applicant published the NYSDEC Notices (Announcement of Public Comment Period, Combined Notice of Complete Application, Public Hearing and Issues Conference and Notice of Acceptance of Draft Environmental Impact Statement; and, Notice of Determination to Issue Prevention of Significant Deterioration (“PSD”) Permit) on May 31, 2002 in the Troy Record and on June 4, 2002 in the Albany Times Union.

WHEREAS, regarding the notices required by NYSDPS regulations (“NYSDPS Notices”), the Applicant published notices of the July 9 Public Statement Hearing on June 10, 2002 in the Albany Times Union, and on June 13, 2002 in the Troy Record.

WHEREAS, as provided in NYSDPS and NYSDEC Notices, joint legislative/public statement hearings were convened at 2:00 p.m. and 7:00 p.m. on July 9, 2002 at the Rensselaer High School, 555 Broadway, Rensselaer, New York. In the afternoon, approximately 35 persons attended, six of whom made oral statements for the Record. In the evening, approximately 55 persons attended, 15 of whom made oral statements for

