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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

DATE: November 26, 1980

SUBJECT: Request for Extension on PSD Permit for
Indianapolis Power and Light Company

FROM: Walter C. Barber, Director
Office of Air Quality Planning and
Standards

TO: Sandra S. Gardebring, Director
Enforcement Division, Region V

This is in response to your August 6, 1980 memorandum to Ed Reich concerning the request by the Indianapolis Power and Light (IPL) Company for a two year extension on the commencement date for the construction of Unit 1 of IPL's Patriot Generating Station. IPL was granted a PSD permit for three units on December 14, 1979, and under our current regulations the company has until June 1981 to commence construction on the first unit. According to your memo, the scheduled dates for commencing construction on Units 2 and 3 are April 1983 and April 1985, respectively. The company bases its request on their evaluation of reduced consumer demand for electricity in the generating area, which leads to the issue involved in this case -- Is decreased consumer demand for a company's output justifiable cause for extending commencement dates in a PSD permit?

This is a sensitive issue, especially since the existing regulatory language does not provide explicit guidance regarding how such requests would be treated, or what constitutes sufficient justification for an extension. Since receiving your memo, discussions on this subject have been held involving my staff, the Office of General Counsel, the Division of Stationary Source Enforcement, and Louise Gross of your staff. During this time, similar cases have been brought to light in other Regions, especially one in Region VI wherein a fiber glass manufacturing plant has made a similar request for a similar reason.

We are continuing to evaluate the broader implications of this issue, and the most appropriate approach for long-term resolution. However, although definitive Agency policy is still under development, I recommend that we propose to approve the pending requests. I also recommend that the following specific steps be taken in proposing to approve the IPL request.

First, your staff should assure that the company's projections of reduced consumer demand are free of obvious errors and that other independent data (if available) confirm the company's projections as accurate or reasonable. Also, the company must fully intend to proceed with the complete project on the extended schedule. In this regard, note that there are no provisions for granting extensions on the commencement dates for Units 2 and 3 beyond the built-in cushion of 18 months that is available under the current regulations.

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Second, I strongly urge you to coordinate with the State of Indiana on this issue and get their concurrence to grant an extension to Indianapolis Power and Light; I do not recommend that you propose approval if the State objects.

Third, a Federal Register notice should be prepared proposing to grant the company's request and soliciting comments from the public (State of Indiana also), including public hearings if requested. This will put the State's position on the public record.

Fourth, the Federal Register notice should note that currently there are no provisions for extending the dates on Units 2 and 3.

We are continuing to assess the broader question of the criteria for approving requests for extension of PSD construction schedules. It is likely that we will be receiving many of these requests in the future, and therefore, an Agency policy in this regard appears necessary. I anticipate that we will be able to publish (or at least propose) a general policy in the Federal Register before you take final action the IPL extension request.

cc: Dick Wilson
Dave Hawkins
Mike James
Director, Air & Hazardous Materials Division, Regions I-X
Director, Enforcement Division, Regions I-IV, VI-X