

May 22, 2007

Richard H. Marsh
Senior Vice President and Chief Financial Officer
FirstEnergy Corp.
76 South Main Street
Akron, OH 44308
(Certified Mail No. 7004 0750 0002 8074 5670)

Rick Sprecker, Environmental Manager
Bruce Mansfield Plant
First Energy Generation Corp.
P.O. Box 128
Shippingport, PA 15077-0128
(Certified Mail No. 7004 0750 0002 8074 5656)

Re: Notice of Intent to Sue under the Federal Clean Air Act and
Pennsylvania Air Pollution Control Act

Dear Mr. Marsh and Mr. Sprecker:

This letter provides notice that Citizens for Pennsylvania's Future (PennFuture), on behalf of itself and its members, intends to file a citizen suit against FirstEnergy Generation Corp. for violations of emission standards and limitations under the federal Clean Air Act (CAA) and the Pennsylvania Air Pollution Control Act (APCA). Specifically, emissions from First Energy Generation Corp.'s Bruce Mansfield power plant located in Shippingport Borough, Beaver County (the Plant) have violated and continue to violate limitations on opacity, air pollution, and unlawful conduct under federal and state law. This notice is provided pursuant to 42 U.S.C. § 7604(b) and 35 P.S. § 4013.6(d).

This notice is submitted on behalf of Citizens for Pennsylvania's Future (PennFuture), 610 North Third Street, Harrisburg, PA, 17101. PennFuture is a statewide public interest organization working to protect Pennsylvania's environment and economy with offices in Pittsburgh, Harrisburg, Philadelphia, and West Chester. Part of PennFuture's mission is the improvement of air quality in Pennsylvania by public education, advocacy, and litigation. We work with our membership and with other environmental organizations to achieve our clean air goals.

Opacity

Under the CAA and the APCA, the Plant is subject to limits on the opacity of its emissions. First, Pennsylvania law states that a person may not permit the emission of visible air contaminants with an opacity either: (1) equal to or greater than 20% for a period or periods aggregating more than 3 minutes in any 1 hour; or (2) equal to or

greater than 60% at any time. 25 Pa. Code § 123.41. These standards have been approved by the U.S. Environmental Protection Agency (EPA) and incorporated into the Pennsylvania state implementation plan (SIP). 40 C.F.R. § 52.2020(c)(1). As standards or limitations under this SIP, each of the opacity standards constitutes an "emission standard or limitation" under 42 U.S.C. § 7604(f)(4) that is subject to citizen suit under 42 U.S.C. § 7604(a). The APCA also provides for citizen enforcement of the opacity standards. 35 P.S. § 4013.6(c).

Second, the Plant is subject to a Title V operating permit under the CAA and the APCA, identified as No. 04-00235 (the Permit). The Permit, issued on November 22, 2002 and revised on September 19, 2005, limits the opacity of emissions in a manner identical to the terms of 25 Pa. Code § 123.41 (Permit, p. 17). Pennsylvania's Title V operating permit program has been approved by EPA and incorporated into the Pennsylvania SIP. 61 Fed.Reg. 39,597 (1996); 40 C.F.R. § 52.2020(c)(110); 40 C.F.R. Part 70, App. A ("Pennsylvania"). As standards or limitations established under a Title V permit which is in effect under the CAA or under the Pennsylvania SIP, each of the opacity limitations in the Permit is an "emission standard or limitation" under 42 U.S.C. § 7604(f)(4) that is subject to citizen suit under 42 U.S.C. § 7604(a). The APCA also provides for citizen enforcement of permits issued under the APCA. 35 P.S. § 4013.6(c).

Documents prepared by plant personnel and submitted to the Pennsylvania Department of Environmental Protection (DEP) show violations of opacity limits at the Plant since November 22, 2002 on the following days:

<u>Date</u>	<u>Unit</u>	<u>Standard</u>
11/22/02	1&2	60% and 20%
11/29/02	1&2	20%
12/10/02	3	60% and 20%
12/23/02	1&2	60% and 20%
01/09/03	1&2	60% and 20%
01/09/03	3	20%
03/04/03	1&2	60% and 20%
03/04/03	3	20%
03/11/03	1&2	20%
03/11/03	3	20%
03/12/03	1&2	60% and 20%
03/12/03	3	20%
03/17/03	1&2	60% and 20%
03/17/03	3	60% and 20%
03/24/03	1&2	20%
03/24/03	3	60% and 20%
03/26/03	3	20%
04/02/03	1&2	20%
04/02/03	3	60% and 20%
04/14/03	1&2	60% and 20%

04/14/03	3	60% and 20%
04/16/03	1&2	60% and 20%
04/23/03	1&2	60% and 20%
04/23/03	3	20%
04/24/03	1&2	60% and 20%
04/24/03	3	60% and 20%
04/28/03	1&2	60% and 20%
04/28/03	3	60% and 20%
04/29/03	1&2	60% and 20%
04/30/03	1&2	20%
04/30/03	3	60% and 20%
05/06/03	1&2	20%
05/06/03	3	60% and 20%
05/14/03	3	60% and 20%
05/19/03	1&2	20%
05/19/03	3	60% and 20%
05/27/03	1&2	20%
06/02/03	1&2	20%
06/02/03	3	60% and 20%
06/06/03	1&2	20%
06/06/03	3	60% and 20%
06/09/03	3	60% and 20%
06/13/03	3	See Note
06/23/03	1&2	20%
06/23/03	3	60% and 20%
06/25/03	1&2	20%
06/25/03	3	See Note
07/01/03	1&2	20%
07/07/03	1&2	20%
07/14/03	1&2	20%
07/16/03	1&2	20%
07/25/03	1&2	20%
07/29/03	1&2	60% and 20%
07/30/03	1&2	20%
08/18/03	1&2	20%
08/19/03	1&2	20%
08/21/03	1&2	20%
08/25/03	1&2	20%
08/28/03	1&2	60% and 20%
08/28/03	3	60% and 20%
09/08/03	3	60% and 20%
09/10/03	1&2	20%
09/10/03	3	60% and 20%
09/16/03	1&2	20%
09/16/03	3	60% and 20%
09/17/03	1&2	20%

09/17/03	3	60% and 20%
09/23/03	1&2	20%
10/06/03	1&2	20%
10/07/03	1&2	20%
10/08/03	1&2	60% and 20%
10/09/03	1&2	20%
10/10/03	1&2	20%
10/13/03	1&2	20%
10/20/03	1&2	60% and 20%
10/30/03	1&2	20%
11/03/03	1&2	20%
11/10/03	1&2	60% and 20%
11/20/03	1&2	60% and 20%
11/21/03	1&2	60% and 20%
12/29/03	3	60% and 20%
12/31/03	1&2	20%
12/31/03	3	20%
01/01/04	1&2	20%
02/16/04	1&2	20%
02/16/04	3	60% and 20%
02/20/04	1&2	20%
02/20/04	3	20%
02/25/04	1&2	20%
02/27/04	1&2	20%
03/02/04	1&2	20%
03/09/04	1&2	20%
03/15/04	3	20%
03/23/04	1&2	20%
04/05/04	1&2	20%
04/06/04	1&2	20%
04/07/04	1&2	20%
04/15/04	1&2	20%
04/15/04	3	20%
04/16/04	1&2	20%
04/16/04	3	20%
04/28/04	1&2	20%
04/28/04	3	20%
04/29/04	1&2	20%
05/04/04	1&2	20%
05/06/04	1&2	20%
05/11/04	1&2	20%
05/17/04	1&2	20%
05/24/04	1&2	20%
06/01/04	1&2	20%
06/03/04	1&2	20%
06/07/04	1&2	20%

06/09/04	1&2	20%
06/14/04	1&2	20%
06/21/04	1&2	20%
06/23/04	1&2	20%
06/23/04	3	20%
06/29/04	1&2	20%
06/30/04	1&2	20%
07/09/04	1&2	20%
07/13/04	3	20%
07/16/04	1&2	20%
07/20/04	1&2	20%
07/21/04	1&2	20%
07/29/04	1&2	20%
08/02/04	1&2	60% and 20%
08/02/04	3	20%
08/05/04	1&2	20%
08/09/04	1&2	20%
08/16/04	1&2	20%
08/18/04	1&2	60% and 20%
08/23/04	1&2	20%
08/25/04	1&2	20%
09/01/04	1&2	20%
09/02/04	1&2	60% and 20%
09/02/04	3	20%
09/10/04	1&2	20%
09/13/04	1&2	20%
09/13/04	3	20%
09/15/04	1&2	20%
09/20/04	1&2	20%
09/22/04	1&2	60% and 20%
09/30/04	1&2	20%
10/01/04	1&2	20%
10/06/04	1&2	20%
10/11/04	1&2	20%
10/27/04	1&2	20%
11/05/04	1&2	20%
12/01/04	3	20%
12/02/04	1&2	20%
03/14/05	1&2	20%
03/18/05	3	60% and 20%
03/29/05	1&2	20%
03/29/05	3	20%
04/04/05	1&2	See Note
04/11/05	1&2	See Note
05/09/05	1&2	See Note
05/09/05	3	See Note

05/17/05	1&2	See Note
05/26/05	1&2	See Note
06/06/05	3	See Note
06/07/05	1&2	See Note
07/11/05	1&2	See Note
07/19/05	1&2	See Note
07/19/05	3	See Note
07/26/05	1&2	See Note
08/01/05	1&2	See Note
08/17/05	1&2	See Note
08/24/05	1&2	See Note
09/01/05	1&2	See Note
09/12/05	1&2	See Note
09/21/05	1&2	See Note
09/27/05	1&2	See Note
09/27/05	3	See Note
10/04/05	1&2	20%
10/17/05	1&2	20%
10/31/05	1&2	20%
11/07/05	1&2	20%
11/07/05	3	60% and 20%
11/14/05	3	60% and 20%
03/27/06	1&2	20%
04/10/06	1&2	60% and 20%
04/17/06	1&2	60% and 20%
04/27/06	3	20%
05/29/06	1&2	20%
06/05/06	1&2	20%
06/30/06	1&2	20%
07/24/06	1&2	20%
08/02/06	1&2	20%
08/08/06	1&2	20%
08/15/06	1&2	20%
09/08/06	1&2	20%
09/18/06	1&2	20%
09/26/06	1&2	20%
09/26/06	3	See Note
10/09/06	1&2	20%
10/30/06	1&2	20%
11/09/06	1&2	20%
11/22/06	1&2	20%
12/11/06	1&2	20%
03/09/07	3	20%
03/13/07	1&2	60% and 20%
03/20/07	1&2	20%
03/29/07	1&2	60% and 20%

03/29/07

3

20%

Note: violations listed with "See Note" in the "Standard" column are documented in company reports that do not indicate which opacity standard was violated on the indicated day.

These violations are documented in annual compliance certifications for the Plant's Title V permit and in semiannual reports of required monitoring, among other things. Additionally, we believe that these violations continued during days for which the Plant did not monitor the opacity of emissions. These violations of opacity standards contained in Pennsylvania regulations and the Permit constitute violations of the APCA, the Pennsylvania SIP, and the CAA as detailed above.

Air Pollution and Unlawful Conduct

Under the CAA and the APCA, the Plant is subject to a prohibition on "air pollution." Under Pennsylvania law, no person may permit air pollution as that term is defined in the APCA. 25 Pa. Code § 121.7. The APCA defines "air pollution" as follows:

The presence in the outdoor atmosphere of any form of contaminant, including, but not limited to, the discharging from stacks, chimneys, openings, buildings, structures, open fires, vehicles, processes or any other source of any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic, hazardous or radioactive substances, waste or any other matter in such place, manner or concentration inimical or which may be inimical to the public health, safety or welfare or which is or may be injurious to human, plant or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life or property.

35 P.S. § 4003. The prohibition against air pollution of 25 Pa. Code § 121.7 has been approved by EPA and incorporated into the Pennsylvania SIP. 40 C.F.R. § 52.2020(c)(1). As a standard or limitation under this SIP, the prohibition against air pollution constitutes an "emission standard or limitation" under 42 U.S.C. § 7604(f)(4) that is subject to citizen suit under 42 U.S.C. § 7604(a). The APCA also provides for citizen enforcement of the prohibition against air pollution. 35 P.S. § 4013.6(c).

The opacity violations described above constitute violations of the prohibition on air pollution as inimical to the public health, safety or welfare; injurious to human, plant or animal life or to property; and/or unreasonably interfering with the comfortable enjoyment of life or property. These violations of the prohibition on air pollution contained in Pennsylvania regulations constitute violations of the APCA, the Pennsylvania SIP, and the CAA.

Further, the Air Pollution Control Act prohibits unlawful conduct, as follows:

It shall be unlawful to fail to comply with or to cause or assist in the violation of any of the provisions of this act or the rules and regulations adopted under this act or to fail to comply with any order, plan approval, permit or other requirement of the department; or to cause a public nuisance; or to cause air pollution, soil or water pollution resulting from an air pollution incident....

35 P.S. § 4008. The APCA provides for citizen enforcement of this provision. 35 P.S. § 4013.6(c).

On July 22, 2006, the Plant emitted a blackish material from the Unit 1/Unit 2 stack that deposited on homes, cars, outdoor furniture, gardens, lawns, swimming pools, and fields in Shippingport Borough and Raccoon Township. According to a fact sheet prepared by First Energy, analytical tests indicated that this material consisted of 10% fly ash, 30% carbon soot, and 60% calcium sulfate/sulfite. According to sampling results, the material also contained hazardous substances such as arsenic and mercury. The emission of this material constituted "air pollution" prohibited under the APCA, its implementing regulations, the Pennsylvania SIP, and the CAA. This emission also constituted unlawful conduct under the APCA.

Conclusion

The violations described in this letter are based on the most recent information available to PennFuture and are continuing. In response to these violations, PennFuture intends to file a citizen suit under the CAA, 42 U.S.C. § 7604, and the APCA, 35 P.S. § 4013.6(c). This suit will seek to enjoin violations, ensure future compliance, impose penalties for violations, recover attorney fees and costs of litigation, and obtain other appropriate relief. The maximum penalty for violations of the Clean Air Act is \$27,500 per day for each violation occurring between January 30, 1997 and March 15, 2004, and \$32,500 per day for each violation occurring thereafter. 42 U.S.C. §§ 7413(b), 7604(a); 40 C.F.R. § 19.4. See also 35 P.S. § 4013.6(c).

Please direct all communications regarding this matter to me at our Philadelphia office (address below). If you would like to discuss the matters identified in this letter or offer a proposal for resolving these issues, please call me at (215) 545-9693.

Sincerely,

Charles McPhedran, Senior Attorney
PennFuture
1518 Walnut Street, Suite 1100
Philadelphia, PA 19102
mcphe dran@pennfuture.org

cc: Stephen Johnson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(Certified Mail No. 7004 0750 0002 8074 5687)

Donald S. Welsh, Regional Administrator
United States Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029
(Certified Mail No. 7004 0750 0002 8074 5694)

Hon. Edward G. Rendell, Governor of Pennsylvania
225 Main Capitol
Harrisburg, PA 17120
(Certified Mail No. 7004 0750 0002 8074 5700)

Kathleen A. McGinty, Secretary
Pennsylvania Department of Environmental Protection
Rachel Carson Office Building, 16th Floor
P.O. Box 2063
Harrisburg, PA 17105-2063
(Certified Mail No. 7004 0750 0002 8074 5717)

CT Corporation System
1515 Market Street, Suite 1210
Philadelphia, PA 19102
(Certified Mail No. 7004 0750 0002 8074 5724)

Stephanie Kodish, Counsel
Environmental Integrity Project
919 18th Street, NW, Suite 650
Washington, DC 20006
(By First Class Mail)