



MEMORANDUM

DATE: March 7, 2016

TO: Missouri Air Conservation Commission

FROM: Kyra L. Moore, Director *Initials on File*
Air Pollution Control Program

SUBJECT: Variance Extension Request – Empire District Electric Company

On March 27, 2014, the Missouri Air Conservation Commission (MACC) granted Empire District Electric Company’s Asbury Power Plant a two year variance from the continuous opacity monitoring system requirements as found in 10 CSR 10-6.220 “*Restriction of Emission of Visible Air Contaminants.*” Since the modification of this rule will not be in effect prior to the expiration of the current variance, Empire is requesting an extension to the current variance. The Department supports Empires request to extend the variance until the modification to 10 CSR 10-6.220 is final.

Empire District Electric Company is an investor owned, regulated utility providing electric, natural gas (through its wholly owned subsidiary The Empire District Gas Company), and water service, with approximately 216,000 customers in Missouri, Kansas, Oklahoma and Arkansas. A subsidiary of the company provides fiber optic services.

Empire District Electric Company’s Asbury Power Plant obtained a de minimis construction permit on February 21, 2012, to construct a flue gas system, powered activation carbon system, and bag house in preparation for compliance under the federal and state Mercury and Air Toxics Standards (the MATS rule). The MATS rule is found in 10 CSR 10-6.075, “*Maximum Achievable Control Technology Regulations,*” which adopts by reference 40 CFR Part 63, Subpart UUUUU “*National Emission Standards for Hazardous Air Pollutants from Coal and Oil-Fired Electric Utility Steam Generating Units.*” The newly constructed flue gas system is routed to exhaust flue gases through a new stack. In order to comply with the MATS rule, Asbury Power Plant installed a particulate matter continuous emissions monitoring system (PM CEMS) on the new stack. Compliance with the MATS rule was required by April 16, 2015. Construction of the new Asbury pollution control system was completed and became commercially available early 2015.

10 CSR 10-6.220 “*Restriction of Emission of Visible Air Contaminants*,” frequently referred to as the opacity rule, currently requires sources such as the Asbury Power Plant to use a continuous opacity monitoring system (COMS) to demonstrate compliance. The Department has drafted changes to this rule and worked closely with the Environmental Protection Agency (EPA) in drafting an exemption from the opacity rule to exempt those sources that use PM CEMS in compliance with the MATS Rule. In the MATS Rule, EPA has acknowledged that a source that employs the PM CEMS option in order to comply may discontinue the use of the COMS.

Other changes to the opacity rule are needed for other federal actions and it is the Department’s intention to finalize this rule with the changes described above no later than November 2016. However, as we cannot guarantee the rulemaking schedule, which includes a public comment period and public hearing in front of the commission, the Department recommends extending the variance until the rule modification is final.

KLM:ewd