

1 BEFORE THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

2 IN THE MATTER OF: PROPOSED)
3 ISSUANCE OF A PSD PERMIT)
4 FOR KENDALL NEW CENTURY)
5 DEVELOPMENT, LLC, NEAR YORKVILLE)

6 REPORT OF PROCEEDINGS taken at the
7 hearing of the above-entitled matter, held at
8 908 Game Farm Road, Yorkville, Illinois, before
9 Hearing Officer William Seltzer, reported by
10 Janice H. Heinemann, CSR, RDR, CRR, a notary public
11 within and for the County of Du Page and State of
12 Illinois, on the 12th day of June, 2002, commencing
13 at the hour of 7:00 p.m.

14 APPEARANCES:

15 MR. WILLIAM SELTZER, IEPA Hearing Officer;
16 MR. CHRISTOPHER ROMAINE, BOA, Manager, Utility
17 Unit;
18 MR. MANISH PATEL, BOA, Permit Engineer;
19 MR. BRAD FROST, Community Relations.

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1 HEARING OFFICER SELTZER: This hearing is
2 In Re: The Matter of the Proposed Issuance of a
3 Significant Deterioration Permit for Kendall New
4 Century Development, L.L.C., Yorkville, Illinois.

5 My name is Bill Seltzer. I'm an
6 attorney with the Agency, and I have been asked to
7 be the hearing officer for this evening's hearing.
8 The way we will proceed tonight is I will first
9 have everybody that's present from the IEPA
10 introduce themselves and indicate what they do for
11 the Agency, and I will then ask if there is anybody
12 present from the applicant. If so, I would like
13 them to introduce themselves, that is everybody
14 that is here associated with the applicant. At
15 that time I will ask them if the applicant wishes
16 to make a presentation. After that, the EPA will
17 make a short presentation. Then if the applicant
18 had indicated they wish to make a presentation,
19 they will make their presentation.

20 And then after that, we will go to the
21 cards which you were asked to sign when you first
22 came in, the registration cards. And I will call
23 on people from the general public that indicated
24 they wish to offer some comments or ask questions.

1 The record in this matter will stay
2 open through July 12 of this year. So any written
3 comments, which of course will become part of the
4 record, must be postmarked by midnight July 12 and
5 they will, of course, then become part of the
6 record. So you may if you wish make both an oral
7 and a written comment.

8 Before we proceed to having the people
9 from the IEPA introduce themselves, I will ask if
10 there are any questions as to how we will proceed
11 tonight.

12 There being no questions, I will ask
13 Mr. Romaine to start off.

14 MR. ROMAINE: Good evening. My name is
15 Chris Romaine. I am manager of the utility unit in
16 the air permit section.

17 HEARING OFFICER SELTZER: Thank you.

18 MR. PATEL: Hello. My name is Manish
19 Patel. I am a permit engineer in the utility unit,
20 Bureau of Air.

21 MR. FROST: My name is Brad Frost. I'm in
22 the office of community relations.

23 HEARING OFFICER SELTZER: Okay. Thank you.

24 Is there anybody present this evening

1 representing, employed by, or associated with the
2 applicant?

3 Would you, gentlemen, please rise and
4 introduce yourselves and please spell your last
5 name for the record.

6 MR. MITRO: My name is Fred Mitro,
7 M-i-t-r-o. I'm here this evening representing
8 Kendall New Century Development, the company
9 responsible for developing -- proposing and
10 developing this project.

11 HEARING OFFICER SELTZER: Thank you.

12 MR. CHURBOCK: My name is Scott Churbock,
13 C-h-u-r-b-o-c-k. I'm also with Kendall New Century
14 Development.

15 HEARING OFFICER SELTZER: Thank you.

16 MR. DYPIANGCO: My name is Mark Dypiangco.
17 My last name is D-y-p-i-a-n-g-c-o, and I'm here
18 with Kendall New Century Development.

19 HEARING OFFICER SELTZER: Thank you.

20 At this point then I will ask
21 Mr. Patel, I assume Mr. Patel is going to make the
22 presentation this evening, or is that Mr. Romaine?

23 MR. ROMAINE: Yes.

24 HEARING OFFICER SELTZER: Okay. Mr. Patel.

1 MR. PATEL: Good evening, everybody. My
2 name is Manish Patel. I am a permit engineer in
3 the Bureau of Air. I would like to give you a
4 brief description of the proposed project.

5 The Kendall New Century Development
6 has requested reissuance of construction permit for
7 an electric generation facility. The project site
8 is located about two miles northwest of Yorkville
9 and six miles east of Plano and is currently
10 undeveloped. A construction permit was previously
11 issued to Kendall New Century for the proposed
12 project in January 2000 but construction was not
13 commenced within the time allowed in that permit.

14 The proposed facility is designed to
15 function as a peaking power station. Peaker plants
16 generate electricity in peak demand periods and at
17 other times when other power plants are not
18 available due to scheduled or unexpected outages.
19 In Illinois, peak power demand currently occurs
20 during daylight hours on hot summer weekdays due to
21 the power demand for air conditioning.

22 The facility would use eight
23 combustion turbines each with the capacity to
24 generate up to 83 megawatts of electricity.

1 Electrical generators on the shaft of the turbines
2 would directly produce power. One of the
3 advantages of a turbine, unlike a steam power
4 plant, is that it can be quickly turned on or off
5 in response to changing demands for power.

6 The facility will only burn natural
7 gas, which is the cleanest commercially available
8 fuel. Natural gas does not contain significant
9 amounts of sulfur or ash as present in coal and
10 oil. The pollutant of greatest interest for
11 burning natural gas is nitrogen oxides or NOx. NOx
12 is formed when nitrogen and oxygen in the
13 atmosphere combine during the high temperature of
14 combustion. Carbon monoxide or CO can also be
15 found in significant amounts in the exhaust from a
16 turbine due to incomplete combustion. The NOx
17 emissions from the turbines would be effectively
18 controlled by low-NOx burners. The maximum NOx
19 emissions of the turbines are limited to no more
20 than 9 parts per million. CO emissions would be
21 controlled by good combustion practice to no more
22 than 25 parts per million.

23 The proposed facility has potential
24 emissions greater than 250 tons per year for NOx

1 and CO and so is considered a major source subject
2 to Prevention of Significant Deterioration
3 regulations. Illinois EPA's review determined that
4 the proposed NOx and CO limits represent best
5 available control technology as required under PSD.

6 An air quality study was also required
7 by the PSD rules. This study was conducted by
8 ENSR, the consultant of Kendall New Century to
9 determine the air quality impacts from the project
10 for pollutants other than ozone which included
11 nearby permitted and proposed electric generating
12 facilities to address cumulative impact. The study
13 indicates that air quality would comply with
14 ambient standards.

15 In summary, the Illinois EPA has
16 reviewed the materials submitted by the Kendall New
17 Century and has determined that the application for
18 the project shows it will comply with applicable
19 state and federal standards. We have prepared a
20 draft of the construction permit that sets out the
21 conditions that we propose to place on the facility
22 to assure continuing compliance.

23 In closing we welcome any comments or
24 questions on our proposed action. Thank you.

1 HEARING OFFICER SELTZER: Thank you,
2 Mr. Patel.

3 Now, let me ask now if there is
4 anybody from the applicant who wishes to make any
5 comments or make a presentation.

6 MR. MITRO: We do not have a formal
7 presentation to make at this time. We simply are
8 willing to remain available after the hearing
9 closes to answer any general questions that the
10 audience may have.

11 HEARING OFFICER SELTZER: Thank you much.

12 At this time then we will go to the
13 registration cards, and the first one is Ms. Verena
14 Owen.

15 MS. OWEN: I would defer to any local
16 people who wish to speak first.

17 HEARING OFFICER SELTZER: That's the only
18 card I have.

19 MS. OWEN: In that case, I would really
20 encourage the public that is here to take advantage
21 of this opportunity to talk. It looks a little
22 intimidating, a lot of men with suits and sitting
23 at a table with microphones. But if you have a
24 chance to be heard, then please take advantage of

1 it.

2 My name is Verena Owen. I'm with the
3 Lake County Conservation Alliance and with Illinois
4 Citizen Action.

5 HEARING OFFICER SELTZER: Thank you.

6 (Discussion outside the record.)

7 MS. OWEN: Maybe I should start over with
8 introductions again. My name is Verena Owen. I'm
9 with the Lake County Conservation Alliance and
10 Illinois Citizen Action.

11 Before I start, I would like to ask
12 one of you gentlemen, maybe Mr. Seltzer, could we
13 have some assurances that IEPA will follow
14 established procedures with this permit? Meaning,
15 obviously, we have public notification; we have a
16 hearing; that the transcripts will be posted on the
17 web site in a timely manner, I know Jan is very
18 good in getting them out early; that there will be
19 a Responsiveness Summary; and that the people will
20 be notified when the permit is issued.

21 HEARING OFFICER SELTZER: I will do my
22 best. I will say for the record that that is the
23 way we should proceed, and I will do my best. I
24 will ask if you will keep me informed if there is

1 any deviations from that, and I will do my best to
2 make sure we don't deviate.

3 MS. OWEN: You know I do. And I'm glad
4 that you will do your best and have a personal
5 interest in this. That was preliminary.

6 Now, this proposal is not a peaker;
7 and this permit is absolutely absurd. Even if you
8 paint a cow yellow and you call it a chicken, there
9 are still clues that this is a cow. And this one
10 is not a peaker.

11 Number one, it's only one of three PSD
12 permits for peaker power plants in Illinois out of
13 50, 60. Mr. Romaine has the exact number. It is
14 much bigger than the average turbine for peakers.
15 The average -- I took this from the IEPA
16 spreadsheet that was prepared for the IPCB
17 hearings. It's about 250 megawatts. This one is
18 considerably bigger.

19 It exceeds by far the average hours of
20 operation for a peaker. I think the combined hours
21 are 24,600 hours of operation. There was some
22 attempts made to get a different definition of a
23 peaker. For instance, the Department of Energy
24 certified peak load plants in the Power Plant and

1 Industrial Fuel Use Act as not to exceed 1500 hours
2 of operation, not 24,600.

3 HEARING OFFICER SELTZER: Did you say 1500?

4 MS. OWEN: Hours. 1500 hours.

5 There is a definition about a peaker
6 when it comes to installing NOx CEMs, continuous
7 emission monitors, that it should not exceed
8 10 percent of capacity or 20 percent on a three
9 year old average.

10 IEPA has defined peakers in the
11 Responsiveness Summary as, and I quote, Typically
12 in daylight that they operate -- Quote, Typically
13 in daylight hours on hot summer days when there is
14 not sufficient capacity.

15 In the application, Kendall requested
16 or said that they would run 23 hours a day. This
17 is certainly inconsistent with daylight hours.
18 There is 8,400 something or other hours in a year.
19 This certainly is not only going to be running on
20 hot days.

21 And there is evidence that has been
22 recently in the paper that there is sufficient
23 capacity not only in Illinois but also in the
24 entire main region.

1 Patrizio Silva testified at the
2 Pollution Control Board hearings on peaker power
3 plants that there are load-following power plants
4 that use simple-cycle turbines.

5 And since this is not a peaker, any
6 kind of BACT discussion in the permit are
7 absolutely invalid. This is a base -- a load-
8 following plant that should be a combined-cycle
9 plant.

10 A combined-cycle plant is able to
11 achieve NOx emissions of between 2 to 5 parts per
12 million. The applicant says 15. And CO emissions
13 are about 6 parts per million, not 25. So what
14 they tell you about BACT is certainly untrue. This
15 is not best available control technology for the
16 power plant they are proposing.

17 IEPA believes that combined-cycle
18 turbines -- Hang on. I was going to quote what
19 you believe and I can't find it. Hang on a second.
20 I will get back to that because I can't find.

21 IEPA believes that combined-cycle
22 turbine installations are more expensive because
23 they require waste heat boilers, steam turbine
24 generators, a large cooling water system, and

1 obviously they require add-on technology.

2 Therefore, we can see that Kendall
3 County, or Kendall whatever they are, is trying to
4 save money by running a simple-cycle turbine as a
5 load-following, and it should be combined-cycle.

6 Question to the IEPA: In this
7 application Enron requests an extension of the
8 permit. In the permit standard conditions, it says
9 that permits may be extended by IEPA upon
10 satisfactory showing that an extension is
11 justified. I would like to know what you think the
12 justification for this extension is. You must have
13 thought about it because here we are having a
14 hearing about a draft permit.

15 MR. ROMAINE: In this particular
16 circumstance, the determination was made that to
17 justify an extension of the permit there would have
18 to be a revisiting of the determination of the best
19 available control technology as well as a new air
20 quality impact analysis. So the application was
21 essentially taken back through the major elements
22 of the PSD review process.

23 MS. OWEN: I don't consider that
24 justification. Justification means that there was

1 a reason given why they request an extension. And
2 the only reason that is given is in a letter dated
3 June 28th of 2001, and it says, for several
4 reasons. Very unspecific. What are those reasons?

5 MR. ROMAINÉ: Given the level of review
6 that was taken, this is essentially reissuing the
7 permit anew. It is in some respects an extension
8 of the existing permit, but for all practical
9 purposes it is also a new PSD permit.

10 MS. OWEN: And the reason that this is a
11 new PSD permit is nothing but timing I assume. Had
12 the 18-months not been up and they would have
13 requested an extension, we would be talking
14 extension. Because somebody took some time to
15 review this, the permit was actually invalid and a
16 new one was issued, so now we are looking at a new
17 permit.

18 MR. ROMAINÉ: That's not correct.

19 MS. OWEN: Okay. What's correct then?

20 MR. ROMAINÉ: The elements that were
21 required of this review to extend, reissue the
22 permit could also have been required if the request
23 was made 12 months after the original permit was
24 issued.

1 MS. OWEN: I don't think you understood my
2 initial question. I asked you if this was just a
3 matter of timing that you issued the new permit
4 instead of extended the old permit.

5 MR. ROMAINE: And I answered that they
6 didn't start, commence construction within 18
7 months. Clearly it's an issue of timing. But when
8 we reviewed the application, we treat it as both an
9 extension and as reissuance of a new permit. This
10 distinction between extension and issue of a new
11 permit is not particularly relevant for the process
12 that we followed here.

13 MS. OWEN: I'm afraid there are like
14 several things in standard conditions IEPA does not
15 consider relevant, and I will not get into this
16 because this is a hearing on Kendall County. I
17 will have to say that the representation --
18 expectations are unreasonable and very
19 fundamentally flawed.

20 And since I mentioned standard
21 conditions, the permit says the standard conditions
22 attached hereto. Attached hereto what? To the
23 permit, there were none.

24 MR. ROMAINE: We apologize. We can

1 certainly make those available.

2 MS. OWEN: I have some specific comments on
3 the permit, but it would -- Having been seen in
4 the light that I object to this permit, since I'm
5 here and you are here, just let's pretend that this
6 would be the permit that would be issued. And I
7 certainly hope that will not be the case.

8 On page 2, it talks about hazardous
9 air pollutants; and it gives the usual condition
10 that this permit -- this project has annual
11 emissions of less than 10 tons and hazardous
12 pollutant at less than 25 tons in aggregate for any
13 combination. I was unable to find anything in this
14 application talking about HAPs. How did you arrive
15 at this?

16 MR. ROMAINE: Well, the most obvious thing
17 is that the volatile organic material emissions of
18 this facility are limited to 29.3 tons per year.
19 The volatile organic material emissions are a much
20 larger category than HAP emissions. HAP emissions
21 are a fraction of that. By limiting the volatile
22 organic material emissions to 29.3, that assures
23 that the emissions of hazardous air pollutants are
24 well below the levels for a major source.

1 MS. OWEN: Talking specifically about
2 formaldehyde, what fraction of 29.3 tons would you
3 consider formaldehyde to be?

4 MR. ROMAINE: Off the top of my head,
5 25 percent.

6 MS. OWEN: No, that's low.

7 MR. ROMAINE: What number would you
8 recommend?

9 MS. OWEN: I will comment on this in
10 writing because I think this will be a little too
11 lengthy to discuss right now.

12 You no longer require them to come up
13 with calculations under AP42? You don't?

14 MR. ROMAINE: No.

15 MS. OWEN: Okay.

16 MR. ROMAINE: The preferred information is
17 information that is supplied by the manufacturer of
18 the turbine, in this case General Electric, as to
19 the performance of the turbine as verified in other
20 circumstances and as addressed by their guarantee.

21 MS. OWEN: I would prefer that, too.
22 Unfortunately, the application is very silent about
23 the guarantee by GE about hazardous air pollutants.
24 That was my question.

1 I will briefly comment on this, on
2 page 2. And this is mainly for the benefit of the
3 public. Be aware. It says, "Any departure from
4 the conditions of this approval or terms expressed
5 in the application would need to receive prior
6 written authorization by Illinois EPA."

7 Sounds good, but that is not what they
8 are doing. And I will not mention -- Well, I will
9 mention that's exactly what has happened at Zion
10 Energy. They parted from the permit conditions and
11 you let them start up.

12 MR. ROMAINE: I think it's appropriate to
13 continue that discussion. We, in fact, pursued it.
14 We have an ongoing enforcement action against them.
15 We have sent them a violation notice or
16 incompliance, I'm not sure which.

17 They have started up, that's true; but
18 they have only started up two out of five turbines.
19 They have only started up a fraction of the
20 facility. They have not commenced construction of
21 the other two turbines.

22 MS. OWEN: Would you like me to repeat what
23 was said. It says, "Any departure from conditions
24 of this approval or terms expressed in the

1 application would need to receive prior written
2 authorization ..."

3 Calpine did not ask for prior written
4 authorization. You sent them a notice of
5 violation, and you let them start up. So don't you
6 put things like this in the permit if you don't
7 mean it because it's deceiving to the public.

8 MR. ROMAINE: I beg to differ. We have
9 taken the appropriate actions in response to the
10 Zion circumstance.

11 MS. OWEN: The appropriate action is to
12 shut them down, that is the only appropriate action
13 IEPA can do.

14 MR. ROMAINE: Obviously, we have a
15 difference of opinion on this.

16 MS. OWEN: Yes, Mr. Romaine. We happen to
17 have a difference of opinion on a lot of things.

18 I find it interesting that you change
19 the definition I read on page 3 about what peaking
20 operation means on -- Although Mr. Patel's
21 introduction certainly mentioned daylight time and
22 hot summer days, this has for some reason
23 disappeared in one of the permit conditions. And
24 I'm referring to 2, C, IV. It only speaks about

1 insufficient capacity. So here you change the
2 definition, you change the rules.

3 MR. ROMAINÉ: Please explain. I don't
4 understand the comment.

5 MS. OWEN: The comment is that I have
6 reviewed a lot of permits as you know, and the
7 usual definition the IEPA gives is the one I read
8 in the beginning and is the one Mr. Patel referred
9 to in the beginning. In this particular permit,
10 you certainly took out any reference to hot or
11 daylight; and it only talks about insufficient
12 capacity.

13 MR. ROMAINÉ: The information that was
14 provided in the opening statement was a descriptive
15 explanation of when a peaker plant operates.

16 MS. OWEN: That's correct.

17 MR. ROMAINÉ: This is, in fact, the
18 provision that's been placed in this permit to
19 address how this plant must be operated. As you
20 pointed out, there is a variety of plants in
21 Illinois. You made a point that there are base-
22 load plants. There is ample capacity from those
23 base-load plants in most circumstances. In that
24 type situation, this plant would only need to

1 operate when those plants are unable to provide
2 power.

3 MS. OWEN: I made no reference to base-load
4 plants. I talked entirely about peakers in the
5 beginning.

6 MR. ROMAINE: I thought I heard a comment
7 that you said there was ample capacity of power in
8 Illinois, which is a general statement that
9 combines base-load, load-following, and peaker
10 plant capacity.

11 MS. OWEN: Fine. So you don't think you
12 took anything out of this permit that I have seen
13 in other permits?

14 MR. ROMAINE: I don't know what you are
15 referring to. This is a PSD permit. There are
16 specific provisions of PSD permits describing what
17 is intended by a peaker power plant.

18 MS. OWEN: That's fine. I will make
19 certain that you get a copy of those from other
20 permits.

21 The NOx emissions shall not exceed
22 9 parts per million if that. What is the annual
23 average? This is an hourly average, or is it an
24 annual average or monthly?

1 MR. ROMAINE: Which condition, please?

2 MS. OWEN: Excuse me. If you just go down
3 the page, page 3. I don't know what number that
4 is. It's all letters. It's "c," small "c,"
5 number "i." On the bottom of page 3. The
6 emissions of NOx from each turbine shall not exceed
7 9 parts per million. If that indeed is the hourly
8 average, what is the annual average?

9 MR. PATEL: 9 parts per million hourly
10 average based on 3-hour block average is the BACT
11 limit. So monthly and annual would be, obviously,
12 they should also meet the same 9 ppm all over.

13 MS. OWEN: Really. I would be surprised if
14 they can.

15 Next page, very top, number "d," just
16 above 3a. "The turbines shall be maintained and
17 operated with good combustion practice to control
18 emissions of CO and PM."

19 I took the pains to look up another
20 power plant that has the same permit, which is to
21 Duke Energy, Lee. And while these turbines shall
22 be maintained and operated with good combustion
23 practice, the good combustion practices that
24 Kendall thinks it has would actually do the

1 following: Hourly emissions for this permit would
2 exceed limits for Duke Energy, Lee County, for CO
3 and PM, PM10, which would mean that it's presumed
4 constituent failure to use good combustion practice
5 as required by conditions in the permit. So they
6 are not proposing to use good combustion practices
7 because the CO and PM emissions for Lee County are
8 considerably lower than this one.

9 Other permits, Mr. Romaine can
10 disagree if he wishes, not only talk about that
11 they shall manage the operation of the permit to
12 minimize multiple startups -- No. I don't want to
13 go there. Sorry about that.

14 Question, just very general, how does
15 this permit deal with startup emissions?

16 MR. PATEL: Well, this is a PSD permit,
17 obviously. And the BACT number presented or
18 mentioned in the permit does not apply during the
19 startup.

20 MS. OWEN: Oh, BACT doesn't apply during
21 startup?

22 MR. PATEL: Right.

23 MS. OWEN: Interesting.

24 MR. ROMAINE: The BACT --

1 MR. PATEL: The BACT number.

2 MR. ROMAINE: The BACT emission limit.

3 MR. PATEL: BACT emission number, the 9 ppm
4 for NOx and 25 ppm for CO.

5 MS. OWEN: So the 9 ppm for NOx does not
6 apply to the startup?

7 MR. PATEL: That's correct.

8 MS. OWEN: What does apply during startup
9 then?

10 MR. PATEL: Well, there is a low load
11 operation startup numbers. They are in the table.

12 MS. OWEN: Which table are you referring
13 to? I'm sorry.

14 MR. PATEL: Table 1. Attachment B,
15 Table 1.

16 MS. OWEN: These emission for each
17 turbine --

18 MR. PATEL: Pardon?

19 MS. OWEN: Table 1, Emission Limits for
20 each Turbine. What I'm looking at in pounds per
21 million Btu doesn't include the startup emissions?

22 MR. PATEL: There is a footnote that
23 explains that this limit for CO and VOM, there is a
24 higher pounds per hour and pounds per million Btu

1 number. For operation of the turbine, there is
2 less than 70 percent load condition.

3 MS. OWEN: So for CO and VOM emissions
4 shall not exceed, da, da, da, da, da, da. You
5 don't expect NOx emissions to increase during
6 startup?

7 MR. PATEL: No.

8 MS. OWEN: Thank you. All right.

9 So shall we consider compliance to be
10 determined at the annual limits including startups
11 then?

12 MR. PATEL: The annual limits?

13 MS. OWEN: Yes.

14 MR. PATEL: Yes.

15 MS. OWEN: Thank you. I might not get this
16 right, so Mr. Romaine certainly can correct me.

17 In other permits, you request a date
18 of operation from the company because the requested
19 initial test will be done at a minimum of what it
20 costs. Is there a reason why this is not in this
21 permit?

22 MR. ROMAINE: I think that's a provision
23 that we have included in the minor source permits
24 where it's more critical to attain emission data

1 quickly to assure that they are complying with
2 limits for minor sources having avoided PSD.

3 MS. OWEN: Interesting.

4 MR. ROMAINE: We will verify whether it's
5 also being included here as well.

6 MS. OWEN: It's in the Sky Gen permit if
7 that helps any. I just had reason to reread that.
8 It's only a minor so --

9 MR. ROMAINE: I had forgotten it was in Sky
10 Gen permit.

11 MS. OWEN: Is there something I should
12 know?

13 MR. ROMAINE: No.

14 MS. OWEN: Thank you. Back to the permit.
15 Page 7, in the old permit, under letter E, there
16 was E, IV, there was a D, which also required under
17 detailed description of test conditions to include
18 burner settings, exit air, pressure settings. You
19 don't consider that to be necessary anymore?

20 MR. PATEL: Can you repeat?

21 MS. OWEN: Certainly. On page --

22 MR. PATEL: What page number?

23 MS. OWEN: 7. Under letter E, V, and then
24 big -- that should have been a big D, which is in

1 the old permit. The old permit also required them
2 to describe the burner settings, pressure settings,
3 exit air. That has disappeared from the old permit
4 to the new permit, and my question is do you not
5 consider that to be important anymore.

6 You can owe me the answer if you need
7 to look this up.

8 MR. ROMAINE: We would prefer to look it
9 up. It may be that we have determined that because
10 we have a NOx continuous emission monitor that that
11 information is not particularly useful. It may be
12 an oversight.

13 MS. OWEN: Okay. Would you consider that a
14 relevant question that deserves an answer in a
15 Responsiveness Summary? I have sometimes a hard
16 time understanding what you consider relevant and
17 what you don't.

18 MR. ROMAINE: Whether this would be
19 relevant?

20 MS. OWEN: Yes.

21 MR. ROMAINE: Yes.

22 MS. OWEN: Good.

23 Could you give me a general idea of
24 what you consider relevant and worthy of an answer

1 in your responsiveness summaries and what you
2 don't?

3 HEARING OFFICER SELTZER: That has to be on
4 a case-by-case basis, and so I'm going to just pass
5 over that. I understand what you are saying, but I
6 also have to follow procedures. And the question
7 you are asking right now is not relevant to this
8 particular permit.

9 MS. OWEN: It absolutely is relevant for
10 the public to understand what the IEPA considers
11 relevant questions that deserve an answer. Because
12 there are some questions you don't answer. And
13 there is a public here that I think would like to
14 understand who gives the relevancy test at your
15 Agency. I think it's absolutely appropriate to ask
16 that question at a public hearing. Apparently it's
17 not relevant enough to answer. Thank you.

18 As I mentioned before, Kendall said
19 that due to several reasons construction at the
20 site has not started. This is a PSD permit. Does
21 IEPA believe that at this time and now Kendall, who
22 is after all Enron, intends to build this facility?

23 MR. ROMAINE: At this point we have no
24 information before us that would suggest that

1 Kendall New Century does not intend to build this
2 facility. They have gone to the effort of
3 submitting an application. They have gone to the
4 effort of preparing an air quality analysis working
5 with a consultant. That is sufficient basis for us
6 historically to proceed with review of a PSD
7 application.

8 MS. OWEN: Doesn't bother you that this is
9 Enron and, you know, you do read the paper and
10 there is certain financial problems this company is
11 in?

12 MR. ROMAINÉ: I take that as a rhetorical
13 question.

14 MS. OWEN: And you are not curious as to
15 why they didn't build it the first time they had a
16 chance?

17 HEARING OFFICER SELTZER: Okay. That --

18 MS. OWEN: Fine. Fine. Repetitive. I
19 withdraw that.

20 MR. ROMAINÉ: I feel, you know, I have
21 absolutely no qualms about that issue.

22 MS. OWEN: Good.

23 MR. ROMAINÉ: This is a dynamic market
24 building power plants. When people obtain a permit

1 for a power plant, it doesn't necessarily mean the
2 power plant is going to be built. It simply means
3 it is one option that they are interested in
4 pursuing. We have issued a large number of permits
5 for power plants that did not get built for a
6 number of reasons. That is simply the nature of
7 permitting. People come to us with a proposed
8 facility that they think looks desirable, that they
9 wish to pursue. They make that determination at
10 some last minute whether, in fact, it is worth
11 pursuing or not.

12 MS. OWEN: Yes.

13 MR. ROMAINE: If I got concerned every time
14 a permit I issued didn't result in something
15 getting built, I would have --

16 HEARING OFFICER SELTZER: All right. We
17 are getting very far afield as to what you
18 personally feel on this or what other people
19 personally feel. Let's move on because this is
20 irrelevant. We are not going to cover that
21 question anymore.

22 MS. OWEN: He wanted to answer that
23 question. I told him not to. So if there is
24 critique about this, look at him, not me.

1 For the air model, did they use vendor
2 guarantees or engineering estimates; or do we know,
3 do we care?

4 MR. PATEL: We looked at the vendor
5 guarantee.

6 MS. OWEN: Okay. This is all I had.

7 I repeat, this is not a peaker. This
8 permit is ludicrous. BACT is all wrong. Go back
9 and fix it. Thank you.

10 MR. ROMAINE: I feel, I will respond to
11 that. As we have stated in other documents, peaker
12 plants are determined by the type of technology
13 that is being present. This is a simple-cycle
14 peaker plant. It is not as efficient thermally as
15 combined-cycle peakers -- combined-cycle power
16 plants, therefore, it has a particular niche in the
17 market. It can only afford under normal
18 circumstances to operate when other less expensive
19 sources of power can't meet the demand.

20 On this permit --

21 MS. OWEN: I gave you plenty of definitions
22 in the beginning that you have attempted to define
23 a peaker plant, and yet you absolutely are not
24 following your own definitions in this case. Thank

1 you.

2 HEARING OFFICER SELTZER: Thank you.

3 Is there anybody else here this
4 evening that wishes to make any comments or ask any
5 questions?

6 Yes.

7 MS. OWEN: I'm sorry. I forgot something.
8 I apologize. Verena Owen again.

9 I don't know why you folks came. I
10 don't know that -- I don't know how close your
11 nearest house is. But I would like to give you a
12 word of warning, that the much mentioned Zion power
13 plant, we were given assurances by the company, we
14 were told by IEPA that there are regulations of
15 noise issues. These things are extremely noisy.
16 Yes. There are regulations. They are not
17 enforced.

18 In Zion what happened, they built the
19 plant, only one turbine is running. They are far
20 exceeding any noise regulations. There is nobody
21 at IEPA anymore that deals with that. What happens
22 now is that we as the public have to hire a
23 consultant, and the last estimate I got is \$5,000
24 to do noise level readings to go to the Pollution

1 Control Board and have it enforced. Nobody will
2 help you, and those people won't. Thank you.

3 HEARING OFFICER SELTZER: Thank you.

4 Again, is there anybody else here this
5 evening that wishes to ask any questions or make
6 any comments?

7 Okay. At the beginning of the
8 hearing, I indicated that the close of the record
9 would be -- I think I might have given the wrong
10 date. It's July 12. I will ask the court reporter
11 if she recalls what date I gave.

12 THE REPORTER: July 12.

13 HEARING OFFICER SELTZER: So written
14 comments will be received into the record as long
15 as they are received by midnight or postmarked by
16 midnight July 12.

17 I want to thank you all for your
18 participation and wish you a safe trip home.

19 * * *

20
21 (Which were all the proceedings
22 had in the above-entitled
23 cause.)
24

