



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



In the matter of )  
The State of Connecticut )  
and )  
Wisvest-Connecticut, LLC )

Trading Agreement  
and Order No. 8179

Whereas, the Commissioner of Environmental Protection ("Commissioner") and Wisvest-Connecticut, LLC ("Wisvest") agree that it is in the public interest that they work cooperatively to improve the air quality within the State of Connecticut and that the use of emission reduction credit ("ERC") trading to reduce nitrogen oxide ("NOx") emissions will achieve this result in a timely and cost-effective manner:

- A. At the request and with the agreement of Wisvest, the Commissioner finds the following:
1. Wisvest is an exempt wholesale electric generating company with its principal place of business in Shelton, Connecticut. On April 16, 1999 Wisvest purchased from The United Illuminating Company and now owns and operates one (1) piece of fuel-burning equipment ("peaking unit") identified in Table 1 of this Trading Agreement and Order. This peaking unit is a 20 megawatt combustion turbine.
  2. Official U.S. Environmental Protection Agency ("EPA") Reference Method 7E stack testing performed on the date indicated in Table 1, resulted in a NOx emission rate as follows:

Peaking Unit	FUEL	Max Heat Input (MMBtu/hr)	FLER (lbs/MMBtu)	NOx RACT Rate (lbs/MMBtu)	Stack Test Rate (ppmvd)	Stack Test Rate (lbs/MMBtu)	Date of Stack Test
Unit 4	other oil	287	0.73	0.289	175	0.66	9/15/93

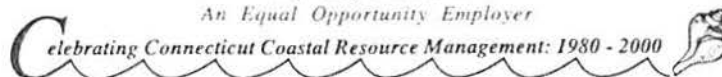
3. The emission rate for the peaking unit specified and the fuel is in excess of Section 22a-174-22, Table 22-2, of the Regulations of Connecticut State Agencies ("Regulations"), NOx emission rate limits (Reasonably Available Control Technology "RACT").
4. Pursuant to Section 22a-174-22(b) of the Regulations, the peaking unit is subject to Sections 22a-174-22(d) through (k) of the Regulations, pertaining to the control of NOx emissions.
5. In accordance with Section 22a-174-22(j) of the Regulations, Wisvest proposes that for the peaking unit identified in Table 1, Wisvest shall use ERC trading on a monthly basis when burning "other oil", as that term is defined in Section 22a-174-22 of the Regulations.

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Date 5/1/00

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6. Pursuant to the Department of Environmental Protection's "Credit Trading for Sources with Irregular NOx Emissions" policy, revised on February 10, 2000, attached hereto and incorporated by reference into this Trading Agreement and Order as Exhibit 1, the peaking unit has peak daily NOx emissions greater than three times the average daily emissions during the ozone season and is therefore considered a source with irregular NOx emissions.
  7. Based on DEP approved stack test data, it has been determined that the peaking units' emissions will not meet the applicable requirements of RACT contained in Section 22a-174-22 of the Regulations. Wisvest proposes to use the Full Load Emission Rate ("FLER") identified in Table 1 for the purposes of calculating ERCs required.
  8. On April 26, 1999 and June 18, 1999, pursuant to Section 22a-174-22(j) of the Regulations, Wisvest has acquired from Cantor Fitzgerald and The United Illuminating Company sufficient approved ozone and non-ozone season ERCs in order to meet applicable RACT requirements and the requirements of this Trading Agreement and Order for the following month's operation. Wisvest intends to continue acquiring approved ERCs as needed.
  9. Approved ERCs are defined for the purpose of this Trading Agreement and Order as those for which the Commissioner has provided written authorization for use in compliance with Section 22a-174-22 of the Regulations.
- B. The Commissioner, in accordance with the provisions of this Trading Agreement and Order, and pursuant to Section 22a-174-22 (j) of the Regulations hereby allows Wisvest to comply with Section 22a-174-22 of the Regulations through use of ERC trading referenced in Section A, herein, to achieve the nitrogen oxide emission reduction required by Section 22a-174-22(d) (2) of the Regulations.
- C. With the agreement of Wisvest, the Commissioner, acting under Connecticut General Statutes Sections 22a-6, 22a-171, 22a-174, 22a-176, and 22a-177, orders Wisvest as follows:
1. Upon issuance of this Trading Agreement and Order Wisvest shall comply during operation of the peaking unit with the FLER shown in Table 1 above.
  2. On and after April 16, 1999, Wisvest shall have in its possession sufficient approved ERCs in order to meet applicable RACT requirements and the requirements of this Trading Agreement and Order.
  3. On and after April 16, 1999, Wisvest shall document and record the amounts of all fuel used by the peaking unit each day and the number of ERCs used for the ozone season (from May 1 through September 30 of each year) and non-ozone season (the remainder of the year).
  4. On and after April 16, 1999, Wisvest shall maintain and provide the records required by paragraph C.3. of this Trading Agreement and Order in accordance with the following and Section 22a-174-4 of the Regulations, until May 1, 2003, and shall:
    - a. Have in its possession sufficient approved ERCs for the current day, based on the following calculations (described also in Exhibit 1);
 

**At all times (mass calculation):**

$$\text{ERCs (in tons)} = [((\text{FLER in lbs/MMBtu}) - (0.95 \times \text{NOx RACT in lbs/MMBtu})) \times (\text{actual fuel use in lbs/MMBtu})] \div 2000 \text{ pounds/ton}$$

**During the ozone season only (peak day calculation):**

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Date 5/1/00



the maximum actual excess NOx emissions (in lbs) on any of the days projected by the Commissioner to be "moderate to unhealthful," "unhealthful," or "very unhealthful," divided by 3 and then divided by 13 (with the result in tons):

ERCs (in tons) = [(Maximum excess NOx in lbs) ÷ 3] ÷ [13 lbs/day/ton];

- b. At a minimum, adjust upwards by 100% the ERCs required if ERCs are not in Wisvest's possession prior to use;
  - c. As described in Exhibit 1 of this Trading Agreement and Order, to the extent that ERCs used to offset on a peak day basis during the ozone season exceed the total mass excess emissions, remaining ERCs may be used in the non-ozone season in the same or subsequent years until May 1, 2003;
  - d. Document and record daily fuel use, excess NOx emissions and, during the ozone season, the ozone classification as forecasted by the Commissioner on the previous day;
  - e. No later than March 1, 2000, 2001, 2002, 2003 and 2004, include with its annual emissions report to the Commissioner, ERCs used (calculated as described in section C.4.a. above), by ozone and non-ozone seasons, for the previous calendar year;
  - f. Retain records and supporting documentation as described in this section for a minimum of five years, commencing on the date such records are created;
  - g. Maintain documentation to attest to the fact that ERCs used during the ozone season were generated during the ozone season. The ozone season is from May 1 through September 30 in any calendar year. Generator certification of this fact shall be sufficient; and
  - h. Provide the records specified above to the Commissioner within thirty (30) days of receipt of a written request from the Commissioner.
5. Pursuant to the intent of Section 22a-174-22a(f)(4) of the Regulations, Wisvest may use allowances acquired pursuant to the provisions of Section 22a-174-22a of the Regulations to comply with subsection (e) of Section 22a-174-22 of the Regulations pursuant to the provisions of subsection (j) of Section 22a-174-22 of the Regulations as long as Wisvest remains an owner or operator of a budget source, for purposes of this Trading Agreement and Order. Any allowance used for compliance with subsection (e) of Section 22a-174-22 of the Regulations shall be subject to all restrictions and/or requirements applicable to ERCs contained in this Trading Agreement and Order and/or Section 22a-174-22a of the Regulations.
  6. No later than May 1, 2003, Wisvest shall comply with the requirements of Section 22a-174-22(d)(2) of the Regulations. However, after full program review of this and other Trading Agreements and Orders and, if determined to be appropriate, the Commissioner may grant a written extension of this Trading Agreement and Order.
  7. Definitions. As used in this order, "Commissioner" means the Commissioner of Environmental Protection or an agent of the Commissioner. "Other oil" means a fuel that is liquid at standard conditions and is not residual oil. "Residual oil" means any fuel oil of No. 4, No. 5, or No. 6 grades, as defined by Commercial Standard C.S. 12-48. "Ozone season" means the period from May 1 through September 30 in any given calendar year.

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8. Notification of noncompliance. In the event that Wisvest becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Trading Agreement and Order or of any document required hereunder, Wisvest shall by telephone immediately notify the Bureau of Air Management and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Wisvest shall also notify the Commissioner in writing within ten days of becoming aware of the noncompliance or potential noncompliance stating the date, time, and duration of the noncompliance, the reasons for the noncompliance or delay and all activities which Wisvest and its agents, employees and representatives took to avoid or repair the results of the noncompliance and prevent the noncompliance, and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved. Wisvest shall comply with any dates which may be approved in writing by the Commissioner. Notification by Wisvest shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing. Nothing herein shall negate Wisvest's obligation to comply with Section 22a-174-7 of the Regulations. To the extent that the provisions of Section 22a-174-7 are inconsistent with the provisions of this Trading Agreement and Order, the more stringent of the provisions in the Trading Agreement and Order or Section 22a-174-7 shall control.
9. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Trading Agreement and Order shall be signed by the responsible corporate officer of Wisvest or a duly authorized representative of such officer, as those terms are defined in Section 22a-430-3(b)(2) of the Regulations, and by the individual or individuals responsible for actually preparing such document, each of whom shall examine and be familiar with the information submitted in the document and all attachments thereto, and shall make inquiry of those individuals responsible for obtaining the information to determine that the information is true, accurate, and complete, and each of whom shall certify in writing as follows:
- "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under Section 22a-175 of the Connecticut General Statutes or, in accordance with Section 22a-6 of the Connecticut General Statutes, under Section 53a-157b of the Connecticut General Statutes, and in accordance with any other applicable statute."
10. Final Agreement and Order. This Trading Agreement and Order is the final agreement and order by and between the Commissioner and Wisvest with respect to the matters addressed herein, and shall not be modified without the written agreement of both parties.
11. False statements. Any false statement in any information submitted pursuant to this Trading Agreement and Order may be punishable as a criminal offense under Section 22a-175 of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157b of the Connecticut General Statutes.
12. Notice of transfer; liability of Wisvest and others. Until Wisvest has fully complied with this Trading Agreement and Order, Wisvest shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of the facility, the operations, the site or the business which are the subject of this

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Date 5/1/02

Trading Agreement and Order, or obtaining a new mailing or location address. Any license transfer shall be conducted in accordance with Section 22a-60 of the Connecticut General Statutes. Wisvest's obligations under this Trading Agreement and Order shall not be affected by the passage of title to any property to any other person or municipality.

- 13. Commissioner's powers. Nothing in this Trading Agreement and Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law which are willful or criminally negligent or for which penalties have not been specifically provided in this Trading Agreement and Order, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Wisvest pursuant to this Trading Agreement and Order have not fully achieved compliance with Section 22a-174-22 of the Regulations, the Commissioner may institute any proceeding against Wisvest and/or require Wisvest to undertake further investigation or further action.
- 14. Wisvest's obligations under law. Nothing in this Trading Agreement and Order shall relieve Wisvest of other obligations under applicable federal, state and local law.
- 15. Access to records and facility. Any representative of the Department of Environmental Protection may enter and inspect the facility and inspect and copy records within normal business hours without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Trading Agreement and Order.
- 16. No effect on rights of other persons. This Trading Agreement and Order shall neither create nor affect any rights of persons who or municipalities which are not parties to this Trading Agreement and Order.
- 17. No Creation of Property Rights. This Trading Agreement and Order does not create any property rights with respect to these ERCs.
- 18. Notice to Commissioner of changes. Within fifteen (15) days of the date Wisvest becomes aware of a change in any information submitted to the Commissioner under this Trading Agreement and Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Wisvest shall submit the correct or omitted information to the Commissioner.
- 19. Submission of documents. Any document required to be submitted to the Commissioner under this Trading Agreement and Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Ms. Wendy Jacobs  
Department of Environmental Protection  
Bureau of Air Management  
Compliance and Field Operations Division  
Emissions and Credit Trading Section  
79 Elm Street  
Hartford, Connecticut 06106

Wisvest-Connecticut, LLC

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and Order No. 8179

Wisvest consents to the issuance of this Trading Agreement and Order without further notice. The undersigned certifies that he/she is fully authorized to enter into this Trading Agreement and Order and to legally bind Wisvest to the terms and conditions of the Trading Agreement and Order.

Wisvest-Connecticut, LLC

Signature: Thomas D Kirk  
 Type Name: Thomas D. Kirk  
 Type Title: GENERAL MANAGER  
 Date: MAY 1, 2000

Issued as a final consent order of the Commissioner of

Environmental Protection on May 22, 2000.

Arthur J. Rocque, Jr.  
 Commissioner

CITY OF BRIDGEPORT  
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