Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201105006**
Release Date: 2/4/2011

Index Number: 45.00-00

Third Party Communication: None
Date of Communication: Not Applicable
Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:PSI:B6
PLR-108440-10
Date:
October 25, 2010

LEGEND:

Taxpayer

Corp A
Corp B
Corp C
Corp D
Corp E

Corp F

Corp G
Corp H
State
Year 1
Year 2
X$
Y$
Station
Technology
Authority

Dear

This is in response to your request for rulings, submitted by your authorized representative, concerning the federal income tax consequences of the transaction described below:

FACTS

Taxpayer is a limited liability company organized under the laws of State. Taxpayer has not and will not elect to be classified as an association taxable as a corporation, and accordingly, Taxpayer is classified as a partnership for federal income tax purposes. Taxpayer's annual accounting period ends on December 31 of each year and its overall method of accounting is the accrual method.

Taxpayer owns the refined coal facility(ies) (the "Facilities", and each a "Facility") located adjacent to the Station owned by Authority.

The taxpayer is owned by (i) Corp A, a State limited liability company, as a member holding % of the outstanding membership interests; (ii) Corp B., a State corporation as a member holding % of the outstanding membership interests; and (ii) Corp C, as a member holding % of the outstanding membership interests.

The only material asset of Corp A is its interest in Taxpayer (and other similar operating companies). Corp A is owned by (i) Corp B as a member holding 1% of the outstanding membership interests; and (ii) Corp D, a State limited liability company as a member holding % of the outstanding membership interests.

Corp E, a State corporation owns % of the stock of Corp B. Corp E is a publicly traded corporation. Corp E is one of the world's firms.

Corp B has extensive experience in developing technologies and making investments in the clean and alternative fuel sectors and beginning in Year 1 partnered in numerous projects that generated tax credits under § 29 of the Internal Revenue Code (Code). Nearly all of these projects are continuing to operate today, some supplying energy to industries such as hospitals, mines and factories, while others use generators to supply electricity to the grid.

Corp E met and partnered with technology developers as a consequence of its investment and development of § 29 fuel projects. It has invested in various clean energy technology companies that are developing coal gasification retrofits for older utility boilers and chemical scrubbing systems for CO2 emissions. One of the technology companies that Corp E invested in was a company called Corp G. Initially, Corp E funded the preliminary research that was performed to show the potential of the technology (the "Technology"). Once the Technology was proven in the lab, however, it

needed to be taken to the field. Corp E was instrumental in introducing, negotiating with and financing the full-scale testing that resulted from the lab tests. Eventually, Corp E became the managing member of Corp G and has brought its experience in working with the utilities to assist in the commercialization of the Technology. . Corp B has also negotiated and closed five licenses on behalf of Corp G for use of the Technology in full-scale applications.

Corp D is owned by Corp F, a State limited liability company. Corp D is treated as a disregarded entity for federal income tax purposes, and as a division of Corp F .

Corp F is the holding company for a firm better known as Corp H, which is one of the world's largest firms. Corp F and a related company have collectively invested in several energy projects; initially in Year 2 as a passive investor in projects that generated income tax credits under section 29 of the Code and later as an active operator of numerous oil and gas projects with a net worth of approximately X$.

Corp D is a special purpose entity created for the purpose of entering into the transactions described herein. Corp D's sole asset is the Corp A membership interest purchased from Corp B. Pursuant to a Membership Interest Purchase Agreement ("MIPA") between Corp B and Corp D, Corp B sold to Corp D a percent (%) membership interest in Corp A in exchange for a purchase price closely approximating Corp D's proportionate share of the total cost of constructing and installing the Facilities.

Corp A (and each other member of the Taxpayer) is obligated, under the LLC operating agreement to contribute to Taxpayer (as the operating company) its proportionate share of the operating costs (including the "Sub-License Royalties", defined below). Each member of Corp A is obligated to contribute to Corp A amounts sufficient to enable Corp A to make these contributions to Taxpayer, and Corp D explicitly assumes the obligation to make its share of these contributions in the MIPA.

In connection with the MIPA, Corp E and Corp F will guarantee certain of the obligations of Corp B and Corp D.

Executed Transaction Documents for the Facilities

Taxpayer (as operating company) has constructed and installed the Facilities, and has commercially deployed the Technology, (described below) at the Station.

Taxpayer has entered into a site lease (the "Lease") with Authority that allows Taxpayer to construct and locate the Facilities at the Station. Pursuant to the terms of the Lease, Taxpayer has rights of ingress and egress as appropriate.

Taxpayer owns the Facilities at the Station. Each Facility generally consists of the following: (1) ; (2) ; (3) ; (4) ; (5) ; (6) ; and (7) . The total capital costs of constructing and installing the Facilities at the Station was approximately Y$.

With respect to each Facility, Taxpayer has entered into a coal supply agreement whereby it will purchase coal feedstock from Authority at the Station. The coal supply agreement does not prohibit the Taxpayer from purchasing feedstock coal from third parties, and does not prohibit Taxpayer from purchasing more feedstock coal than Authority would expect to buy from the Taxpayer in the form of refined coal.

The feedstock coal purchased by Taxpayer from Authority will be coal that Authority itself purchased from third party vendors, consistent with its coal procurement specifications (the "Coal Specs"). Authority typically issues an offer to purchase coal that satisfies its composition specifications (i.e., the Coal Specs). Pursuant to this procurement methodology, Authority regularly purchases coal meeting the Coal Specs at the least expensive price from one or more of approximately) mines. As relates to the Station, the Authority Coal Specs generally specify a maximum sulfur percentage content for the feedstock coal of % to %, and a maximum moisture content of %.

At each Facility, Taxpayer (or a subcontractor) will buy feedstock coal from Authority and apply Technology to the coal feedstock. In this regard, an operating and maintenance contract ("O&M Contract") has been entered into with a third party ("Operator") to operate the Facilities on behalf of Taxpayer. The Operator is not related to Authority, Corp A, Taxpayer, or the members of Corp A or Taxpayer.

Thereafter, the Taxpayer will sell the resulting refined coal to Authority pursuant to a refined coal sale agreement. Pursuant to this agreement, Authority will purchase from Taxpayer an amount of refined coal estimated to be produced by the Facilities. To the extent that the actual production of refined coal exceeds this estimated amount, Authority has the right to purchase the excess production. If Authority declines to purchase the excess production, then Taxpayer has the right to sell the excess production portion of refined coal produced to one or more third parties.

Each ton of refined coal sold to Authority pursuant to the refined coal sale agreement will be sold for a price that is per ton less than the price paid by Taxpayer for the feedstock coal pursuant to the coal supply agreement. This subsidy in the price is designed to compensate Authority for the risk to its boilers and its generation process in general from the use of refined coal rather than its traditional feedstock coal and to induce it to use the output from the Facilities.

Description of the Technology and Licensing/Sublicensing

Corp B owns certain licensing rights to a proprietary coal–refining process, referred to as the Technology. When the Technology process is applied as part of an electric and steam generating facility (by adding chemicals to coal prior to burning the coal in a furnace), it has the effect of reducing emissions of certain pollutants from the burning of the resulting refined coal, increasing fuel efficiency, and reducing boiler maintenance. The by-product of this process is a valuable fly ash which can be used in a diverse array of applications in the steel, mining and cement industries.

The Technology is a dual-injection sorbent system in which separate sorbents for mercury and NOx control are added to and mixed with input coal. Technology's patent-pending process starts with several chemical additives being added to coal prior to its combustion in a furnace. The additives provide the chemical structure to create a "ceramic matrix" using chemical bonds to capture emissions of regulated pollutants. The matrix has a certain structure of chemicals in certain positions. At the interior corners of the matrix, the structure will pick up and hold pollutants such as mercury, arsenic, or lead. The structure also picks up and includes elements such as oxygen, chlorides and fluorides, which are freely available in a boiler's gas stream when they have been released from the coal during combustion but become locked up in the ceramic matrix. As the gas stream starts to cool, the chemical bonds form into a very strong matrix. Because the matrix was created under extremely high temperatures, it can only be broken at similar temperatures.

In conventional combustion, mercury and many other heavy metals, are vaporized in the combustion process and are emitted into the atmosphere with the flue gas. In the Technology process, mercury and many other heavy metals are removed as part of the fly ash. The mercury and other heavy metals are entrapped in the fly ash as described above in a non leachable form for safe disposal.

Further, in conventional combustion, nitrogen oxides are produced as the fuel is burned under oxidizing conditions. The levels produced are a function of many factors including excess air, fuel nitrogen content, flame temperature, burner configuration, and combustion air staging, among others. It can even be affected by ambient air temperatures. Technology's sorbent technology provides NOx reductions via several mechanisms; lowering flame temperature, adsorption of NOx species, and chemical capture of NOx species. The primary mechanism appears to involve adsorption and capture of NOx species within the altered fly ash. This results in a significant reduction in the NOx species that are released into the air.

Corp B has entered into an agreement ("Sub-License Agreement") to sub-license the Technology to Taxpayer. As Taxpayer utilizes the Technology to produce refined coal, Taxpayer will make royalty payments to Corp B (the "Sub-License Royalties"). The Sub-License Royalties will be payable in amounts equal to
) per dollar of refined coal credit arising from the operations of Taxpayer

reduced by any other operating costs incurred by Taxpayer. From this amount, Corp B must pay to Corp G per ton of refined coal for the first three years of production, and thereafter the greater of cents per ton or % of the section 45 tax credits available per ton. Corp B retains the balance.

Pilot Scale Testing of the Technology With Respect to the Station

During the 2009 calendar year, the Technology was tested (the "Pilot Scale Testing") periodically at a world renown testing center ("Testing Center"). The Testing Center is recognized as one of the world's leading developers of cleaner, more efficient energy and environmental technologies to protect and clean air, water, and soil.

In connection with this testing, an emissions monitoring system was used to measure the effect of the Technology on NOx, CO, and O_2 emissions. In addition, the mercury weight content of the fly ash was tested to measure mercury capture by the Technology.

During the Pilot Scale Testing, coal was burned in one of the boilers at the Testing Center's boiler house. The boiler and the combustion conditions were designed to replicate the combustion and other operating conditions for the Station. Moreover, the feedstock coal used for testing (the "Tested Coal") was of the same type, source or rank as the coal that is currently burned at the Station. In particular, the Tested Coal tested during the Pilot Scale Testing was consistent with Authority's Coal Specs.

The combustion of the Tested Input Coal after applying the Technology (i.e., refined coal) resulted in a nitrous oxide emissions reduction in excess of). Similarly, the combustion of the Tested Input Coal after applying the Technology (i.e., Refined Coal) resulted in a mercury emissions reduction in excess of

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Rulings Requested

Based on the foregoing, Taxpayer has requested that we rule as follows:

(1) The refined coal produced by using the Technology constitutes a "refined coal" within the meaning of § 45(c)(7) of the Code, provided that the refined coal satisfies the qualified emission reduction test stated in § 45(c)(7)(B) of the Code

(2) Pursuant to § 6.04(2)(b) of Notice 2010-54 (the "Notice"), Taxpayer may satisfy the redetermination requirement of § 6.04 of the Notice by laboratory analysis establishing that the S and Hg content of both the feedstock coal and the refined coal, on average, do not vary by more than ten percent from the S and Hg content of the feedstock coal and the refined coal used in the most recent determination that meets the requirements of § 6.03 of the Notice.

(3) The Taxpayer may rely upon Pilot Scale Testing (and subsequent permitted laboratory testing as required for a redetermination) to satisfy the qualified emission reduction test of § 45(c)(7)(B) of the Code regardless of subsequent normal fluctuations in operating conditions for the Station

LAW AND RATIONALE

Section 45(a) of the Code generally provides a credit against federal income tax for the use of renewable or alternative resources to produce electricity or fuel for the generation of steam. Section 45(e)(8) of the Code provides that, in the case of a producer of “refined coal”, the credit available under § 45(a) of the Code for any taxable year shall be increased by an amount equal to $4.375 per ton of qualified “refined coal” (i) produced by the taxpayer at a “refined coal production facility” during the 10-year period beginning on the date that the facility was originally placed in service, and which is (ii) sold by the taxpayer to an unrelated person during such 10-year period and such taxable year.

For purposes of § 45 of the Code, section 3.01 of Notice 2010-54, IRB 2010-40, October 4, 2010, provides that the term "refined coal" means a fuel which -- (i) is a liquid, gaseous, or solid fuel (including feedstock coal mixed with an additive or additives) produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock, (ii) is sold by the taxpayer with the reasonable expectation that it will be used for purpose of producing steam, and (iii)is certified by the taxpayer as resulting (when used in the production of steam) in a qualified emission reduction. Section 3.04 of the Notice provides that the term "qualified emission reduction" means (1) in the case of refined coal produced at a facility placed in service after December 31, 2008, a reduction of at least twenty percent (20%) of the emissions of nitrogen oxide and at least 40% of the emissions of either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003; in the case of production at a facility placed in service before January 1, 2009, a reduction of at least 20 percent of the emissions of NO_x and at least 20 percent of the emissions of either SO_2 or Hg released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003.

Section 45(d)(8) of the Code generally provides that the term "refined coal production facility" means a facility which is placed in service after October 22, 2004 and before January 1, 2010.

Section 6.01 of the Notice generally provides that a qualified emissions reduction does not include any reduction attributable to mining processes or processes that would be treated as mining (as defined in § 613(c)(2), (3), (4)(A), (4)(C), or (4)(I)) if performed

by the mine owner or operator. Accordingly, in determining whether a qualified emission reduction has been achieved, the emissions released when burning the refined coal must be compared to the emissions that would be released when burning the feedstock coal. Feedstock coal is the product resulting from processes that are treated as mining and are actually applied by a taxpayer in any part of the taxpayer's process of producing refined coal from coal.

Section 613(c)(5) of the Code describes treatment processes that are not considered as mining unless they are provided for in § 613(c)(4) of the Code or any necessary or incidental to a process provided for in § 613(c)(4). Any cleaning process, such as a process that uses ash separation, dewatering, scrubbing though a centrifugal pump, spiral concentration, gravity concentration, flotation, application of liquid hydrocarbons or alcohol to the surface of the fuel particles or to the feed slurry provided such cleaning does not change the physical or chemical structure of the coal, and drying to removed free water, provided such drying does not change the physical or chemical identity of the coal, will be considered as mining.

Section 6.03(1) of the Notice provides, in part, that emissions reduction may be determined using continuous emission monitoring system (CEMS) field testing. Section 6.03(1)(a) provides, in part, that CEMS field testing is testing that meets all the following requirements: (i) The boiler used to conduct the test is coal-fired and steam-producing and is of a size and type commonly used in commercial operations. (ii) Emissions are measured using a CEMS. (iii) If EPA has promulgated a performance standard that applies at the time of the test to the pollutant emission being measured, the CEMS must conform to that standard. (iv) Emissions for both the feedstock coal and the refined coal are measured at the same operating conditions and over a period of at least 3 hours during which the boiler is operating at a steady state at least 90 percent of full load. (v) /a qualified individual verifies the test results in a manner that satisfies the requirement of section 6.03(1)(b) of the Notice.

Section 6.03(2) of the Notice provides that methods other than CEMS field testing may be used to determine the emissions reduction. If a method other than CEMS field testing is used, the Service may require the taxpayer to provide additional proof that the emission reduction has been achieved. The permissible methods include (a) testing using a demonstration pilot-scale combustion furnace if it established that the method accurately measures the emission reduction that would be achieved in a boiler described in section 6.03(a)(a)(i) of the Notice and a qualified individual verifies the test results in a manner that satisfies the requirements of section 6.03(1)(c)(i), (ii), (v), and (vi) of the Notice; (b) a laboratory analysis of the feedstock coal and the refined coal that complies with a currently applicable EPA or ASTM standard and is permitted under section 6.03(2)(b)(i) or (ii) of the Notice.

Section 6.04(1) of the Notice provides that a taxpayer may establish that a qualified emission reduction determined under section 6.03 of the Notice applies to

production from a facility by a determination or redetermination that is valid at the time the production occurs. A determination or redetermination is valid for the period beginning on the date of the determination or redetermination and ending with the occurrence of the earliest of the following events: (i) the lapse of six months from the date of such determination or redetermination; (ii) a change in the source or rank of feedstock coal that occurs after the date of such determination or (iii) a change in the process of producing refined coal from the feedstock coal that occurs after the date of such determination or redetermination.

Section 6.04(2) of the Notice provides that in the case of a redetermination required because of a change in the process of producing refined coal from the feedstock coal, the redetermination required under section 6.04 of the Notice must use a method that meets the requirements of section 6.03 of the Notice. In any other case, the redetermination requirement may be satisfied by laboratory analysis establishing that – (a) the sulfur (S) or Hg content of the amount of refined coal necessary to produce an amount of useful energy has been reduced by at least 20 percent (40 percent, in the case of facilities placed in service after December 31, 2008) in comparison to the S or Hg content of the amount of feedstock coal necessary to produce the same amount of useful energy, excluding any dilution caused by materials combined or added during the production process; (b) the S or Hg content of both the feedstock coal and the refined coal do not vary by more than 10 percent from the S and Hg content of the feedstock coal and refined coal used in the most recent determination that meets the requirements of the Notice.

Finally, section 6.05 of the Notice provides that the certification requirement of section 3.01(1)(c) of the Notice is satisfied with respect to fuel for which the refined coal credit is claimed only if the taxpayer attached to its tax return on which the credit is claimed a certification that contains the following: (a) a statement that the fuel will result in a qualified emissions reduction when used in the production of steam; (b) a statement indicating whether CEMS field testing was used to determine the emissions reduction; (3) if CEMS field testing was not used to determine the emissions reduction, a description of the method used; (4) a statement that the emissions reduction was determined or redetermined within the six months preceding the production of the fuel and that there have been no changes in the source or rank of feedstock coal used or in the process of producing refined coal from the feedstock coal since the emissions reduction was determined or was most recently determined; and (5) a declaration signed by the taxpayer in the following form: “Under penalties of perjury, i declare that I have examined this certification and to the best of my knowledge and belief, it is true, correct, and complete.”

With respect to the first issue, the Technology starts with several chemical additives added to the feedstock coal prior to its combustion in a furnace. The additives provide the chemical structure to create a “ceramic matrix” using chemical bonds to capture pollutants. Section 6.01 of the Notice provides generally that a qualified

emission reduction does not include any reduction attributable to mining processes or processes that would be treated as mining, as further defined in the Code, if performed by the mine owner or operator. Section 613(c)(5) of the Code describes certain treatment processes that are not considered as mining unless they are provided for in § 613(c)(4) of the Code or are necessary or incidental to a process provide for in § 613(c)(4) of the Code. For example, § 6.01(2) of the Notice provides, in part, that any cleaning process such as the application of liquid hydrocarbons or alcohol to the surface of the fuel particle or to the feed slurry, provided such cleaning does not change the physical or chemical structure of the coal, will be considered mining. In the instant case, the Technology is not a mining process. Further, section 3.01 of Notice 2010-54 clarifies § 45(c)(7) of the Code and specifically provides that refined coal includes feedstock coal mixed with an additive or additives. Thus, additive processes which mix certain chemicals or other additives with the coal in order to achieve emission reductions may qualify for the production tax credit for refined coal. Accordingly, we conclude that the refined coal produced by using the Technology constitutes a "refined coal" within the meaning of § 45(c)(7) of the Code, provided that the refined coal satisfies the qualified emission reduction test stated in § 45(c)(7)(B) of the Code

With respect to the second issue, § 6.03(3) of the Notice provides that any permissible testing method provided for in the Notice can be used in emission testing for any pollutant. That is, a taxpayer can use different testing methods for each of NO_x, SO_2 or Hg, provided the method used for any pollutant is a permissible method. Section 6.04(1) of the Notice provides that an emission test establishing a "qualified emission reduction" qualifies the refined coal for a six-month period provided there is no change in the process for producing the refined coal or in the source or rank of the feedstock coal. Therefore, a taxpayer must "redetermine" the emission reductions to qualify for the succeeding six-month period using one or more approved methods. Section 6.04(2) of the Notice provides that in the context of "redetermination" that the redetermination requirement may be satisfied by laboratory analysis establishing either that (i) the S or Hg content of the amount of refined coal necessary to produce an amount of useful energy has been reduced by at least 20% (40%, in the case of facilities placed in service after December 31, 2008) in comparison to the S or Hg content of the amount of useful thermal energy, excluding any dilution caused by materials combined or added during the production process; or (ii) the S or Hg content of both the feedstock coal and the refined coal do not vary by more than 10% from the S or Hg content of the feedstock coal and refined coal used in the most recent determination that meets the requirements of the testing methods for emissions reductions in § 6.03 of the Notice. In the instant case, as each train of coal purchased by Authority arrives at Station, Authority takes a sample of such coal from each train load and tests its sulfur content to ensure that such coal satisfies the Authority Coal Specs. The delivered coal is then added to a coal pile owned and maintained by Authority. Thus, each coal pile is comprised of coal that meets the Authority Coal Specs and may have been purchased by Authority from a number of different mines. Thereafter, Taxpayer purchases coal from Authority coal pile, processes this feedstock

coal into refined coal, and sells the refined coal to Authority. After purchasing the refined coal, Authority takes samples of it each day, and analyzes the sulfur content of a composite of such refined coal samples each week. Moreover, at the direction of Taxpayer, Pilot Scale Testing will be performed on this feedstock coal (from Authority coal pile) and the refined coal produced from such feedstock coal to initially confirm that the qualified emission reduction testing is satisfied. As a part of the testing, samples of the feedstock coal and refined coal are analyzed and S and Hg content are noted. Subsequently, based upon the redetermination requirements set forth in the Notice, either Authority or Taxpayer will test the S and Hg content of samples from (i) each train load of feedstock coal (or a weekly composite of such samples), and (ii) a weekly composite sample of refined coal. Thus, Taxpayer will average the results of the S and Hg laboratory analysis testing over a six month period to determine whether a combustion redetermination is required. In the event the S or Hg content of the feedstock coal or the refined coal on average were to change by more than this ten percent permissible variation, additional combustion testing (instead of laboratory analysis) will be performed as required for a redetermination pursuant to the Notice. Accordingly, we conclude that, pursuant to § 6.04(2)(b) of the Notice, Taxpayer may satisfy the redetermination requirement of § 6.04 of the Notice by laboratory analysis establishing that the S and Hg content of both the feedstock coal and the refined coal, on average, do not vary by more than ten percent from the s and Hg content of the feedstock coal and the refined coal used in the most recent determination that meets the requirements of § 6.03 of the Notice.

With respect to the third issue, the discussion relating to the second issue is also applicable. In particular, § 6.04(2) of the Notice requires that in the case of a redetermination required because of a change in the process of producing refined coal from the feedstock coal, the redetermination under § 6.04 of the Notice must meet the requirements of § 6.03 of the Notice; while a redetermination required because of the earlier of (i) the lapse of six months from the date of such determination or redetermination and (ii) a change in the source or rank of feedstock coal that occurs after the date of the determination or redetermination may be satisfied by laboratory analysis described in § 6.04(2)(a) or (b). Based on our understanding of Taxpayer's practice, we do not believe that normal fluctuations in the operating conditions occurring at the Station should be construed as resulting in a "change in the process of producing refined coal from feedstock coal." Accordingly, we conclude that Taxpayer may rely upon Pilot Scale Testing (and subsequent permitted laboratory testing as required for a redetermination described in § 6.04(2)(a) or (b) of the Notice) to satisfy the qualified emission reduction test of § 45(c)(7)(B) of the Code regardless of subsequent normal fluctuations in operating conditions for the Station.

Based on the foregoing we conclude as follows:

(1) The refined coal produced by using the Technology constitutes a "refined coal" within the meaning of § 45(c)(7) of the Code, provided that the refined coal satisfies the qualified emission reduction test stated in § 45(c)(7)(B) of the Code.

(2) Pursuant to § 6.04(2)(b) of the Notice, Taxpayer may satisfy the redetermination requirement of § 6.04 of the Notice by laboratory analysis establishing that the S and Hg content of both the feedstock coal and the refined coal, on average, do not vary by more than ten percent from the S and Hg content of the feedstock coal and the refined coal used in the most recent determination that meets the requirements of § 6.03 of the Notice.

(3) Taxpayer may rely upon Pilot Scale Testing (and subsequent permitted laboratory testing as required for a redetermination described in § 6.04(2)(a) or (b) of the Notice) to satisfy the qualified emission reduction test of § 45(c)(7)(B) of the Code regardless of subsequent normal fluctuations in operating conditions for the Station.

No opinion is expressed regarding any other issue not specifically addressed in this ruling letter. In particular, no opinion is expressed with respect to whether Taxpayer is the owner of the facility for federal income tax purposes. Further, no opinion is expressed whether the transaction meets the requirements of § 7701(o) of the Code relating to economic substance. Finally, no opinion is expressed whether any particular facility has been placed in service prior to January 1, 2010.

In accordance with the Power of Attorney on file with this office, we are sending a copy of this letter to your authorized representatives. A copy of this ruling must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

This ruling is directed only to the Taxpayer who requested it. Section 6110(k)(3) of the Code provides it may not be used or cited as precedent. We are sending a copy of this letter ruling to the Industry Director.

Sincerely,

Peter C. Friedman

Peter C. Friedman
Senior Technician Reviewer, Branch 6Office of Associate Chief Counsel (Passthroughs & Special Industries)