

## **PUBLIC NOTICE**

The New England Regional Office (Region 1) of the United States Environmental Protection Agency (EPA) hereby provides this public notice that EPA's Environmental Appeals Board (EAB) in Washington, D.C., has decided to grant review of the National Pollutant Discharge Elimination System (NPDES) permit (Permit No. MA0003654) issued by Region 1 to the Brayton Point Station power plant in Somerset, MA. The permit has been appealed by the power plant's owner, USGen New England, Inc. The EAB has set a schedule for filing briefs in this permit appeal – the schedule is outlined below – and any interested person may file an amicus (or “friend of the court”) brief(s) in the appeal under that schedule. This Public Notice is issued pursuant to order of the EAB and federal regulations at 40 C.F.R. §§ 124.10 and 124.19(c).

The EAB has scheduled two rounds of briefs in this permit appeal. The first round will address the question of whether this permit appeal should proceed under the procedures set forth in regulations at 40 C.F.R. § 124.19 or whether USGen New England, Inc., is instead entitled to an evidentiary hearing on the appeal. Briefs on this subject by USGen New England, Inc., and any amicus party supporting its position, are due at the EAB no later than April 12, 2004, and may not exceed 25 pages. Briefs on this subject by EPA Region 1, and any amicus party supporting its position, are due at the EAB no later than May 3, 2004, and may not exceed 25 pages.

The second brief will address any other issue raised in USGenNew England's Petition for Review, which was filed with the EAB on November 5, 2003. (EPA Region 1 filed a response to that Petition on December 29, 2003.) Briefs on these topics by USGen New England, Inc., and any amicus party supporting its position, are due at the EAB no later than June 7, 2004, and may not exceed 50 pages. Briefs in response by EPA Region 1, and any amicus party supporting its position, are due at the EAB no later than June 28, 2004, and may not exceed 50 pages. A copy of the EAB's Order setting the briefing schedule may be viewed on EPA Region 1's website at [www.epa.gov/region1/](http://www.epa.gov/region1/) (click on links for Brayton Point Station Permit and EAB Order).

Briefs submitted to the EAB should be submitted to one of the two following addresses:

1. Submission by regular mail to:

**U.S. Environmental Protection Agency  
Clerk of the Board, Environmental Appeals Board 1103B  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-001**

2. Submission by express mail or non-U.S. Postal Service carrier to:

**U.S. Environmental Protection Agency  
Clerk of the Board, Environmental Appeals Board  
1341 G Street NW, Suite 600  
Washington, D.C. 20005**

Information regarding the EAB and its procedures can be obtained at the website:

[www.epa.gov/eab](http://www.epa.gov/eab).

EPA Region 1 issued the NPDES permit to Brayton Point Station on October 6, 2003, after taking public comment and holding public hearings in both Massachusetts and Rhode Island in August of 2002. The address of the Region 1 office that developed the permit is: Massachusetts State Unit, US EPA New England, Suite 100 (CMA), 1 Congress Street, Boston, MA 02114-2023. Questions regarding the permit may be directed to Damien Houlihan, Project Manager, at the above mailing address, or by telephone at 617-918-1680. Questions regarding the permit appeal may be directed to Mark Stein at the above mailing address or by telephone at 617-918-1680. (You may also ask to be removed from Region 1's mailing list of interested persons for this permit by writing to the above mailing address or calling the above telephone number.) Region 1 has made the draft and final permits and certain supporting documents (e.g., Fact Sheet, responses to comments) available for review at the following locations: (1) Somerset Public Library, 1464 County Street, Somerset, MA; (2) Rogers Free Library, 525 Hope Street, Bristol, RI, and (3) US EPA Region 1 Records Center, 1 Congress Street, Boston, MA. In addition, these documents are available for review and downloading/printing at Region 1's website at [www.epa.gov/region1/](http://www.epa.gov/region1/) (click on links for Brayton Point Station Permit). The administrative record for the permit, including information submitted by USGen New England, Inc., can be reviewed at the US EPA Region 1 Records Center (see address above) by appointment from 9:00 AM to 4:00 PM from Monday through Friday.

Brayton Point Station is a steam-electric power plant with three coal-burning generation units and one unit which can burn oil or natural gas. The facility withdraws water for cooling from the Mount Hope Bay estuary from two intakes, one at the mouth of the Taunton River and one at the mouth of the Lee River. The facility also discharges the heated water, and other pollutants, back to the waters of Mount Hope Bay from a discharge canal. Mount Hope Bay is an interstate water body comprising waters of both the Commonwealth of Massachusetts and the State of Rhode Island. The Bay is bordered by both states and is part of the larger Narragansett Bay estuary.

The address of USGenNew England, Inc., is: USGenNew England, Inc., 7600 Wisconsin Avenue, Bethesda, MD 20814. The address of the Brayton Point Station power plant is: USGen New England, Inc., Brayton Point Station, One Brayton Point Road, Somerset, MA 02726.