

**STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

In the Matter of the Notice of Intent to Revoke the Air State  
Facility Permit of:

**ORDER OF DISPOSITION**

**NYC Energy LLC,**

DEC Permit ID No.  
2-6101-00349/00011

Permittee.

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Appearances of Counsel:

-- Thomas S. Berkman, Deputy Commissioner and General Counsel (Karen L. Mintzer, Regional Attorney of counsel), for staff of the Department of Environmental Conservation

-- The Dax Law Firm, P.C. (John W. Dax of counsel), for permittee NYC Energy LLC

**Proceedings**

By notice of intent to revoke permit dated March 8, 2017, staff of the New York State Department of Environmental Conservation (Department or DEC) notified NYC Energy LLC (permittee) that the Department intended to revoke permittee's Air State Facility (ASF) permit (DEC Permit ID No. 2-6101-00349/00011) pursuant to 6 NYCRR 621.13(a)(4) and (5). By letter dated March 20, 2017, permittee requested a hearing pursuant to 6 NYCRR 621.13(d). On April 3, 2017, the matter was assigned to the undersigned administrative law judge.

Before a hearing could be scheduled, the parties disputed which procedural regulations should be applied to the revocation hearing, 6 NYCRR part 624 (Permit Hearing Procedures [part 624]) or 6 NYCRR part 622 (Uniform Enforcement Hearing Procedures [part 622]). By ruling dated June 27, 2017, I determined that 6 NYCRR part 624 was applicable to this proceeding (see Matter of NYC Energy LLC, Ruling of the ALJ, June 27, 2017, at 6). On July 21, 2017, Department staff and NYC Energy LLC advised me that they had resolved all issues and that NYC Energy LLC would surrender the ASF permit as of September 16, 2017. Accordingly, NYC Energy LLC withdrew its request for a hearing.

**Discussion**

A stipulation executed by all the parties to the proceeding resolving any or all issues eliminates the need for the hearing with respect to the stipulated issues (see DEC Organization and Delegation Memorandum 94-13 [O&D Memo 94-13], Effect of Stipulations on Decision-Making in Permit and Enforcement Hearings, May 5, 1994 at 1). Where the parties' agreement resolves all issues, such as the case here, the agreement must be incorporated into a written stipulation and accepted by all parties. The stipulation must then be submitted to the administrative law judge to be included in the hearing record, along with written statements, signed by the parties or their representatives, stating that the stipulation resolves all issues between the parties (see O&D Memo 94-13 at 2).

In this proceeding, I have received into the record a stipulation incorporating the agreement of the parties including signed statements from the parties indicating that the stipulation resolves all issues between the parties.

**Order of Disposition**

ACCORDINGLY, IT IS HEREBY ORDERED that the hearing record in this proceeding is closed.

\_\_\_\_\_/s/  
Michael S. Caruso  
Administrative Law Judge

Dated: August 1, 2017  
Albany, New York