

Under the Enterprise Zone building materials exemption, a deduction from Illinois Retailers' Occupation Tax liability exists for gross receipts from retail sales of materials that will be incorporated, by remodeling, rehabilitation, or new construction, into real estate located in an enterprise zone established by a county or municipality under the Illinois Enterprise Zone Act. (See Section 5k of the Retailers' Occupation Tax Act, 35 ILCS 120/5k and 86 Ill. Adm. Code 130.1951(e).) (This is a PLR.)

April 1, 2008

Dear Xxxxx:

This letter is in response to your letter dated January 23, 2008 as well as supporting diagrams, pictures, and written materials, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

Review of your request disclosed that all the information described in paragraphs 1 through 8 of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to COMPANY for the issue or issues presented in this ruling, and is subject to the provisions of subsection (e) of Section 1200.110 governing expiration of Private Letter Rulings. Issuance of this ruling is conditioned upon the understanding that neither COMPANY nor any related taxpayers are currently under audit or involved in litigation concerning the issues that are the subject of this ruling request. In your letter you have stated and made inquiry as follows:

On behalf of our client, COMPANY, we respectfully request the Illinois Department of Revenue to issue a Private Letter Ruling pursuant to 2 Ill. Adm. Code 1200.110 with respect to the following factual situation. COMPANY is constructing an electric generating facility and coal mine located in COUNTY, Illinois (the 'Project'). The Project is located within the Enterprise Zone, COUNTY, Illinois. The following entities will own the Project:

ENTITIES

Pursuant to 765 ILCS 1010, these entities will own the Project as tenants-in-common (collectively the 'TIC Group'). The Project is being constructed by the Company, which is wholly owned by the TIC Group. The Company has entered into a contract with a

construction contractor to engineer, procure and construct the Project. For federal tax purposes, the TIC Group will elect not to be treated as a partnership. We respectfully request this private letter ruling on behalf of the Company and its owners, the TIC Group.

General Information

1. Enclosed please find an original Form IL-2848, Power of Attorney, Power of Attorney [sic], authorizing FIRM to represent the Company before the Illinois Department of Revenue (the 'Department').
2. This Private Letter Ruling ('PLR') is not requested with regard to hypothetical or alternative proposed transactions. This PLR is requested to determine the Retailers' Occupation Tax consequences of the actual business practices of the Company and the TIC Group.
3. The Company is not currently engaged in litigation with the Department in regard to this or any other tax matter.
4. The Company is not currently under audit by the Department in regard to this or any other tax matter.
5. To the best knowledge of the Company's personnel, the Department has not previously ruled regarding this matter for the Company. In addition, the Company has not submitted the same or similar issue to the Department.
6. The Company requests that certain information be deleted from the PLR prior to dissemination to others. The Company requests that its name, address, location of the facility, the description of the facility [including reference to the plant's megawatt(s)], the names of the other TIC Group members and the name of its representative be deleted.
7. The Company knows of no authority contrary to the authorities referred to and cited below.

Statement of Material Fact

1. The TIC Group, by and through the Company, will be in the business of operating an electric generating facility and coal mine. The business model for this operating entity is a mine-mouth power plant.
2. The TIC Group, by and through the Company, will develop an underground coal mine with an annual coal production capacity of approximately # million tons per year.
3. The TIC Group, by and through the Company, will construct two coal fired steam electric generating units with nominal generating capacity of # megawatts each within the Enterprise Zone.
4. The construction of the electric generating facility and coal mine will begin in late 2007.

5. The Company has received its Certification of Eligibility for Sales Tax Exemption from the County Enterprise Zone Administrator. A copy of this document is included with this correspondence.
6. The TIC Group, by and through the Company, has entered into an EPC (engineer, procure and construct) contract with a contractor for the development and construction of the Project, which will include the purchase and installation of materials described in Attachment A, which will be permanently incorporated and affixed to the Project real estate.

Ruling Requested

On behalf of the Company, we respectfully request the Illinois Department of Revenue to rule that the materials and/or component systems stated below and more fully described in Attachment A qualify for the deduction under 35 ILCS 120/5k and 86 Ill. Admin Code 130.1951(e):

Coal Handling System
Steam Boiler System
Steam Turbine & Generator System
Generator Step-Up Transformer, Electrical Transformers and Switchgear
Cooling Tower System, Water Chemical Feed System & Water Re-circulating System
Air Quality Control System
Chimney System
Water Treatment System
Limestone Handling System
Coal Combustion Waste Handling System
Rail Loop
Fire Protection System

Relevant Authorities

The Illinois Retailers' Occupation Tax Act imposes a tax on persons engaged in the business of making retail sales of tangible personal property. 35 ILCS 120/2. In accordance with Section 2-10 of the Act, this tax is measured by the seller's gross receipts. 35 ILCS 120/2-10. Pursuant to Section 5k of the Act, each retailer who makes a qualified sale of building materials to be incorporated into real estate in an enterprise zone by remodeling, rehabilitation or new construction, may deduct receipts from such sales in the calculation of taxable gross receipts. 35 ILCS 120/5K. 'Qualified sale' means a sale of building materials that will be incorporated into real estate as part of a building project for which a Certificate of Eligibility for Sales Tax Exemption has been issued by the administrator of the enterprise zone in which the building project is located. 35 ILCS 120/5K. 'Building materials' means materials purchased for physical incorporation into real estate. 86 Ill. Adm. Code 130.1951 (e). The regulation further provides several examples of materials that qualify as being 'building materials' (see 86 Ill. Adm. Code 130.1951(e)). In addressing similar private letter ruling requests regarding similar materials, the Department appears to apply the Intention Test to determine if component systems similar to those addressed in Attachment A qualify for the deduction referenced above. The Intention Test states that three criteria must be evaluated to determine if an item is permanently affixed to the real estate: (a) the item must be annexed to the real estate or to something appurtenant thereto; (b) the item

must be applied to the use or the purpose to which that part of the real estate is appropriated; and, (c) the party making the annexation must intend to make the item a permanent accession to the real estate (see Commonwealth Edison v. Property Tax Appeal Board, 219 Ill. App. 3d 550 (2d Dist. 1991); Cherry Bowl, v. Property Tax Appeal Board, 100 Ill.App.3d 326 (1981); Ayrshire Coal v. Property Tax Appeal Board, 19 Ill.App.3d 41 (1974); and In re Application of Beeler, 106 Ill.App.3d 667 (1982).

Analysis

As more fully stated in Attachment A, (1) each of item and/or component system described in Attachment A will be permanently annexed or affixed to the Project real estate through the use of anchor bolts, structural steel, collars, or similar devices embedded into foundational concrete structures; and, (2) each item and/or component systems described in Attachment A will be dedicated or applied to the use or purpose to which the Project real estate is appropriated, specifically, the mining, processing and handling of coal for consumption in the power plant facility for the generation of electricity; and, (3) each item and/or component systems of the Project is intended to be permanently affixed to the real estate, and are being specifically designed, fabricated and constructed for exclusive, permanent, physical incorporation into the Project Site, all as evidenced by the following factors:

(a) The engineering design life of the Project is thirty (30) years; however, the expected useful life of the Project is in excess of forty (40) years. The Project is designed for continuous generation of electrical power.

(b) The governmental permits authorizing the construction and/or operation of the Project (the 'Permits') are specific and exclusive to the Project's location. The Project must be constructed and operated in accordance with these Permits, and the Project cannot be constructed or operated at an alternate location. As more fully described in Attachment A, the component systems of the Project will be specifically designed, fabricated and constructed for exclusive use at the Project Site in accordance with the requirements set forth in these Permits.

(c) The Permits require that the Project be operated as a 'mine-mouth' power plant facility. Therefore, the coal mine is located immediately adjacent to and is directly connected to the power plant. The Permits further require that the Project shall exclusively 'use coal delivered by conveyor belt directly from' this specific coal mine. A coal reserve in excess of a forty (40) year coal supply is exclusively dedicated to the Project as its sole fuel source.

(d) Furthermore, under the Permits, the produced coal will not be 'washed', but will be immediately used as fuel in its 'raw' state. The Project is specifically restricted to the use of 'raw' Illinois XYZ Coal Seam fuel as its sole fuel source (except for short periods of fuel supply failure). All of the Project's component systems will be specifically designed, fabricated and constructed to comply with these restrictions, and therefore, cannot be used at an alternate location. Furthermore, the 'raw' coal will be mined exclusively for use at the Project. Therefore, the Project and its fuel source constitute an inextricably linked, continuous process system.

(e) Because the exclusive fuel supply for the Project must come from 'raw' coal generated 'at the mouth of the mine', the coal conveyance equipment is specifically designed, fabricated and constructed to carry 'raw' coal directly to the Steam Boiler System for combustion. The coal conveyor systems will be specifically designed, fabricated and constructed for the Project and the relative grades and topography of the Project.

(f) Approximately 95% of the ownership of the Project is held by municipal and not-for profit cooperative public power entities that serve a specific customer base with electricity. Many of these public power entities have financed the construction of the Project with long term public bond financing, and contemplate long-term, dedicated electric power supply for their respective customer bases to be generated from the Project.

(g) Finally, due to the strict emissions requirements set forth in the Permits, the steam boiler system and its sub-systems, the chimney, the AQCS systems, and the coal combustion waste handling systems are specifically designed to meet the unique permit requirements set forth in the Permits. These component systems are intended for use only at the Project.

Conclusion

In connection with the Certification of Eligibility for Sales Tax Exemption issued to the Company and the TIC Group by the Enterprise Zone Administrator, the items and/or component systems more fully described in Attachment A will be permanently affixed to the Project real estate, which is located within the Enterprise Zone, specifically for the intended purpose of the operation of a mine-mouth, coal-fired electric power plant, and therefore, such items and/or component systems described in Attachment A qualify for the deduction from retailer's occupation tax in accordance with 35 ILCS 120/5k and 86 Ill. Admin Code 130.1951 (e). Therefore, the items and/or component systems set forth in Attachment A may be purchased from any retailer free from Illinois Retailer's [sic] Occupation Tax and Use Tax. We respectfully request that the Department issue a ruling stating that the items and/or component systems described in Attachments A qualify for the deduction provided in 35 ILCS 120/5k and 86 Ill. Admin Code 130.1951 (e). If the Department cannot conclude that the materials identified qualify for the purposes of the deduction provided in 35 ILCS 120/5K and 86 Ill. Admin Code 130.1951 (e), we request that the Department contact me at 217-342-3925 to determine what additional information is required or allow the taxpayer to rescind this ruling request.

Thank you.

ATTACHMENT A

PROJECT ITEMS/COMPONENT SYSTEMS

1. Coal Handling System: The Coal Handling System consists of a series of Conveyors, Rotary Breakers, Stacking Tubes, Transfer Towers, Reclaim Hoppers, Surge Bins, Crusher Tower, Coal Silos, and related coal process equipment.

Purpose: The purpose of the Coal Handling System is to transmit and process 'raw' coal from the mouth of the Project's underground coal mine to the Steam Boiler System for combustion. The Coal Handling System will be specifically designed, fabricated and constructed to comply with the requirements of the Permits, and will be designed, fabricated and constructed for the specific topography and relative location of the other component systems of the Project. In particular, the conveyor systems will be specifically designed and constructed to meet the unique elevations and grades necessary to transmit the coal from the mouth of the mine to Steam Boiler System. As a result of the unique elevations and grades, there are numerous Transfer Towers and specific transfer points. These Transfer Towers pass the coal from one Conveyor to

another, which are set at a specific angle and grade to allow the transmission of the coal into each sub-component of the Coal Handling System. Furthermore, the coal is not 'washed', and therefore the Coal Handling System is designed to transmit and process 'raw coal' having the specific attributes (weight, density, delivery speed, etc.) of coal mined from the Illinois XYZ Coal Seam at the Project Site.

Process: The coal is mined underground and then transmitted to the surface via a 'slope conveyor'. The 'raw' coal is transferred to a Conveyor and transmitted to a Rotary Stacker and Rotary Breaker, which processes the coal by screening and crushing. The raw coal is then transmitted via Conveyor to an enclosed Transfer/Crusher Tower. The Coal is then transmitted via additional Conveyors to a Coal Stacking Tube, which allows the structured 'stacking' of the coal into a pile, and which then feeds into a series of Reclaim Hoppers. The Reclaim Hoppers feed the raw coal into an underground reclaim pit facility for transmission back to the Crusher Tower. The coal is processed through the Crusher Tower in a series of Surge Bins, Screens and Granulator Crushers, which further crushes and processes the coal into a fuel source specifically meeting the requirements for combustion in the Steam Boiler System. Conveyors then transmit the coal into the Transfer Tower. The Transfer Tower feeds the coal in to a series of Coal Silos located within the Steam Boiler System facility. The Coal Silos feed the crushed and processed coal into the Steam Boiler System.

Affixation: Each of the above described component systems of the Coal Handling System are (i) interconnected with each other; (ii) specifically design [sic], fabricated and constructed to meet the Permit requirements and for the unique topographical attributes of the Project; and (iii) are permanently affixed to the Project Site real estate as follows:

a. Conveyors: Large, steel-reinforced concrete piers will be constructed and spaced. Steel support structures will be affixed to the concrete piers by embedded anchor plates and anchor bolts embedded in the concrete piers. The conveyor systems are custom designed to transmit the coal at specific angles and grades unique to the Project Site real estate. They are specially designed and fabricated for this application due to length, slope, and relative elevations of conveyor requirements, which are site grade dependent. In this case, the Conveyors are designed based upon the tons of 'raw' coal per hour that must be transmitted to meet the needs of the Project, the amount of vertical lift necessary to transmit the coal through the components of the Coal Handling System and in to the Steam Boiler System, horizontal traverse distance, weight and density of the 'raw' coal, surcharge degree of rollers, and the percentage CEMA cross section requirements. The Conveyors are enclosed, and will house interconnected power systems, belt systems, and dust control systems.

b. Rotary Breakers: The Rotary Breaker screens and breaks coal and rock. The larger pieces of rock are sent to a refuse bin. The Rotary Breaker is permanently attached to a structural steel frame by steel collars and bolts, which is affixed to a concrete foundation by anchor bolts embedded into the concrete.

c. Transfer Towers, Coal Silos, Surge Bins, Screens, Crushers, Crusher Tower, Stacking Tube, Reclaim Hopper & Tunnel: The Stacking Tube is an approximately 12 foot diameter concrete silo with approximately 18 inch thick walls that is used to form the coal piles. Coal is dumped in the top of the silo and

through a series of windows at varying elevations around the stack tube the coal is allowed to exit to form a cone shaped pile. This method of stacking the coal provides less drop height and therefore better emissions control. The stack tubes are affixed to the foundation using a series of 1-2' diameter anchor bolts set approximately 30 inches in the concrete foundation. Reclaim Hoppers are subsurface equipment located under the storage piles. The reclaim hoppers are typically made of stainless steel. The hoppers are designed according to the plant's coal needs. The size and slope of the hoppers is what determines the amount of coal fed to the reclaim conveyor located beneath the hoppers in the reclaim tunnels. The reclaim tunnel is a permanent below grade concrete structure fastened with anchor bolts. The Crusher Tower, which is typically constructed using sheet metal siding bolted together, and anchor bolted to a foundation, houses several coal transfer points, the surge bins, coal crushers, and dust suppression equipment. Once the coal is reclaimed from the storage piles but before entering the coal silos in the boiler building the coal undergoes a preliminary processing in the coal crushers to obtain a more uniform size of coal. The coal crushers will be bolted to one of the elevated floors using anchor bolts. The coal silos provide the coal feed to the boiler. There are six coal silos for each boiler. Each coal silo is approximately 26 feet in diameter and 100 feet high including hopper. The silos are made of carbon steel material with the hoppers lined with stainless steel.

2. Steam Boiler System: The Steam Boiler System consists of several sub-components that are collectively housed within a structure constructed of structural steel and concrete.

Purpose: Each of these sub-components are integrated and interconnected to allow for the controlled injection of processed coal fuel and air into furnace where the fuel is combusted thereby heating feed water circulated through pipes running within the furnace creating high pressure steam. The high pressure steam is transmitted through a piping system within the structure to the Steam Turbine and Generator System for the production of electricity. Emissions and waste product from the coal combustion process are transmitted out of the Steam Boiler System via the outlet duct of the SCR System. The Steam Boiler System is interconnected to: (a) the Coal Handling System to receive necessary processed coal fuel, (b) the Cooling Tower System, Feed Water System and Water Re-circulating System to receive adequate supply feed water, (c) the Steam Turbine and Generator System to transmit the high pressure steam produced by the Steam Boiler System for the production of electricity, and (d) the AQCS System for emissions control.

Process and Affixation: All of the following sub-components of the Steam Boiler System are interconnected with each other through a series of pipes and electrical connections, and they are all attached by welds, bolts and collars to structural steel that is permanently affixed to the Steam Boiler System structure's concrete foundation by anchor bolts embedded in the concrete. Due to the immense weight of the Steam Boiler System and the Steam Turbine and Generator System located adjacent to it, the foundation for the Steam Boiler System is in excess of thirty (30) feet below grade. The sub-components of the Steam Boiler System are described below, and each sub-component is mutually integrated in order to combust processed coal fuel to generate high pressure steam, transmit the steam to the Steam Turbine and Generator System, and transmit the waste stream and emissions to pollution control systems located adjacent to the Steam Boiler System structure.

- a. **Forced Draft Fan:** The forced draft fan system contains the actual fan, motor, foundation, and associated piping. The forced draft air fan is a large motor operated fan that supplies the boiler with air for the combustion of the coal.
- b. **Furnace:** The furnace is a large structure, 10-15 stories high, which houses the combustion equipment and resultant flame for heating the feed water to create steam. Pulverized coal is transported into the burners via the air fans, and is combined with additional air before being ignited. The main steam pipes are connected to the top surface of the furnace and move outward towards the steam turbine. Due to thermal expansion (up to 15-16" in growth), the boiler is hung from a structural steel framework using connector rods and 'I' beams. This allows the boiler to expand downward without bursting. The structural steel framework is then embedded into the concrete foundation of the structure. The outer wall of the furnace is a sheet metal assembly that covers the inner structure.
- c. **Induced Draft Fan:** The Steam Boiler System will be equipped with four - 50% capacity axial induced draft (ID) fans. The fans, electric motors, enclosures and lube oil systems will provide draft for the boiler in order to transport the flue gas (boiler exhaust) through AQCS and out the chimney. Each fan will be mounted on a permanent foundation with anchor bolts embedded in the concrete foundation.
- d. **Condensate Pumps:** These pumps are required to create suction through the Steam Boiler System's condenser to regulate the direction, and speed (typ. 4700gpm) of the steam flow. After leaving the condenser, the pumps will move the now condensed steam into the condensate polishing system. The inlet of the pumps will be connected to the condenser, and the outlet will be hooked up to piping that leads to the condensate polisher; both will be flange connections. The pumps themselves will be anchor bolted to a concrete foundation.
- e. **Boiler Feed water Pumps:** The boiler feed water pumps (BFP) are high energy pumps that create the pressure needed by the feed water in a supercritical plant. The BFPs will draw feed water from the deaerator and pump it from 150 psi to over 4300 psi. This provides the pressure needed for the feed water to continue through the high pressure feed water heaters, through the Steam Boiler System where the water becomes steam, and thence out to the Steam Turbine and Generator System. Due to the heavy loads a plant will typically have (2) -50% BFP to prevent damage to the pumps. Each BFP will also have a boiler feed water booster pump driven by electric motors to provide more power, and protect the BFPs. A typical BFP requires about 30MW, most of which comes from the boiler feed pump turbine. Due to noise generated by the BFP's they will be further enclosed within a fabricated case. Both the pumps and the enclosures are permanently affixed to the concrete foundation with anchor bolts.
- f. **Boiler Feed water Booster Pumps:** Each BFBP works in series between the deaerator and a single BFP to aid in pressurization of the feed water. Each BFBP requires an 850-950 hp motor to handle the 6900 gpm of feed water being pumped. The booster pump and piping connections are typical flange and anchor bolt assemblies.
- g. **Feed water Heaters:** Feed water heaters are provided to increase the overall plant efficiency by heating the condensate on its way back to the boiler. This allows less coal to be used to obtain the desired pressure and temperature for the feed water. The condensate will flow through the tube side of the feed water heater, and the extraction steam from the boiler will flow through

the shell side. There are two sections of feed water heaters, low pressure and high pressure. The low pressure feed water heaters operate at or below 150 psi and are connected in series with one another. The feed water then flows to the deaerator through the boiler feed pumps where it is pressurized. Connected to the exit of the BFP are the three final high pressure feed water heaters that lead back to the boiler for super heating. Each feed water heater will be permanently affixed to a concrete foundation with anchor bolts embedded in the foundation.

h. Deaerator: The deaerator is provided as a mid stage feed water heater typically 5th out of a total of 8 feed water heaters. It has two internal parts, the heater and storage tank, which will be connected to the outer shell of the structure. The purpose of the deaerator is to remove non-condensable gases from the feed water by using steam in direct contact with the feed water. This allows the final feed water heaters to effectively finish heating the feed water. The deaerator will be attached in the same fashion as the feed water heaters.

i. Convection Pass – this is a section of the boiler that contains a series of steam or feedwater pipes called Reheaters, Superheaters and Economizers.

j. Reheater – this is a series or bank of tubes that is placed in the boiler or Convection Pass area to allow the most efficient use of the combustion energy. By reheating the steam after it has passed through the steam turbine the overall plant efficiency is increased. This bank of tubes interconnected with the boiler feedwater tubes and steam pipes.

k. Superheater - this is a series or bank of tubes that is placed in the boiler or Convection Pass area to allow the most efficient use of the combustion energy. By superheating the steam before goes [sic] to the steam turbine the overall plant efficiency is increased. This bank of tubes interconnected with the boiler feedwater tubes and steam pipes.

l. Economizer – This is the initial bank of feedwater tubes that gets heated by the exhaust of the boiler. This series or bank of tubes is one of the steps in the steam cycle taken to improve the efficiency of the plant. This bank of tubes interconnected with the boiler feedwater tubes and steam pipes.

m. Air Heater This device heats the air flow used in the combustion of the raw coal in the boiler. By preheating the air it improves the efficiency of the plant. This device is connected to steel [sic] members that are embedded in the foundation

n. Economizer hoppers – these hoppers collect the initial ash that is transported out of the boiler and through the Convection Pass. The resultant ash is then transported to the Fly Ash Silos. This equipment is held in place by structural steel members that are embedded in the foundation

o. Sootblowers – these are devices that act like lances that move in and out of specific areas in the boiler to control the buildup of ash on tubes. They are attached to the flooring structural steel members

p. Seal Air Fans – these fans provide additional air to the boiler to provide a positive pressure in area's [sic] to prevent leakage of hot combustion gases from the boiler. Each fan will be mounted on a permanent foundation with anchor bolts embedded in the concrete foundation.

3. Steam Turbine & Generator System: The Steam Turbine & Generator System consists of a Boiler Feed pump Turbine, a Generator connected to a rotating shaft, which is rotated by 3 Steam Turbines: (a) a low pressure turbine, (b) a [sic] intermediate pressure turbine, and (c) a high pressure turbine.

Purpose: The purpose of the Steam Turbine and Generator System is to receive the high pressure steam produced by the Steam Boiler System within a series of steam

turbines, which use the pressure of the steam to turn a shaft that in turn generates electricity via the electromagnets within the generator for transmission through the Generator Step-Up Transformer and on to the transmission system.

Process and Affixation: High pressure steam produced from the Steam Boiler System is transmitted via interconnected piping systems to the high pressure turbine with an approximate pressure of 3600psi, and a temperature of 1050 degrees F. The high pressure side of the turbine will reduce the pressure to about 800 psi. The steam then moves back into the Steam Boiler System to the re-heater for re-heating to about 750 psi and 1050 degrees F.. After another reduction in the intermediate pressure turbine the steam is now at around 200 psi. From the intermediate turbine some of the steam moves to the boiler feed pump turbine while the rest is used in the low pressure turbine. From the low pressure turbine some of the steam moves to the feed water heaters to be used for heating of the incoming feed water. The remaining steam is exhausted to the condenser. The pressure of the steam turns the turbine, which is connected to a main shaft, which is connected to the generator where electricity is generated. All three stages of the turbine are typically enclosed in a steel casing. The Steam Turbine unit is permanently set in a large concrete foundation to anchor the Steam Turbine against the centrifugal force exerted by the turbine blades.

The Boiler Feed pump Turbine is located underneath the main turbine generator and accepts extraction steam from the intermediate pressure turbine. The Boiler Feed Pump Turbine provides direct drive power (typically 25-35 MW) to the boiler feed water pumps in the Steam Boiler System. After moving through the turbine the steam exits through a steam exhaust vent (typically 80-90' diameter) and continues back to the condenser.

The Generator is attached to the end of the Steam Turbine via a rotating shaft. The shaft rotates at about 3600 rpm, is typically hydrogen cooled with stator water cooling. The spinning generator uses a series of electro magnets to generate a current of electricity. An iso-phase bus duct (concrete enclosed wire) carries the current to the Generator Step-Up Transformer, which increases the voltage of the electricity for transmission. The Generator has an outer steel casing connected to the casing of the turbine. The Generator is also permanently set in a large concrete foundation to anchor the Generator against the centrifugal forces exerted by the turbine blades.

4. Generator Step-Up Transformer, Electrical Transformers and Switchgear:

The electrical transformers and switchgear are located in the switchyard. The transformers and switchgear are custom designed for the specific electrical output generated by the Project for transmission into to [sic] the transmission system. The purpose of the electrical transformers and switchgear is to properly handle the electrical output generated from the Project and direct the output on to the transmission system. The electrical transformers and switchgear are directly interconnected to the steam turbine and generator systems through the Generator Step-Up Transformer, which increases the voltage of the electrical output, and represents the point of interconnection between the Project and the transmission system. All electrical transformers and switchgear components are welded or similarly attached to structural steel frameworks, which are permanently affixed to the Project Site real estate by anchor bolts embedded into concrete foundations and concrete piers.

5. Cooling Tower System, Water Chemical Feed System & Water Re-circulating System:

The Project will use re-circulated water transmitted through a

series of pipes by numerous pumps and process systems between the Steam Boiler System and a Cooling Tower. This consists of numerous component systems, including: Cooling Tower, Re-circulating Pipes, Water Chemical Feed System, Condensate Pumps, and related pumping and process systems and piping.

Purpose: The purpose of this series of systems is to provide for the dissipation of excess heat generated during the coal combustion and electricity generation process. These systems are interconnected to the Steam Boiler System and the Cooling Tower.

Process and Affixation: The Cooling Tower is a fiberglass rectangular mechanical draft cooling tower that utilizes counter flow to cool the circulating water for the Project. After being heated in the Steam Boiler System's condenser, the water is pumped through risers that come from underground main re-circulating water pipes through the cells of the Cooling Tower, where ambient air is injected into the Cooling Tower chamber by large fan systems. Some water evaporates into the atmosphere, while the remainder falls into the sub-grade recovery basin located under the Cooling Tower. The water is recirculated through this process by series of large pumps and pipes that interconnect the Steam Boiler System and the Cooling Tower System. The Cooling Tower System, pumps and re-circulating pipes are custom designed and fabricated to meet the unique cooling needs required by the Steam Boiler System. The Cooling Tower System, pumps, and re-circulating pipes are constructed within structural steel frameworks that are permanently affixed to concrete foundations and piers by anchor bolts embedded in the concrete.

Circulating Water Chemical Feed System uses concentrated sulfuric acid to control the pH of the circulating water, and is injected through an opening into the sub-grade basin under the Cooling Tower System, where it is diluted with water. Corrosion inhibitors and scale inhibitor agents are continuously injected into the Cooling Tower System basin. This process is interconnected in the Steam Boiler System and the Cooling Tower System to prevent corrosion and contamination of the piping and equipment. There are several tanks, vessels and associated pumps, foundations, piping, and housings integrated into the Circulating Water Chemical Feed System, which are constructed of steel and concrete, and are permanently affixed to concrete foundations with flange connection, steel collars, and anchor bolts [sic] embedded in the concrete.

6. Air Quality Control System: The 'AQCS' System consists of a series of emissions control systems through which the gases generated from the coal combustion process in the Steam Boiler System must pass, and consists of a Selective Catalytic Reduction System, Dry Electrostatic Precipitator, Wet Electrostatic Precipitator, Flue Gas Desulfurization System, Activated Carbon System, and Hydrated Lime System, together with various tanks and vessels used to store commodities injected in to the gas flow for emissions control purposes.

Purpose: The AQCS System will be custom designed and fabricated specifically for the Project to allow compliance with the Permit emissions requirements through the reduction of certain regulated emissions, such as nitrogen oxide, sulfur dioxide, mercury, and ash particulate. The design of the AQCS System is unique to the Project location, restricted coal fuel source, prevailing ambient conditions, and the Permit requirements. Without the AQCS System, the Project cannot operate.

Process and Affixation: The gases containing regulated emissions produced from the coal combustion process in the Steam Boiler System are captured and transmitted

via an integrated ductwork system to the Selective Catalytic Reduction System to reduce nitrogen oxide. The gas flows through the SCR over chemically treated metal plates. Ammonia is injected (from an integrated storage tank and piping system) into the gas stream. This creates a reaction causing the nitrogen oxide to form nitrogen and water vapor.

The gas then flows through a Hydrated Lime System where hydrated lime [sic] is injected into the gas stream from an integrated storage tank and piping system to assist in the removal of fluorine, chlorine, and sulfuric acid mist.

The gas then flows through an Activated Carbon System, where the activated carbon is injected into the gas stream (from an integrated storage tank and piping system) to absorb mercury in the gas. Resulting particulate is removed later in the process.

The gas then flows through a Dry Electrostatic Precipitator which consists of enclosures containing large dry, electrically charged steel plates that collect particulate and fly ash, which are collected and disposed of in a coal combustion disposal facility.

The gas then flows through a Flue Gas Desulfurization System, where a lime and water mixture (from the Lime Handling System) is injected into the gas, which reacts with the sulfur dioxide to form particulate that creates a slurry in the FGD basin and removed through a dewatering process and sent to the Pug Mills. (See below).

The gas then flows through a Wet Electrostatic Precipitator, which consists of enclosures containing large, wet, electrically charged steel plates that collect particulate and sulfuric acid mist as the gas passes through. The gas stream is then passed on to the Chimney System.

Each of these systems are interconnected to each other, and permanently affixed to structural steel framework and anchor bolts embedding into the concrete foundation. The tanks and vessels are steel and concrete structures affixed to permanent foundations with flange and anchor bolt system embedded into the concrete foundations.

7. Chimney System: The Project will have one Chimney Structures [sic]. The Chimney will be a freestanding reinforced-concrete structure housing two fiberglass flues. The total height of each chimney will be approximately 700 ft. Its function is to expel the treated flue gas into the atmosphere. A Continuous Emission Monitoring System consists of a series of sensors installed in the Chimney System. The CEMS will monitor the air quality to ensure emission standards are being satisfied in accordance with the Permits. Each Chimney will be constructed using steel reinforced concrete, and will be permanently attached to a concrete foundation. Each Chimney will be designed and fabricated specifically for the Project's geographic location, seismic zone, and weather conditions (wind, snowfall, etc.).

8. Water Treatment System: The Water Treatment System is an integrated on-site water treatment facility consisting of a Lime Softening Clarifier, Lime Soda Ash Silos, Sludge Dewatering Systems, RO System with Electro-deionization System, Condensate Polisher, Ion Exchange Vessels, Fluoride Removal System, Tank Clarifier, and related tanks and vessels.

Purpose: The purpose of the Water Treatment System is to process and treat all of the water necessary to supply the Steam Boiler System with feed water.

Process and Affixation: The feed water for the Steam Boiler will be drawn from a large holding reservoir on the Project Site, and pumped to the Water Treatment System. The Water Treatment System will treat the water to a standard suitable for use as feed water in the Steam Boiler System. All of the Water Treatment System components will be housed within the Water Treatment System building, will be interconnected, and will be permanently affixed to the concrete foundation of the building by anchor bolts embedded in the concrete.

9. Limestone Handling System: The Limestone Handling System primarily consists of a Railroad Unloading Station, Conveyors, Limestone Dome, Reclaim Hoppers, Limestone Preparation Facility, Wet Ball Mill, Limestone Day Bins, and Limestone Slurry Storage Tanks.

Purpose: The purpose of the Limestone Handling System is to store, convey, process, inject and recover raw limestone material (about 2 inches or smaller) into the emissions control process. Limestone is a primary catalyst introduced in to the emissions control process to provide pollution control. Without the Limestone Handling System, the AQCS System and related emissions control systems will not perform properly. The use of limestone is required to meet the emissions control requirements set forth in the Permits.

Process & Affixation: The limestone material will be delivered by rail to Railroad Unloading Facility, and dumped into a below grade unloading hopper equipped with slide gates and dust suppression systems. The limestone is then fed into a Conveyor System, which conveys the limestone to the Limestone Dome, which is an enclosed storage structure with an internal stacking tube system. As needed, the limestone is fed into a below grade Reclaim Hoppers [sic] and processed in the Wet Ball Mill, and then conveyed to the Limestone Day Bins for introduction into the coal combustion and emissions control process, and the waste stream produced by this process is captured by the Limestone Slurry Storage Tanks. These component systems of the Limestone Handling System are integrated into the coal combustion and emissions control system, and are permanent [sic] affixed to the Project Site real estate as follows.

a. The Railroad Unloading Facility is permanent [sic] affixed to a concrete foundation. A portion of the facility is located below grade, and houses unloading hoppers, slide gates, dust suppression systems, reclaim hoppers and conveyors, which will all be permanently affixed to the Project Site real estate by anchor bolts embedded into the concrete foundations.

b. The Conveyor Systems are mounted on structural steel permanently anchor bolted on to concrete piers.

c. The Limestone Dome is an enclosed structure about 200 feet in diameter constructed of structural steel and supported by 22 feet high concrete walls, and permanently affixed to it [sic] concrete foundation. It houses an internal stacking tube system, below grade reclaim hoppers and conveys [sic] that are mounted on structural steel and permanently affixed to the foundations by anchor bolts embedded into the concrete.

d. The Wet Ball Mill is used to crush raw limestone so that it may be pumped into the Wet Flue Gas Desulfurization [sic] units that are used to control SO₂ emissions. The Wet Ball Mill and the Limestone Process Facility are mounted

onto structural steel frames that are permanently affixed to a concrete foundation.

e. The Limestone Bins are steel and concrete structures permanent [sic] affixed to concrete foundations with anchor bolts embedded in the concrete.

10. Coal Combustion Waste Handling System: The Coal Combustion Waste Handling System consists of Pug Mills, Conveyors, Above Ground Reclaimer System, Rail Loadout Bin, Fly Ash Silos, Blowers and Hoppers.

Purpose: The purpose of the Coal Combustion Waste Handling System is to capture and store coal combustion waste generated at the Project pending removal from the Project Site to a disposal site in accordance with the Permit requirements.

Process and Affixation: Fly ash and similar coal combustion waste particulate is transferred from the AQCS System via conveyor and via pneumatic piping system to Fly Ash Silos. The Fly Ash Silos are concrete and steel structures constructed on permanent concrete foundations. The material is then processed through a series of Pug Mills, Blowers, Hoppers and related filter systems via conveyors to Rail Load Out Bins, where the material is hauled out by rail car. Pug Mills take dry fly ash and wet gypsum and mixes them together with water to create a dustless material for removal via rail car. The Pug Mills, Blowers and Hoppers and related filter systems are constructed within a structural steel framework permanently attached to concrete foundations by anchor bolts embedded in the concrete. The conveyors are attached to structural steel permanently attached to concrete piers by anchor bolts embedded in the concrete. The Rail Load Out Bins are suspended over the railroad track within an [sic] structural steel framework, which is permanently attached to concrete foundation by anchor bolts embedded in the concrete.

11. Rail Loop: The rail loop consists of steel railroad tracks, ties and switchgear permanently affixed to the Project Site real estate by rail spikes and bolting systems, all of which is embedded into a below grade excavation filled with rock ballast to create a railroad bed. The purpose of the railroad loop is to deliver commodities via 100 car unit trains to the Project, such as limestone, and remove coal combustion waste from the Project in accordance with requirements of the Permits. Coal combustion waste may only be temporarily accumulated at the Project in the Waste Handling Systems. The Permits require that the coal combustion waste must be removed from the Project Site for permanent disposal at an off-site coal combustion waste disposal facility.

12. Fire Protection System: The Fire Protection System is an integrated series of pumps and fire suppression water systems capable of providing simultaneous flow and pressure required to suppress fires throughout the Project. Pressure will be delivered to the system by (a) horizontal split case, centrifugal pumps sized to exceed the minimum requirements; and (b) a diesel water pump rated in accordance with the required standards including controls, starting, exhaust, and fuel systems. These pumps will be housed in a single fire pump house with the adjacent water supply tank and fuel supply. The pumps will transmit water from the fire pump house through an integrated fire suppression piping system throughout the Project. The fire suppression piping system will permanently attached [sic] the walls and ceilings of the structures throughout the Project by anchor bolts, collars, and shafts. The pumps are permanently affixed to the concrete foundation of the fire pump house by anchor bolts embedded in the concrete.

DEPARTMENT'S RESPONSE:

This letter ruling addresses the issues raised with respect to COMPANY, LLC, and the “TIC Group” which consists of the following members: MEMBERS. For purposes of this Letter Ruling and the application of the Retailers’ Occupation Tax, Use Tax, Service Occupation Tax, and Service Use Tax, the Department will treat COMPANY and the TIC Group as a partnership subject to joint and several liability.

A deduction from Illinois Retailers’ Occupation Tax liability is allowed for gross receipts from retail sales of building materials that will be incorporated, by remodeling, rehabilitation or new construction, into real estate located in an enterprise zone established by a county or municipality under the Illinois Enterprise Zone Act. (35 ILCS 120/5k, 86 Ill. Adm. Code 130.1951(a)) All “qualified sales” of building materials sold for incorporation into any Illinois enterprise zone are eligible for the deduction. See 86 Ill. Adm. Code 130.1951(d)(1). A “qualified sale” means a sale of building materials: (a) for incorporation into real estate in an Illinois enterprise zone, (b) as part of a building project, (c) for which a Certificate of Eligibility for sales tax exemption has been issued, (d) by the administrator of the enterprise zone in which the project is located. 86 Ill. Adm. Code 130.1951(d)(2).

The issue in this PLR is whether certain materials purchased and used in constructing an electric generating facility can qualify as building materials eligible for the deduction. The Department’s regulation at 86 Ill. Adm. Code 130.1951(e) provides examples of qualifying building materials. The enterprise zone exemption includes component parts of the building materials that are permanently affixed to realty. While the examples in the Department’s regulation reflect more conventional buildings, the fundamental concept of the building materials exemption is that, to qualify, provided that the other requirements of the regulation are met, the materials at issue must also be physically incorporated into real estate.

You have cited a number of property tax cases in support of your argument that the Department uses an intention test to determine whether a material has been physically incorporated into the real estate (see Commonwealth Edison v. Property Tax Appeal Board, 219 Ill. App. 3d 550 (2d Dist. 1991); Cherry Bowl, v. Property Tax Appeal Board, 100 Ill.App.3d 326 (1981); Ayrshire Coal v. Property Tax Appeal Board, 19 Ill.App.3d 41 (1974); and In re Application of Beeler, 106 Ill.App.3d 667 (1982)). While the manner in which property is classified for property tax purposes is not conclusive in determinations of the enterprise zone building materials exemption under the Retailers’ Occupation Tax, the caselaw cited in your letter is indicative of the type of analysis the Department must engage in in resolving the issue of physical incorporation into real estate. Further, the Department has invoked the intention test in the context of letter rulings concerning construction contractors (see Private Letter Ruling ST 05-0016 (October 7, 2005) and General Information Letters ST-04-0105 (July 1, 2004), ST-01-0141 (July 27, 2001), ST-00-0156 (July 27, 2000), and ST-96-0138 (March 13, 1996)). General Information Letter ST 00-0156 sets forth the intention test as follows: “In determining whether an item is permanently affixed to real estate, a very fact-specific inquiry must be made regarding whether the item is intended to remain with the realty. In order to make a finding that the item is permanently affixed, at least three factors must generally be examined. First, the item must be affixed to the realty. The item must also be applied to the use or purpose to which the realty is put. Finally, the intent of the person affixing the item must be examined. Another factor often examined is whether the item is essential to the use to which the real estate has been put.” In your request, with respect to all of the items the Department is ruling on in this letter, you have both asserted that and demonstrated the manner in which: (1) each item and/or component system will be permanently annexed or affixed to the Project real estate, (2) each item and/or component systems will be dedicated or applied to the use or purpose to which the Project real estate is appropriated, and (3) each item and/or component systems of the Project is intended to be permanently affixed to the real estate, and is being specifically designed, fabricated and constructed for exclusive, permanent, physical incorporation into the Project Site.

The specific question of whether the materials used in constructing an electric generating facility qualify for the building materials exemption under 35 ILCS 120/5k of the Retailers' Occupation Tax has been addressed in numerous private letter rulings issued by the Department in recent years. In Private Letter Ruling 99-0009 (March 9, 1999) the Department ruled that pipe racks, pipe, supports, and piping tie-ins installed at a natural gas fired power plant qualified for the exemption because they were permanently affixed to real estate. In Private Letter Ruling ST 00-0013 (July 7, 2000) the Department found that certain materials incorporated into realty within an electricity generating facility qualified for the exemption. The Department found that turbine generators, electrical transformers, electrical cabling, piping and other materials that are permanently affixed to real estate qualified for the exemption in 35 ILCS 120/5k and 86 Ill. Admin. Code Sec. 1951(a)(1). Thereafter, the Department has consistently ruled that these materials qualified for the exemption if it was demonstrated that they were permanently affixed to the real estate (see, for example, Private Letter Rulings ST 00-0025 (October 19, 2000), ST 00-0026 (November 3, 2000), ST 00-0033 (December 11, 2000), ST 00-0034 (December 11, 2000), ST 01-0001 (January 9, 2001), ST 01-0012 (April 5, 2001), ST 01-0014 (April 9, 2001), ST 01-0040 (September 24, 2001), ST 01-0045 (October 26, 2001), ST 02-0012 (June 10, 2002), and ST 05-0020 (November 18, 2005).

Generally, the determination of whether an item qualifies for the exemption must be made on an item-by-item basis. Therefore, the Department will not rule in this Private Letter Ruling on a "system" in the aggregate because some component parts of that system may not be physically incorporated into the real estate. Rather, the exemption is available for each item or building material physically incorporated into the structure or system, such as common building materials, plumbing components, heating components, electrical components, etc. Without a description of items that comprise a system and how those components are attached to the system or to the real estate the Department is unable to make a definitive ruling on the component parts of the system.

Of course, any items or components that are not physically incorporated into the real estate do not qualify for the exemption. This includes, but is not limited to, items such as file cabinets, desks, other furnishings, appliances, tools, machinery, portable fire suppression equipment, and other equipment that is not physically incorporated into the real estate.

The rulings issued by the Department in this letter apply only to those items that are incorporated into the electric generating facility itself. The Department declines to issue a ruling regarding any item installed or otherwise used that is outside of the perimeter of the electric generating facility. (86 Ill. Adm. Code 1200.110(a)(4)) Items not ruled on in this letter include any materials installed in or related to the coal mine or mine infrastructure, the rotary breaker located near the mine mouth, the rotary stacker located near the mine mouth, the conveyors that carry the coal from the mine to the transfer/crusher tower located on the electric generating site, and the rail loop. A ruling issued in this letter for any type of item that is used both inside and outside of the perimeter of the electric generating facility applies only with respect to those items installed inside the perimeter of the electric generating facility.

The Department's rulings below are based on the information contained in this letter, the presentation by the taxpayer's representative, and additional diagrams, pictures, and written material provided. The rulings are also based on the representation that a Certificate of Eligibility for Sales Tax Exemption has been granted for this building project. The Department's rulings are as follows:

Coal Handling System:

The Coal Handling System consists of a series of Conveyors, Rotary Breakers, Stacking Tubes, Transfer Towers, Reclaim Hoppers, Surge Bins, Crusher Towers, Coal Silos, and related coal process equipment. You have represented that each of these components are interconnected with each other and are permanently affixed to the Project Site real estate. This ruling only applies to those components of the coal handling system that are within the perimeter of the electric generating facility and not those within the perimeter of the coal mine or located over or on the other side of any public road or street that separates the electric generating facility from the coal mine. The Department declines to issue a ruling on the rotary breaker located near the mine mouth, the rotary stacker located near the mine mouth, or the conveyors that carry the coal from the mine to the transfer/crusher tower located on the electric generating site.

Conveyors: You have represented that large steel-reinforced concrete piers will be constructed and spaced and that steel support structures will be affixed to the concrete piers by embedded anchor plates and anchor bolts embedded in the concrete piers. In the additional materials provided you have stated that the conveyors will be permanently mounted to the supporting steel structure. The conveyors are enclosed and will house interconnected power systems, belt systems and dust control systems. The Department declines to issue a ruling on the conveyors that carry the coal from the mine to the transfer/crusher tower located on the electric generating site. Beginning with the conveyors that convey coal from the transfer/crusher tower, the conveyors that are located within the perimeter of the electric generating facility qualify for the exemption.

Rotary Breaker/Rotary Stacker: The Department declines to rule on the rotary breaker and rotary stacker located near the mine mouth.

Stacking Tubes: You have represented that the stacking tubes are approximately 12 foot diameter concrete silos with approximately 18 inch thick walls that are used to form the coal piles. The stacking tubes are affixed to the foundation using a series of 1-2' diameter anchor bolts set approximately 30 inches in the concrete foundation. The stacking tubes that are located within the perimeter of the electric generating facility qualify for the exemption.

Reclaim Hoppers: You have represented that the reclaim hoppers are subsurface equipment located under the storage piles; the reclaim hoppers are typically made of stainless steel; and, in other materials provided, that the reclaim hoppers are permanently mounted to supporting steel structures that are permanently attached to reinforced concrete foundations with anchor bolts. The reclaim hoppers that are located within the perimeter of the electric generating facility qualify for the exemption.

Reclaim Tunnel: You have represented that the reclaim tunnel is a permanent below grade concrete structure fastened with anchor bolts. The reclaim tunnels that are located within the perimeter of the electric generating facility qualify for the exemption.

Crusher Tower, Surge Bins, Screens, Crushers: You have represented that the crusher tower, which is typically constructed using sheet metal siding bolted together, and anchor-bolted to a foundation, houses several coal transfer points, the surge bins, coal crushers, and dust suppression equipment. The coal crushers will be bolted to one of the elevated floors using anchor bolts. The crusher tower, the coal crusher, and component parts, including the surge bins, screens, and dust suppression equipment qualify for the exemption.

Transfer Tower and Coal Silos: Each coal silo is approximately 26 feet in diameter and 100 feet high including hopper. The silos are made of carbon steel material with the hoppers lined with stainless steel. The transfer towers feed the coal into a series of coal silos located within the steam

boiler system facility. We understand that the transfer towers and coal silos will be permanently affixed to the real estate. The transfer towers and coal silos qualify for the exemption.

Steam Boiler System:

The Steam Boiler System consists of sub-components that are collectively housed within a structure constructed of structural steel and concrete as follows: furnace, forced draft fan, induced draft fan, condensate pumps, boiler feed water pumps, boiler feed water booster pumps, feed water heaters, deaerator, convection pass, reheater, superheater, economizer, air heater, economizer hoppers, sootblowers, and seal air fans. You have represented that all of these sub-components of the Steam Boiler System are interconnected with each other through a series of pipes and electrical connections, and that they are all attached by welds, bolts, and collars to structural steel that is permanently affixed to the Steam Boiler System structure's concrete foundation by anchor bolts embedded in the concrete.

Forced Draft Fan: The forced draft air fan is a large motor-operated fan that supplies the boiler with air for the combustion of the coal. You have represented that, as with each component described here, the forced draft fan is attached by welds, bolts and collars to structural steel that is permanently affixed to the Steam Boiler System structure's concrete foundation by anchor bolts embedded in the concrete. The forced draft fan qualifies for the exemption.

Furnace: You have represented that the furnace is a large structure, 10-15 stories high, which houses the combustion equipment and resultant flame for heating the feed water to create steam; that the boiler is hung from a structural steel framework using connector rods and 'I' beams; that the structural steel framework is then embedded into the concrete foundation of the structure; and that the outer wall of the furnace is a sheet metal assembly that covers the inner structure. The furnace qualifies for the exemption.

Induced Draft Fans: You have represented that each fan will be mounted on a permanent foundation with anchor bolts embedded in the concrete foundation. The induced draft fans qualify for the exemption.

Condensate Pumps: You have represented that the pumps will be anchor-bolted to a concrete foundation. The condensate pumps qualify for the exemption.

Boiler Feed water Pumps: You have represented that, due to noise generated by the boiler feed water pumps, they will be further enclosed within a fabricated case and that both the pumps and the enclosures are permanently affixed to the concrete foundation with anchor bolts. The boiler feed water pumps and enclosures qualify for the exemption.

Boiler Feed water Booster Pumps: You have represented that the booster pump and piping connections are typical flange and anchor bolt assemblies. The boiler feed water pumps qualify for the exemption.

Feed water Heaters: You have represented that each feed water heater will be permanently affixed to a concrete foundation with anchor bolts embedded in the foundation. The feed water heaters qualify for the exemption.

Deaerator: You have represented that the deaerator will be attached in the same fashion as the feed water heaters. The deaerator qualifies for the exemption.

Convection Pass: The convection pass consists of the Reheater, Superheater, and Economizer. You have represented that these consist of a series of steam or feedwater pipes and that each is a bank of tubes interconnected with the boiler feedwater tubes and steam pipes. The convection pass qualifies for the exemption.

Air Heater: You have represented that this device is connected to steel members that are embedded in the foundation. The air heater qualifies for the exemption.

Economizer hoppers: You have represented that this equipment is held in place by structural steel members that are embedded in the foundation. The economizer hoppers qualify for the exemption.

Sootblowers: You have represented that these are attached to the flooring structural steel members. The sootblowers qualify for the exemption.

Seal Air Fans: You have represented that each fan will be mounted on a permanent foundation with anchor bolts embedded in the concrete foundation. The seal air fans qualify for the exemption.

Steam Turbine & Generator System:

The Steam Turbine & Generator System consists of a Boiler Feed pump Turbine, a Generator connected to a rotating shaft, which is rotated by 3 Steam Turbines: (a) a low pressure turbine, (b) an intermediate pressure turbine, and (c) a high pressure turbine.

Three Steam Turbines: You have represented that all three stages of the turbine are typically enclosed in a steel casing and that the steam turbine unit is permanently set in a large concrete foundation to anchor the steam turbine against the centrifugal force exerted by the turbine blades. The low pressure, intermediate pressure, and high pressure turbines all qualify for the exemption.

Boiler Feed pump Turbine: You have represented that this turbine is located underneath the main turbine generator and accepts extraction steam from the intermediate pressure turbine. The boiler feed pump turbine, being interconnected with the intermediate pressure turbine, qualifies for the exemption.

Generator: The generator is attached to the end of the Steam Turbine via a rotating shaft. You have represented that the generator has an outer steel casing connected to the casing of the turbine and that the generator is also permanently set in a large concrete foundation to anchor the generator against the centrifugal forces exerted by the turbine blades. The generator qualifies for the exemption.

Generator Step-Up Transformer, Electrical Transformers and Switchgear:

You have represented that all electrical transformers and switchgear components are welded or similarly attached to structural steel frameworks, which are permanently affixed to the Project Site real estate by anchor bolts embedded into concrete foundations and concrete piers. The generator step-up transformer, electrical transformers, and switchgear qualify for the exemption.

Cooling Tower System, Water Chemical Feed System & Water Re-circulating System:

Cooling Tower System and Water Re-circulating System: The cooling tower is a fiberglass rectangular mechanical draft cooling tower that utilizes counter flow to cool the circulating water for the Project. You have represented that the cooling tower system, pumps, and re-circulating pipes are constructed within structural steel frameworks that are permanently affixed to concrete foundations and piers by anchor bolts embedded in the concrete. The cooling tower, pumps, and water re-circulating pipes qualify for the exemption.

Circulating Water Chemical Feed System: There are several tanks, vessels and associated pumps, foundations, piping, and housings integrated into the circulating water chemical feed system. You have represented that all of these are constructed of steel and concrete, and are permanently affixed to concrete foundations with flange connection, steel collars, and anchor bolts embedded in the concrete. The tanks, vessels, associated pumps, foundations, piping, and housing qualify for the exemption.

Air Quality Control System (ACQS):

The Air Quality Control System (AQCS) consists of a Selective Catalytic Reduction System, Dry Electrostatic Precipitator, Wet Electrostatic Precipitator, Flue Gas Desulfurization System, Activated Carbon System, and Hydrated Lime System, together with various tanks and vessels used to store commodities injected into the gas flow for emissions control purposes. You have represented that each of these systems are interconnected to each other, and permanently affixed to structural steel framework and anchor bolts embedded into the concrete foundation and that the tanks and vessels are steel and concrete structures affixed to permanent foundations with flange and anchor bolt system embedded into the concrete foundations. The components of the air quality control system as described here and identified in supporting materials as well as the associated tanks and vessels described here and identified in supporting materials qualify for the exemption.

Chimney System:

The Chimney will be a freestanding reinforced-concrete structure housing two fiberglass flues. A Continuous Emission Monitoring System consists of a series of sensors installed in the Chimney System. You have represented that the chimney will be constructed using steel reinforced concrete, and will be permanently attached to a concrete foundation. The components of the chimney system described here, including the flues and components of the continuous emission monitoring system are permanently affixed to the real estate and qualify for the exemption.

Water Treatment System:

The Water Treatment System is an integrated on-site water treatment facility consisting of a Lime Softening Clarifier, Lime Soda Ash Silos, Sludge Dewatering Systems, RO System with Electrodeionization System, Condensate Polisher, Ion Exchange Vessels, Fluoride Removal System, Tank Clarifier, and related tanks and vessels. You have represented that all of the water treatment system components will be housed within the water treatment system building, will be interconnected, and will be permanently affixed to the concrete foundation of the building by anchor bolts embedded in the concrete. The components of the water treatment system described here qualify for the exemption. This ruling does not apply to chemicals used in these systems.

Limestone Handling System:

The Limestone Handling System primarily consists of a Railroad Unloading Station, Conveyors, Limestone Dome, Reclaim Hoppers, Limestone Preparation Facility, Wet Ball Mill, Limestone Day Bins, and Limestone Slurry Storage Tanks.

Railroad Unloading Facility: You represent that the railroad unloading facility is permanently affixed to a concrete foundation and that a portion of the facility is located below grade, and houses unloading hoppers, slide gates, dust suppression systems, reclaim hoppers and conveyors, which will all be permanently affixed to the Project Site real estate by anchor bolts embedded into the concrete foundations. The railroad unloading facility qualifies for the exemption.

Conveyor: You represent that the conveyor systems are mounted on structural steel permanently anchor-bolted onto concrete piers. The component parts of this conveyor system qualify for the exemption.

Limestone Dome: You represent that the limestone dome is an enclosed structure about 200 feet in diameter constructed of structural steel and supported by 22 feet high concrete walls, and permanently affixed to a concrete foundation and that it houses an internal stacking tube system, below grade reclaim hoppers, and conveyors that are mounted on structural steel and permanently affixed to the foundations by anchor bolts embedded into the concrete. The limestone dome and the associated items described here qualify for the exemption.

Wet Ball Mill and Limestone Process Facility: You represent that the wet ball mill and the limestone process facility are mounted onto structural steel frames that are permanently affixed to a concrete foundation. The wet ball mill and limestone process facility qualify for the exemption.

Limestone Bins: You represent that the limestone bins are steel and concrete structures permanently affixed to concrete foundations with anchor bolts embedded in the concrete. The limestone bins qualify for the exemption.

Coal Combustion Waste Handling System:

The Coal Combustion Waste Handling System consists of Pug Mills, Conveyors, Above Ground Reclaimer System, Rail Loadout Bin, Fly Ash Silos, Blowers and Hoppers.

You represent that the pug mills, blowers and hoppers and related filter systems are constructed within a structural steel framework permanently attached to concrete foundations by anchor bolts embedded in the concrete. The pug mills, blowers and hoppers, and the components of related filter systems qualify for the exemption.

You represent that the conveyors are attached to structural steel permanently attached to concrete piers by anchor bolts embedded in the concrete. The conveyors qualify for the exemption.

You represent that the rail loadout bins are suspended over the railroad track within a structural steel framework, which is permanently attached to a concrete foundation by anchor bolts embedded in the concrete. The rail loadout bins qualify for the exemption.

Rail Loop:

The Department declines to rule on the rail loop.

Fire Protection System:

You represent that the fire protection system consists of a fire pump house with the adjacent water supply tank and an integrated series of pumps and fire suppression water systems. You represent that the fire suppression piping system will be permanently attached to the walls and ceilings of the structures throughout the Project by anchor bolts, collars, and shafts and that the pumps are permanently affixed to the concrete foundation of the fire pump house by anchor bolts embedded in the concrete. The fire pump house, water supply tank, fire suppression piping, and pumps qualify for the exemption.

The enterprise zone exemption includes component parts of the materials ruled as qualifying for the exemption as part of this letter that are permanently affixed to realty. If those materials or their component parts need to be repaired or replaced, the repair and replacement parts that are permanently affixed to the real estate or that are permanently affixed to materials that are permanently affixed to real estate qualify for the exemption.

The factual representations upon which this ruling is based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the factual representations recited in this ruling are correct and complete. This Private Letter Ruling is revoked and will cease to bind the Department 10 years after the date of this letter under the provisions of 2 Ill. Adm. Code 1200.110(e) or earlier if there is a pertinent change in statutory law, case law, rules or in the factual representations recited in this ruling.

If you have further questions concerning this Private Letter ruling, you may contact me at 782-2844. If you have further questions related to the Illinois sales tax laws, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Sincerely,

Terry D. Charlton
Chairman, Private Letter Ruling Committee

TDC/SJM:msk