EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1597-AIR-E **TCEQ ID:** RN102033891 **CASE NO.:** 31137

RESPONDENT NAME: Brazos Electric Power Cooperative, Inc.

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	X AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: R. W. Miller Plant, 2217 Farm-to-Market Road 3137, Palo Pinto County

TYPE OF OPERATION: Electricity generation plant

SMALL BUSINESS: ___ Yes __X_ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 15, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. John Barry, Enforcement Division, Enforcement Section III, MC R-10, (409) 899-8781; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

TCEQ Field Investigator: Ms. Deana Hetherington, DFW Regional Office, MC R-04, (817) 588-5870

Respondent: Mr. Mickey Green, Environmental Engineer, Brazos Electric Power Cooperative, Inc., 2404 La Salle Avenue, Waco, Texas 76706
Mr. Clifton B. Karnei, Registered Agent for Brazos Electric Power Cooperative, Inc., 2404 LaSalle Avenue, Waco, Texas 76706
Mr. David P. Murphy, Vice President Generation, Brazos Electric Power Cooperative, Inc., 2404 LaSalle Avenue, Waco, Texas 76706

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** May 18, 2006 **Date of NOE Relating to this Case:** August 29, 2006 (NOE) **Background Facts:** This was a routine investigation. Two violations were documented. **AIR** 1) Failed to submit a timely and complete deviation report. The deviation report for the June 6, 2005 through December 22, 2005 period was not submitted and should have contained the deviation related to excess oxides of nitrogen emissions discovered on July 18, 2005 [30 TEX. ADMIN. CODE § 122.145(2)(B) and (2)(C), Federal Operating Permit ("FOP") 0002, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 2) Failed to submit a semiannual excess emissions summary report. No such report has ever been submitted to the TCEQ; one was due with respect to excess emissions discovered in July 2005 [40 CODE OF FED. REGULATIONS § 60.7(c), FOP 0002, Special Terms and Conditions 4A, and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $6,100 **Total Deferred:** $1,220 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $4,880 **Site Compliance History Classification:** __ High _X_ Avg. __ Poor **Person Compliance History Classification:** __ High _X_ Avg. __ Poor **Major Source:** _X_ Yes __ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that Brazos Electric has implemented the following corrective measures at the Plant: a. Submitted the July 18, 2005, emissions event deviation in a May 22, 2006, deviation report which was corrected on July 14, 2006; and b. Submitted the 2005 annual excess emissions report on September 12, 2006, which was received by the TCEQ on September 19, 2006.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision April 25, 2006*

DATES					
Assigned	05-Sep-2006				
PCW	25-Sep-2006	Screening	12-Sep-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Brazos Electric Power Cooperative, Inc.		
Reg. Ent. Ref. No.	RN102033891		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major Source

CASE INFORMATION

Enf./Case ID No.	31137	No. of Violations	2
Docket No.	2006-1597-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	John Barry
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 32% Enhancement *Subtotals 2, 3, & 7* $1,600

Notes: The enhancement is due to two same or similar NOVs, one other NOV, and one order with denial of liability.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: Does not meet the culpability criteria.

Good Faith Effort to Comply 10% Reduction *Subtotal 5* -$500

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		*(mark with a small x)*

Notes: The respondent completed compliance on September 19, 2006.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

Total EB Amounts	$39
Approx. Cost of Compliance	$1,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 Final Subtotal $6,100

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount $6,100

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $6,100

DEFERRAL 20% Reduction Adjustment -$1,220

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: A deferral is offered for expedited settlement.

PAYABLE PENALTY $4,880

Screening Date	12-Sep-2006	**Docket No.** 2006-1597-AIR-E	**PCW**
Respondent	Brazos Electric Power Cooperative, Inc.		*Policy Revision 2 (September 2002)*
Case ID No.	31137		*PCW Revision April 25, 2006*
Reg. Ent. Reference No.	RN102033891		
Media [Statute]	Air Quality		
Enf. Coordinator	John Barry		

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action *(number of NOVs meeting criteria)*	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(number of judgements or consent decrees meeting criteria)*	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)*	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) **32%**

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) **0%**

>> Compliance History *Person* Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) **0%**

>> Compliance History Summary

Compliance History Notes: The enhancement is due to two same or similar NOVs, one other NOV, and one order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **32%**

PCW

Policy Revision 2 (September 2002)
PCW Revision April 25, 2006

Screening Date	12-Sep-2006
Docket No.	2006-1597-AIR-E
Respondent	Brazos Electric Power Cooperative, Inc.
Case ID No.	31137
Reg. Ent. Reference No.	RN102033891
Media [Statute]	Air Quality
Enf. Coordinator	John Barry

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 122.145(2)(B) and (2)(C)

Secondary Rule Cite(s) Federal Operating Permit ("FOP") 0002, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failure to submit a timely and complete deviation report. The deviation report for the June 6, 2005 through December 22, 2005 period was not submitted and should have contained the deviation related to excess NOx emissions [Incident No. 61531] discovered on July 18, 2005.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes: 100% of the rule was not met.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events: 1

1 Number of violation days

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $17

Statutory Limit Test

Violation Final Penalty Total $3,050

This violation Final Assessed Penalty (adjusted for limits) $3,050

Economic Benefit Worksheet

Respondent: Brazos Electric Power Cooperative, Inc.
Case ID No.: 31137
Reg. Ent. Reference No.: RN102033891
Media [Statute]: Air Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$500	21-Jan-2006	14-Jul-2006	0.5	$1	$16	$17
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost of submitting deviation report: the date required is the original deadline date of report submittal; the final date is the date of corrected deviation report was submitted.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $500

TOTAL: $17

Screening Date 12-Sep-2006 **Docket No.** 2006-1597-AIR-E **PCW**

Respondent Brazos Electric Power Cooperative, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 31137 *PCW Revision April 25, 2006*

Reg. Ent. Reference No. RN102033891

Media [Statute] Air Quality

Enf. Coordinator John Barry

Violation Number 2

Primary Rule Cite(s) 40 Code of Fed. Regulations ("CFR") § 60.7(c)

Secondary Rule Cite(s) FOP 0002, Special Terms and Conditions 4A, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failure to submit a semiannual excess emissions summary report. No such report has ever been submitted to the TCEQ; one was due by January 31, 2006, with respect to excess emissions discovered in July 2005.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes: 100% of the rule was not met.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 1 | 1 Number of violation days

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $22

Statutory Limit Test

Violation Final Penalty Total $3,050

This violation Final Assessed Penalty (adjusted for limits) $3,050

Economic Benefit Worksheet

Respondent: Brazos Electric Power Cooperative, Inc.
Case ID No.: 31137
Reg. Ent. Reference No.: RN102033891
Media [Statute]: Air Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$500	31-Jan-2006	19-Sep-2006	0.6	$1	$21	$22
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost of submitting the excess emissions report: the date required is the original deadline for report submittal; the final date is date of annual excess emissions report submittal and receipt.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $500

TOTAL: $22

Compliance History

N/A

Customer/Respondent/Owner-Operator:	CN600128821	Brazos Electric Power Cooperative, Inc.	Classification: AVERAGE	Rating: 3.42
Regulated Entity:	RN102033891	R W MILLER PLANT	Classification: AVERAGE	Site Rating: 12.63

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	PA0003W
AIR OPERATING PERMITS	PERMIT	2
AIR OPERATING PERMITS	PERMIT	00002
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	16458
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD020323614
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32652
AIR NEW SOURCE PERMITS	PERMIT	739
AIR NEW SOURCE PERMITS	PERMIT	1921
AIR NEW SOURCE PERMITS	PERMIT	21394
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	PA0003W
AIR NEW SOURCE PERMITS	PERMIT	45474
AIR NEW SOURCE PERMITS	AFS NUM	0001

Location: 2217 FM 3137, PALO PINTO COUNTY Rating Date: 9/1/2005 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: September 18, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 01, 2001 to August 31, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: John Barry Phone: (409) 899-8781

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. if Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A Effective Date: 10/24/2002 ADMINORDER 2001-1334-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
Description: DEVIATION REPORT
Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.146(1)
Description: CERTIFICATION

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

N/A
1 06/30/2003 (23897)
2 10/15/2003 (250833)
3 08/09/2002 (4808)
4 09/13/2005 (407222)
5 08/29/2006 (482430)
6 02/28/2005 (349088)
7 10/25/2005 (434185)
8 08/30/2004 (286730)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 07/10/2003 (23897)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Description: BE was not in compliance with Permit No. 21394 SP 16 which requires all equipment with the potential of emitting air contaminants to be labeled.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter C 122.210(a)

Description: This rule requires an application for a Title V permit revision be submitted when permit changes occur at a site. BE failed to revise Federal Operating Permit No. O-00002 to reflect correct rule citations for 30 TAC 117. BE's permit refers to 30 TAC 117.601(e) which was no longer applicable after November 15, 1999.

Date: 08/31/2004 (286730)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit annual compliance certification in a timely manner.

Date: 09/13/2005 (407222)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to notify the TCEQ within 24 hours of a reportable emissions event that occurred on 7/18/05.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT IA

Description: Failure to comply with nitrogen oxides hourly permit emission limit of 137 pounds per hour.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING BRAZOS ELECTRIC POWER COOPERATIVE, INC. RN102033891	§ § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1597-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Brazos Electric Power Cooperative, Inc. ("Brazos Electric") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Brazos Electric appear before the Commission and together stipulate that:

1. Brazos Electric owns and operates an electricity generation plant at 2217 Farm-to-Market Road 3137, Palo Pinto County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and Brazos Electric agree that the Commission has jurisdiction to enter this Agreed Order, and that Brazos Electric is subject to the Commission's jurisdiction.

4. Brazos Electric received notice of the violations alleged in Section II ("Allegations") on or about September 3, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Brazos Electric of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Six Thousand One Hundred Dollars ($6,100) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Brazos Electric has paid Four Thousand Eight Hundred Eighty Dollars ($4,880) of the administrative penalty and One Thousand Two Hundred Twenty Dollars ($1,220) is deferred contingent upon Brazos Electric's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Brazos Electric

fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Brazos Electric to pay all or part of the deferred penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Brazos Electric have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that Brazos Electric has implemented the following corrective measures at the Plant:

   a. Submitted the July 18, 2005, emissions event deviation in a May 22, 2006, deviation report which was corrected on July 14, 2006; and

   b. Submitted the 2005 annual excess emissions report on September 12, 2006, which was received by the TCEQ on September 19, 2006.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Brazos Electric has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Brazos Electric is alleged to have:

1. Failed to submit a timely and complete deviation report, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(B) and (2)(C), Federal Operating Permit ("FOP") 0002, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 18, 2006. The deviation report for the June 6, 2005 through December 22, 2005 period was not submitted and should have contained the deviation related to excess oxides of nitrogen emissions discovered on July 18, 2005.

2. Failed to submit a semiannual excess emissions summary report, in violation of 40 CODE OF FED. REGULATIONS § 60.7(c), FOP 0002, Special Terms and Conditions 4A, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 18, 2006. No such

report has ever been submitted to the TCEQ; one was due with respect to excess emissions discovered in July 2005.

III. DENIALS

Brazos Electric generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Brazos Electric pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Brazos Electric's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Brazos Electric Power Cooperative, Inc., Docket No. 2006-1597-AIR-E" to:

   Financial Administration Division, Revenues Section
   Attention: Cashier's Office, MC 214
   Texas Commission on Environmental Quality
   P.O. Box 13088
   Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Brazos Electric. Brazos Electric is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against Brazos Electric in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Brazos Electric, or three days after the date on which the Commission mails notice of the Order to Brazos Electric, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 2/8/07
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

David P. Murphy MY JRS 10/6/06
Signature Date

David P. Murphy VP Generation
Name (Printed or typed) Title
Authorized Representative of
Brazos Electric Power Cooperative, Inc.

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.