

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2006-1954-AIR-E    **TCEQ ID:** RN102387826    **CASE NO.:** 31644  
**RESPONDENT NAME:** Southwestern Bell Telephone, L.P.

**ORDER TYPE:**

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

**CASE TYPE:**

<input type="checkbox"/> AGRICULTURE	<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

**SITE WHERE VIOLATION(S) OCCURRED:** El Paso Pellicano Soc XA1733, 11258 Pellicano Drive, El Paso, El Paso County

**TYPE OF OPERATION:** Gasoline for fleet vehicles

**SMALL BUSINESS:**     Yes     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 March 26, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Mr. Daniel Siringi, Enforcement Division, Enforcement Section III, MCR-10, (409) 899-8799; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

**Local Program Investigator:** Ms. Patricia Novelo, Field Investigator, El Paso City-County Health & Environmental District, 222 South Campbell Street, El Paso, Texas 79901

**Respondent:** Mr. Johnnie Adams, Manager, Fleet Operations, Southwestern Bell Telephone, L.P., 11200 Pellicano, Garage, El Paso, Texas 79935

Mr. Lee E. Brandt, Director, I/R, Southwestern Bell Telephone, L.P., 11200 Pellicano, El Paso, Texas 79935

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

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b> <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 4, 2006</p> <p><b>Date of NOE Relating to this Case:</b> November 1, 2006 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. One violation was documented.</p> <p><b>AIR</b></p> <p>Failed to comply with the minimum 2.7% by weight oxygenated fuel requirement for gasoline transferred during the control period of October 1, 2006 through March 31, 2007 in El Paso County. Specifically, gasoline samples taken from the regular gasoline at pump No. 2 on October 4, 2006 were 0.0% by weight [30 TEX. ADMIN. CODE § 114.100(a) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$1,000</p> <p><b>Total Deferred:</b> \$200  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$800</p> <p><b>Site Compliance History Classification:</b> <input checked="" type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure the fuel dispensed between October 1<sup>st</sup> and March 31<sup>st</sup> of each year meets the minimum oxygen content of 2.7% by weight at the Station; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision April 25, 2006

<b>DATES</b>	<b>Assigned</b>	06-Nov-2006		
	<b>PCW</b>	13-Nov-2006	<b>Screening</b>	07-Nov-2006
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Southwestern Bell Telephone, L.P.
<b>Reg. Ent. Ref. No.</b>	RN102387826
<b>Facility/Site Region</b>	6-El Paso <
<b>Major/Minor Source</b>	Minor Source <

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	31644	<b>No. of Violations</b>	1
<b>Docket No.</b>	2006-1954-AIR-E	<b>Order Type</b>	1660 <
<b>Media Program(s)</b>	Air Quality <	<b>Enf. Coordinator</b>	Daniel Siringi
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 5 <
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 0% Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**  < 0% Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply** 0% Reduction **Subtotal 5**

Before NOV    NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes

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

Total EB Amounts	\$534	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$850	

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

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

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

**Screening Date** 07-Nov-2006 **Docket No.** 2006-1954-AIR-E **PCW**  
**Respondent** Southwestern Bell Telephone, L.P. *Policy Revision 2 (September 2002)*  
**Case ID No.** 31644 *PCW Revision April 25, 2006*  
**Reg. Ent. Reference No.** RN102387826  
**Media [Statute]** Air Quality  
**Enf. Coordinator** Daniel Siringl

**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 ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Other	<i>Please Enter Yes or No</i>		
	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)** 0%

>> **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**

No previous NOV in the past five years at this facility.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

**Screening Date** 07-Nov-2006 **Docket No.** 2006-1954-AIR-E **PCW**

**Respondent** Southwestern Bell Telephone, L.P. *Policy Revision 2 (September 2002)*

**Case ID No.** 31644 *PCW Revision April 25, 2006*

**Reg. Ent. Reference No.** RN102387826

**Media [Statute]** Air Quality

**Enf. Coordinator** Daniel Siringi

**Violation Number** 1

**Primary Rule Cite(s)** 30 Tex. Admin. Code § 114.100(a)

**Secondary Rule Cite(s)** Tex. Health & Safety Code § 382.085(b)

**Violation Description**  
 Failure to comply with the minimum 2.7% by weight oxygenated fuel requirement for gasoline transferred during the control period of October 1, 2006 through March 31, 2007 in El Paso County. Specifically, gasoline samples taken from the regular gasoline at pump No. 2 on October 4, 2006 were 0.0% by weight.

**Base Penalty** \$10,000

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual			X	Percent 10%
	Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

**Matrix Notes**  
 Human health or environment has been exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** -\$9,000

**Base Penalty Subtotal** \$1,000

**Violation Events**

Number of Violation Events 1 34 Number of violation days

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

**Violation Base Penalty** \$1,000

One single event is recommended.

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** \$534

**Statutory Limit Test**

**Violation Final Penalty Total** \$1,000

**This violation Final Assessed Penalty (adjusted for limits)** \$1,000

### Economic Benefit Worksheet

**Respondent** Southwestern Bell Telephone, L.P.  
**Case ID No.** 31644  
**Reg. Ent. Reference No.** RN102387826  
**Media [Statute]** Air Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

<b>Item Description</b>	<b>Item Cost</b>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
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	\$350	04-Oct-2006	31-Mar-2007	0.5	\$9	n/a	\$9
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 implementing procedures to ensure the required minimum oxygen content for fuel requirement is maintained. Date required is the investigation date and the final date is estimated date of compliance.

<b>Avoided Costs</b>	<b>ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)</b>						
	<b>Item Cost</b>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
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)	\$500	04-Oct-2006	31-Mar-2007	1.0	\$25	\$500	\$525

**Notes for AVOIDED costs** The avoided cost is the estimated price difference between compliant and noncompliant gasoline. Date required is date of investigation. Final date is the end of the control period.

Approx. Cost of Compliance  **TOTAL**

## Compliance History

Customer/Respondent/Owner-Operator:	CN600261663	Southwestern Bell Telephone, L.P.	Classification: AVERAGE	Rating: 2.71
Regulated Entity:	RN102387826	EL PASO PELLICANO SOC XA1733	Classification: HIGH	Site Rating: 0.00
<hr/>				
ID Number(s):	PETROLEUM STORAGE TANK	REGISTRATION	19271	
	REGISTRATION			
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	EE1042U	
<hr/>				
Location:	11258 PELLICANO DR, EL PASO, TX, 79935		Rating Date: September 01 06	Repeat Violator:
			NO	
<hr/>				
TCEQ Region:	REGION 06 - EL PASO			
<hr/>				
Date Compliance History Prepared:	November 13, 2006			
<hr/>				
Agency Decision Requiring Compliance History:	Enforcement			
<hr/>				
Compliance Period:	November 13, 2001 to November 13, 2006			
<hr/>				

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

Name: Daniel Siringi Phone: (409) 899-8799

### 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?   | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?  | <u>N/A</u> |

#### 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
- 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.)
- |   |            |          |
|---|------------|----------|
| 1 | 11/19/2002 | (14276)  |
| 2 | 04/06/2005 | (349581) |
| 3 | 08/13/2002 | (3534)   |
| 4 | 04/07/2006 | (456753) |
| 5 | 08/31/2006 | (511185) |
| 6 | 07/15/2004 | (278386) |
| 7 | 11/01/2006 | (517950) |
| 8 | 07/14/2006 | (486620) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- 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  
SOUTHWESTERN BELL  
TELEPHONE, L.P.  
RN102387826**

§ **BEFORE THE**  
§  
§ **TEXAS COMMISSION ON**  
§  
§ **ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2006-1954-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 Southwestern Bell Telephone, L.P. ("Southwestern") 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 Southwestern appear before the Commission and together stipulate that:

1. Southwestern owns and operates a gasoline station for their fleet vehicles at 11258 Pellicano Drive in El Paso, El Paso County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Southwestern agree that the Commission has jurisdiction to enter this Agreed Order, and that Southwestern is subject to the Commission's jurisdiction.
4. Southwestern received notice of the violations alleged in Section II ("Allegations") on or about November 6, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Southwestern of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Dollars (\$1,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Southwestern has paid Eight Hundred Dollars (\$800) of the administrative penalty and Two Hundred Dollars (\$200) is deferred contingent upon Southwestern'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 Southwestern fails to timely and satisfactorily comply with all requirements of this



Agreed Order, the Executive Director may require Southwestern 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 Southwestern have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Southwestern has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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 Station, Southwestern is alleged to have failed to comply with the minimum 2.7% by weight oxygenated fuel requirement for gasoline transferred during the control period of October 1, 2006 through March 31, 2007 in El Paso County, in violation of 30 TEX. ADMIN. CODE § 114.100(a) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 4, 2006. Specifically, gasoline samples taken from the regular gasoline at pump No. 2 on October 4, 2006 were 0.0% by weight.

## III. DENIALS

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

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Southwestern pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Southwestern'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: Southwestern Bell Telephone, L.P., Docket No. 2006-1954-AIR-E" to:

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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. It is further ordered that Southwestern shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure the fuel dispensed between October 1<sup>st</sup> and March 31<sup>st</sup> of each year meets the minimum oxygen content of 2.7% by weight at the Station; and
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

All correspondence, reports, and documentation required by these Ordering Provisions shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Manager, Air Section  
El Paso Regional Office  
Texas Commission on Environmental Quality  
401 E. Franklin Avenue, Suite 560  
El Paso, Texas 79901-1206

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3. The provisions of this Agreed Order shall apply to and be binding upon Southwestern. Southwestern is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Southwestern fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Southwestern's failure to comply is not a violation of this Agreed Order. Southwestern shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Southwestern shall notify the Executive Director within seven days after Southwestern becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Southwestern shall be made in writing to the Executive Director. Extensions are not effective until Southwestern receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Southwestern 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Southwestern, or three days after the date on which the Commission mails notice of the Order to Southwestern, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

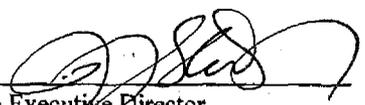


Southwestern Bell Telephone, L.P.  
DOCKET NO. 2006-1954-AIR-E  
Page 5

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission



\_\_\_\_\_  
For the Executive Director

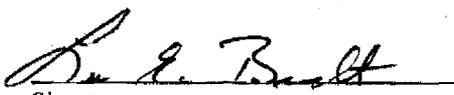
\_\_\_\_\_  
Date 4/12/07

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.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 1-18-07

\_\_\_\_\_  
Lee E. Brandt  
Name (Printed or typed)  
Authorized Representative of  
Southwestern Bell Telephone, L.P.

\_\_\_\_\_  
Director-I/R  
Title

**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.

