EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1969-AIR-E TCEQ ID: RN102382041 CASE NO.: 31720
RESPONDENT NAME: Rental Service Corporation

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: Rental Service Corp Store 670, 6914 Gateway Boulevard East, El Paso, El Paso County

TYPE OF OPERATION: Equipment rental company

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 April 9, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Section III, MC R-12, (713) 422-8931; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Robert Whitacre, Regulatory Support Manager, Rental Service Corporation, 6929 East Greenway Parkway, Suite 200, Scottsdale, Arizona 85254
Mr. Shyam Srinivas, Environmental Manager, Rental Service Corporation, 6929 East Greenway Parkway, Suite 200, Scottsdale, Arizona 85254

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

RESPONDENT'S NAME: Rental Service Corporation
DOCKET NO.: 2006-1969-AIR-E

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:** October 3, 2006 **Date of NOE Relating to this Case:** October 31, 2006 (NOE) **Background Facts:** This was a routine investigation. One violation was documented. **AIR** Failed to ensure a minimum of 2.7% oxygenate in gasoline dispensed in El Paso County from October 1st to March 31st. Specifically, a gasoline sample taken during the October 3, 2006 investigation indicated a 0.0% oxygenate in the gasoline being dispensed from the pump at the Site [30 TEX. ADMIN. CODE § 114.100(a) and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total assessed:** $1,200 **Total Deferred:** $240 _X_Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $960 **Site Compliance History Classification:** __High _X_Average __Poor **Person Compliance History Classification:** __High _X_Average __Poor **Major Source:** __Yes _X_No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure that gasoline dispensed at the Site from October 1st to March 31st has a minimum of 2.7% oxygenate; and 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.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision November 17, 2006*

TCEQ

DATES					
Assigned	30-Oct-2006				
PCW	17-Nov-2006	Screening	13-Nov-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Rental Service Corporation		
Reg. Ent. Ref. No.	RN102382041		
Facility/Site Region	6-El Paso	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	31720	No. of Violations	1
Docket No.	2006-1969-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Rebecca Johnson
Multi-Media		EC's Team	EnforcementTeam 6
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 20% Enhancement — *Subtotals 2, 3, & 7* **$200**

Notes: Penalty enhancement due to one agreed order containing a denial of liability.

Culpability — No — 0% Enhancement — *Subtotal 4* **$0**

Notes: Respondent does not meet the culpability criteria.

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

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

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$271
Approx. Cost of Compliance	$850

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$1,200**

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 **$1,200**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$1,200**

DEFERRAL — 20% Reduction — *Adjustment* **-$240**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$960**

Screening Date	13-Nov-2006	**Docket No.** 2006-1969-AIR-E	**PCW**
Respondent	Rental Service Corporation		*Policy Revision 2 (September 2002)*
Case ID No.	31720		*PCW Revision November 17, 2006*
Reg. Ent. Reference No.	RN102382041		
Media [Statute]	Air Quality		
Enf. Coordinator	Rebecca Johnson		

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*)	0	0%
	Other written NOVs	0	0%
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 submitted*)	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) 20%

>> 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

Penalty enhancement due to one agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date	13-Nov-2006	**Docket No.** 2006-1969-AIR-E	**PCW**
Respondent	Rental Service Corporation		*Policy Revision 2 (September 2002)*
Case ID No.	31720		*PCW Revision November 17, 2006*
Reg. Ent. Reference No.	RN102382041		
Media [Statute]	Air Quality		
Enf. Coordinator	Rebecca Johnson		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 114.100(a) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to ensure a minimum of 2.7% oxygenate in gasoline dispensed in El Paso County from October 1st to March 31st. Specifically, a gasoline sample taken during the October 3, 2006 investigation indicated a 0.0% oxygenate in the gasoline being dispensed from the pump at the site.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,000

$1,000

Violatior 250 10/3/2006 3/31/2006

Number of Violation Events 1

41 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended based on the non-compliant sample that was taken during the October 3, 2006 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $271

Statutory Limit Test

Violation Final Penalty Total $1,200

This violation Final Assessed Penalty (adjusted for limits) $1,200

Economic Benefit Worksheet

Respondent Rental Service Corporation
Case ID No. 31720
Reg. Ent. Reference No. RN102382041
Media Air Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$600	3-Oct-2006	31-Mar-2007	0.5	$1	$20	$21
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 to implement measures designed to ensure that compliant gasoline is dispensed during the control period. Date required is based on the investigation date. Final date is based on the projected compliance date.						
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)	$250	3-Oct-2006	31-Mar-2006	0.0	$0	$250	$250
Notes for AVOIDED costs	The avoided cost is based on dispensing and utilizing gasoline without the minimum oxygen content. Date required is the investigation date. Final date is based on the estimated date of compliance.						

Approx. Cost of Compliance $850

TOTAL $271

Compliance History

Customer/Respondent/Owner-Operator:	CN602296196	Rental Service Corporation	Classification: AVERAGE	Rating: 3.09
Regulated Entity:	RN102382041	RENTAL SERVICE CORP STORE 670	Classification: AVERAGE	Site Rating: 5.00
ID Number(s):	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	EE1153K	
Location:	6914 GATEWAY BLVD E, EL PASO, TX, 79915	Rating Date: 9/1/2006 Repeat Violator: NO		
TCEQ Region:	REGION 06 - EL PASO			
Date Compliance History Prepared:	November 13, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 30, 2001 to October 30, 2006			

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

Name: Rebecca Johnson Phone: (713)422-8931

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?	Yes
3. If Yes, who is the current owner?	Rental Service Corporation
4. if Yes, who was/were the prior owner(s)?	Graves C. E. Prime Equipment 220
5. When did the change(s) in ownership occur?	06/14/2002 10/21/2003 10/23/2003

Components (Multimedia) for the Site :

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

Effective Date: 10/10/2005 ADMINORDER 2004-2114-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 114, SubChapter D 114.100(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to meet the minimum oxygen content requirement of 2.7% by weight for gasoline supplied for use as a motor fuel.

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	10/22/2003	(252705)
2	03/27/2002	(74133)
3	11/13/2001	(74132)
4	11/29/2005	(438765)
5	08/11/2004	(287136)
6	10/25/2006	(516849)
7	08/10/2006	(497190)
8	11/24/2004	(342240)
9	11/20/2002	(14272)
10	08/13/2002	(3570)
11	06/24/2005	(397098)

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
RENTAL SERVICE CORPORATION	§	
RN102382041	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1969-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 Rental Service Corporation ("RSC") 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 RSC appear before the Commission and together stipulate that:

1. RSC owns and operates an equipment rental company at 6914 Gateway Boulevard East in El Paso, El Paso County, Texas (the "Site").

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

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

4. RSC received notice of the violations alleged in Section II ("Allegations") on or about November 5, 2006.

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

6. An administrative penalty in the amount of One Thousand Two Hundred Dollars ($1,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). RSC has paid Nine Hundred Sixty Dollars ($960) of the administrative penalty and Two Hundred

Forty Dollars ($240) is deferred contingent upon RSC'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 RSC fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require RSC 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 RSC 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 RSC 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 Site, RSC is alleged to have failed to ensure a minimum of 2.7% oxygenate in gasoline dispensed in El Paso County from October 1st to March 31st, 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 3, 2006. Specifically, a gasoline sample taken during the October 3, 2006 investigation indicated a 0.0% oxygenate in the gasoline being dispensed from the pump at the Site.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that RSC pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and RSC'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: Rental Service Corporation, Docket No. 2006-1969-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. It is further ordered that RSC shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure that gasoline dispensed at the Site from October 1st to March 31st has a minimum of 2.7% oxygenate; 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."

      The certification 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:

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

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

4. If RSC 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, RSC's failure to comply is not a violation of this Agreed Order. RSC shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. RSC shall notify the Executive Director within seven days after RSC 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 RSC shall be made in writing to the Executive Director. Extensions are not effective until RSC 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 RSC 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 RSC, or three days after the date on which the Commission mails notice of the Order to RSC, 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

For the Executive Director

Date 5/7/07

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 02/07/07

SHYAM SRINIVAS
Name (Printed or typed)
Authorized Representative of
Rental Service Corporation

ENVIRONMENTAL MANAGER
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.