

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.:** 2009-0592-AIR-E **TCEQ ID:** RN100238633 **CASE NO.:** 37498  
**RESPONDENT NAME:** Southern Union Gas Services, Ltd.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Keystone Gas Plant, located 4.5 miles east of State Highway 18 on Farm-to-Market Road 874 then two miles north on County Road 301, Winkler County</p> <p><b>TYPE OF OPERATION:</b> Natural gas processing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 19, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Mr. Kirk Schoppe, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-0489; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Dennis W. Slack, Director EH&amp;S, Southern Union Gas Services, Ltd., 301 Commerce Street, Suite 700, Fort Worth, Texas 76102  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**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(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 11, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 8, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failure to maintain a minimum 95% sulfur recovery efficiency. Specifically, the Respondent had 199 days during the January 7, 2007 to January 6, 2009 certification periods that it did not maintain the minimum 95% efficiency required [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and New Source Review ("NSR") Permit No. 2724, Special Condition 3].</p> <p>2) Failure to prevent unauthorized emissions on November 14-15, 2008. Specifically, the Respondent released 4.22 pounds ("lbs") of unauthorized sulfur dioxide ("SO<sub>2</sub>") emissions on November 14-15, 2008 from the Sulfur Recovery Unit Stack [30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and NSR Permit No. 2724 General Condition 8].</p> <p>3) Failure to prevent unauthorized emissions on December 3-4, 2008. Specifically, the Respondent released 23.52 lbs of unauthorized SO<sub>2</sub> emissions on December 3-4, 2008 from the Sulfur Recovery Unit Stack [30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and NSR Permit No. 2724 General Condition 8].</p>	<p><b>Total Assessed:</b> \$22,794</p> <p><b>Total Deferred:</b> \$4,558  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$9,118</p> <p><b>Total Paid to General Revenue:</b> \$9,118</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement improvements to training, design, operation, or maintenance procedures, in order to address the release of SO<sub>2</sub> emissions on November 14-15, 2008 and December 3-4, 2008;</p> <p>b. Implement improvements to training, design, operation, or maintenance procedures in order to maintain a minimum 95% sulfur recovery efficiency;</p> <p>c. Implement improvements to training, design, operation, or maintenance procedures in order to maintain the 10% duty maximum on engines C-8, C-15, and C-16; and</p> <p>d. 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 Nos. 2.a., b., and c.</p>

<p>4) Failure to operate engines C-8, C-15, and C-16 at 10% duty maximum as represented in exemption registration no. 36121. Specifically, the Respondent operated engines C-8, C-15, and C-16 in excess of the 10% duty maximum for a duration of 24 months for C-8 and C-16 and 23 months for C-15 in 2007 and 2008 [30 TEX. ADMIN. CODE § 106.6(b) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		
--	--	--

Additional ID No(s): WM0011U



Attachment A  
Docket Number: 2009-0592-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Southern Union Gas Services, Ltd.</b>
<b>Payable Penalty Amount:</b>	<b>Eighteen Thousand Two Hundred Thirty-Six Dollars (\$18,236)</b>
<b>SEP Amount:</b>	<b>Nine Thousand One Hundred Eighteen Dollars (\$9,118)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D")- Clean School Buses</b>
<b>Location of SEP:</b>	<b>Texas Air Quality Control Region 218 -- Midland-Odessa-San Angelo</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO<sub>x</sub>) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.



**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

**C. Minimum Expenditure**

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.



Southern Union Gas Services, Ltd.  
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	15-Apr-2009	Screening	22-Apr-2009	EPA Due	3-Jan-2010
	PCW	22-Apr-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Southern Union Gas Services, Ltd.
Reg. Ent. Ref. No.	RN100238633
Facility/Site Region	7-Midland
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37498	No. of Violations	3
Docket No.	2009-0592-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Kirk Schoppe
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

<b>Penalty Calculation Section</b>	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> \$17,400
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
<b>Compliance History</b>	31.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b> \$5,394
Notes	The penalty was enhanced due to one NOV for similar violations, three NOVs for dissimilar violations, and one 1660 style order.
<b>Culpability</b>	No 0.0% Enhancement <b>Subtotal 4</b> \$0
Notes	The Respondent does not meet the culpability criteria.
<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b> \$0
<b>Economic Benefit</b>	0.0% Enhancement <b>Subtotal 6</b> \$0
Total EB Amounts	\$600
Approx. Cost of Compliance	\$5,250
	*Capped at the Total EB \$ Amount
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b> \$22,794
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0% <b>Adjustment</b> \$0
Reduces or enhances the Final Subtotal by the indicated percentage.	
Notes	
	<b>Final Penalty Amount</b> \$22,794
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b> \$22,794
<b>DEFERRAL</b>	20.0% Reduction <b>Adjustment</b> -\$4,558
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)	
Notes	Deferral offered for expedited settlement.
<b>PAYABLE PENALTY</b>	<b>\$18,236</b>

**Screening Date:** 22-Apr-2009

**Docket No.:** 2009-0592-AIR-E

**PCW**

**Respondent:** Southern Union Gas Services, Ltd.

Policy Revision 2 (September 2002)

**Case ID No.:** 37498

PCW Revision October 30, 2008

**Reg. Ent. Reference No.:** RN100238633

**Media [Statute]:** Air

**Enf. Coordinator:** Kirk Schoppe

### 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)	1	5%
	Other written NOVs	3	6%
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 judgments 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%
<i>Please Enter Yes or No</i>			
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)** 31%

>> **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 penalty was enhanced due to one NOV for similar violations, three NOVs for dissimilar violations, and one 1660 style order.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 31%

<b>Screening Date</b>	22-Apr-2009	<b>Docket No.</b>	2009-0592-AIR-E	<b>PCW</b>
<b>Respondent</b>	Southern Union Gas Services, Ltd.			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	37498			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN100238633			
<b>Media [Statute]</b>	Air			
<b>Enf. Coordinator</b>	Kirk Schoppe			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 116.115(c); Tex. Health & Safety Code § 382.085(b), and New Source Review ("NSR") Permit No. 2724, Special Condition 3			
<b>Violation Description</b>	Failed to maintain a minimum 95% sulfur recovery efficiency, as documented during an investigation conducted on February 11, 2009. Specifically, the Respondent had 199 days during the January 7, 2007 to January 6, 2009 certification periods that it did not maintain the minimum 95% efficiency required under NSR Permit No. 2724.			
	<b>Base Penalty</b>	\$10,000		

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

OR	Harm			
	Release	Major	Moderate	Minor
	Actual			X
	Potential			
				Percent <input type="text" value="25%"/>

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					Percent <input type="text" value="0%"/>

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

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	X
annual	
single event	

**Violation Base Penalty**

Four semi-annual events are recommended based on the intermittent days in violation between January 7, 2007 and January 6, 2009 in which the sulfur recovery efficiency was below 95%.

**Good Faith Efforts to Comply**  Reduction

	Before NCV	NCV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

**Notes**  
The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal**

**Economic Benefit (EB) for this violation**  **Statutory Limit Test**

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent:** Southern Union Gas Services, Ltd.  
**Case ID No.:** 37498  
**Reg. Ent. Reference No.:** RN100238633  
**Media:** Air  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	23-Mar-2007	6-Jan-2010	2.79	\$35	n/a	\$35
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	23-Mar-2007	6-Jan-2010	2.79	\$210	n/a	\$210

**Notes for DELAYED costs:** Estimated cost for additional oversight and management practices designed to ensure proper operation and maintenance practices are followed to maintain the proper sulfur recovery efficiency. Date Required is based on the first date of noncompliance and the Final Date is the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs:**

Approx. Cost of Compliance	\$1,750	<b>TOTAL</b>	\$245
----------------------------	---------	--------------	-------

<b>Screening Date</b>	22-Apr-2009	<b>Docket No.</b>	2009-0592-AIR-E	<b>PCW</b>
<b>Respondent</b>	Southern Union Gas Services, Ltd.		<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b>	37498	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN100238633			
<b>Media [Statute]</b>	Air			
<b>Enf. Coordinator</b>	Kirk Schoppe			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 116.115(b)(2)(F), Tex. Health & Safety Code § 382.085(b), and NSR Permit No. 2724, General Condition 8			
<b>Violation Description</b>	Failed to prevent unauthorized emissions on November 14-15, 2008 and December 3-4, 2008, as documented during an investigation conducted on February 11, 2009. Specifically, the Respondent released 4.22 pounds ("lbs") of unauthorized sulfur dioxide ("SO2") emissions on November 14-15, 2008, and 23.52 lbs of unauthorized SO2 emissions on December 3-4, 2008 from the Sulfur Recovery Unit Stack Emissions Point No. 1.			
<b>Base Penalty</b>				\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual			x
	Potential			
				<b>Percent</b> 25%
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
				<b>Percent</b> 0%
<b>Matrix Notes</b>	The emissions resulted in the release of an insignificant amount of pollutants which did not exceed levels protective of human health and/or the environment.			
<b>Adjustment</b>				\$7,500
				<b>\$2,500</b>
<b>Violation Events</b>				
	Number of Violation Events	2	4	Number of violation days
<i>mark only one with an x</i>	daily			
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
				<b>Violation Base Penalty</b> \$5,000
Two quarterly events are recommended, one each for the November 14-15, 2008 and December 3-4, 2008 emission events.				
<b>Good Faith Efforts to Comply</b>				
		0.0%	Reduction	\$0
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary				
Ordinary				
N/A	x		(mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>				\$5,000
<b>Economic Benefit (EB) for this violation</b>				
<b>Estimated EB Amount</b>		\$91	<b>Violation Final Penalty Total</b> \$8,550	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$8,550

## Economic Benefit Worksheet

**Respondent** Southern Union Gas Services, Ltd.  
**Case ID No.** 37498  
**Reg. Ent. Reference No.** RN100238633  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	14-Nov-2008	30-Nov-2009	1.04	\$13	n/a	\$13
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	14-Nov-2008	30-Nov-2009	1.04	\$78	n/a	\$78

Notes for DELAYED costs

Estimated cost for additional oversight and management practices designed to ensure proper operation and maintenance practices are followed. Date Required is based on the date of the emissions event and the Final Date is the date of expected compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,750

**TOTAL**

\$91

<b>Screening Date:</b> 22-Apr-2009		<b>Docket No.:</b> 2009-0592-AIR-E		<b>PCW</b>
<b>Respondent:</b> Southern Union Gas Services, Ltd.		<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.:</b> 37498		<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.:</b> RN100238633				
<b>Media [Statute]:</b> Air				
<b>Enf. Coordinator:</b> Kirk Schoppe				
<b>Violation Number:</b>	3			
<b>Rule Cite(s):</b>	30 Tex. Admin. Code § 106.6(b), Tex. Health & Safety Code § 382.085(b), NSR Permit No. 36121			
<b>Violation Description:</b>	Failed to operate engines C-8, C-15, and C-16 at 10% duty maximum as represented in exemption registration no. 36121. Specifically, the Respondent operated engines C-8, C-15, and C-16 engines in excess of the 10% duty maximum for a duration of 24 months for C-8 and C-16 and 23 months for C-15 in 2007 and 2008.			
<b>Base Penalty</b>				\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
				<b>Percent</b> <input type="text" value="1%"/>
<b>Matrix Notes</b>	Less than 30% of the representation requirement was met.			
<b>Adjustment</b>				\$9,900
				<b>\$100</b>
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="24"/>	<input type="text" value="720"/>	<b>Number of violation days</b>
<i>mark only one with an x</i>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
				<b>Violation Base Penalty</b> <input type="text" value="\$2,400"/>
Twenty-four monthly violation events are recommended based on the duration of operation outside representation requirement.				
<b>Good Faith Efforts to Comply</b>				
		<b>0.0%</b>	<b>Reduction</b> <input type="text" value="\$0"/>	
		<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>	
Extraordinary	<input type="checkbox"/>			
Ordinary	<input type="checkbox"/>			
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>				\$2,400
<b>Economic Benefit (EB) for this violation</b>				
<b>Estimated EB Amount</b>		<input type="text" value="\$264"/>	<b>Statutory Limit Test</b>	
			<b>Violation Final Penalty Total</b>	\$3,144
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$3,144

## Economic Benefit Worksheet

**Respondent:** Southern Union Gas Services, Ltd.  
**Case ID No.:** 37498  
**Reg. Ent. Reference No.:** RN100238833  
**Media:** Air  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	1-Jan-2007	8-Jan-2010	3.02	\$38	n/a	\$38
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	1-Jan-2007	8-Jan-2010	3.02	\$226	n/a	\$226

Notes for DELAYED costs

Estimated cost for additional oversight and management practices designed to ensure proper operation and maintenance practices are followed to maintain the 10% duty maximum on C-8, C-15, and C-16 engines. Date Required is based on the first date of noncompliance and the Final Date is the expected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,750

TOTAL

\$264

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603004664 Southern Union Gas Services, Ltd. Classification: AVERAGE Rating: 3.39  
Regulated Entity: RN100238633 KEYSTONE GAS PLANT Classification: AVERAGE Site Rating: 12.47

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	WM0011U
	AIR OPERATING PERMITS	PERMIT	769
	AIR OPERATING PERMITS	PERMIT	2940
	AIR OPERATING PERMITS	PERMIT	2940
	AIR NEW SOURCE PERMITS	PERMIT	2724
	AIR NEW SOURCE PERMITS	PERMIT	36121
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	WM0011U
	AIR NEW SOURCE PERMITS	AFS NUM	4849500006
	AIR NEW SOURCE PERMITS	REGISTRATION	73140
	AIR NEW SOURCE PERMITS	PERMIT	73600

Location: 4.5 MILES EAST OF STATE HIGHWAY 18 ON FARM TO MARKET 874 THEN 2 MILES NORTH ON COUNTY ROAD 301 IN WINKLER COUNTY

TCEQ Region: REGION 07 - MIDLAND

Date Compliance History Prepared: April 14, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 14, 2004 to April 14, 2009

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

Name: Kirk Schoppe Phone: 239 - 0489

## 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/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OWNOPR Southern Union Gas Services, Ltd.
4. If Yes, who was/were the prior owner(s)/operator(s)? OWNOPR Southern Union Gas Services, Ltd.
5. When did the change(s) in owner or operator occur? 03/06/2006
6. Rating Date: 9/1/2008 Repeat Violator: NO

## 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: 05/28/2006

ADMINORDER 2003-0166-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-1

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

Description: Failed to demonstrate compliance with all requirements of 40 CFR Subpart VV by failing to have records, reports, performance test results, and documentation of inspections.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-2(c)(2)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failed to attempt repairs within five days after each leak is detected for pumps in light liquid service for the reporting period October 1, 2001 through March 31, 2002.  
Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failed to equip each open ended valve or line with a cap, blind flange, plug, or a second valve.  
Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(d)(2)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failed to attempt repairs within five days after each leak is detected for valves in gas/vapor service and in light liquid service for the reporting period October 1, 2001 through March 1, 2002.  
Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Part 60, Subpart VV 60.487(a)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failed to submit two semiannual reports for the period January 1998 to January 1999.  
Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter F 122.503(a)(1)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: failing to submit an updated application for the Title V Operating Permit No. )-00769 reflecting changes for Flare EPN FL-3, 40 CFR Subpart KKK applicability.  
Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Part 60, Subpart A 60.18(c)(1)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Exceeded the five minute limit for visible emissions from Flare EPN FL-3 during any two consecutive hour period.  
Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: SP3 PERMIT  
Description: Failed to meet the minimum sulfur recovery efficiency limit of 95% for the Sulfur Recovery Unit Stack ("SRU") for the period July 5, 2001 through July 8, 2001.  
Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-3(g)(2)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failed to attempt repairs within five days after each leak is detected for compressors for the reporting period October 1, 2001 through March 1, 2002.  
Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failed to equip each open ended valve or line with a cap, blind flange, plug, or a second valve.

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 03/28/2006 (460734)  
 2 10/01/2007 (596036)  
 3 10/01/2007 (596060)  
 4 10/01/2007 (596065)  
 5 10/01/2007 (596068)  
 6 10/01/2007 (596072)  
 7 12/12/2007 (611809)  
 8 12/21/2007 (460791)  
 9 01/11/2008 (614239)  
 10 01/11/2008 (614240)  
 11 01/15/2008 (614690)  
 12 03/10/2008 (638645)  
 13 03/24/2008 (639526)  
 14 03/25/2008 (638911)  
 15 03/25/2008 (640147)  
 16 04/11/2008 (646157)  
 17 05/05/2008 (654908)  
 18 05/19/2008 (641056)  
 19 06/11/2008 (682853)  
 20 07/07/2008 (685158)  
 21 07/18/2008 (686621)  
 22 07/18/2008 (686701)  
 23 04/08/2009 (726728)

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

Date: 12/21/2007 (460791) CN603004664  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
 Description: 101.201(a)(1)(B) - Failure to notify region within 24 hours after discovery of an emission event. The initial reports for 14 emission events were not reported within 24 hours.

Date: 05/06/2008 (654908) CN603004664  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to provide initial notification for incidents 86311, 88004, 89054, 89378, 91980 and 93113 within 24 hours of discovery. These are alleged violations of 30 Texas Administrative Code (TAC) Chapter 101.201(a)(1)(B) which requires initial notification of a reportable emissions event within 24 hours of discovery and Texas Health and Safety Code (THSC) 382.085(b) for failure to prevent the release of unauthorized emissions into the air of the State of Texas.

Date: 05/19/2008 (641056) CN603004664  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to submit the final record of Emission Event Incident #101289 within 2 weeks of the end of the event.

Date: 04/08/2009 (726728) CN603004664  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to prevent unauthorized emissions. The deviations reported during this time frame were the result of human error which can be prevented. The resulting emissions are unauthorized which results in a violation of 30 Texas Administrative Code (TAC) Chapter 116.110(a)(4) [failure to satisfy the conditions for facilities permitted by rule] and 5C Texas Health Code (THC) Chapter 382.085(b) [failure to prevent the release of unauthorized emissions into

the air of the State of Texas]. This is

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)  
 5C THSC Chapter 382 382.085(b)

Description: Failure to prevent unauthorized emissions. Deviations reported during this time frame were the result of issues with pigging which can be prevented. The resulting emissions are unauthorized which results in a violation of 30 Texas Administrative Code (TAC) Chapter 116.110(a)(4) and 5C Texas Health Code (THC) Chapter 382.085(b). This is a category C-7 violation according to the EIC document.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)  
 5C THSC Chapter 382 382.085(b)

Description: Failure to prevent unauthorized emissions. Deviations reported during this time frame were the result of issues with freezing which can be prevented. The resulting emissions are unauthorized which results in a violation of 30 Texas Administrative Code (TAC) Chapter 116.110(a)(4) and 5C Texas Health Code (THC) Chapter 382.085(b).

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  
SOUTHERN UNION GAS SERVICES,  
LTD.  
RN100238633**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2009-0592-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 Southern Union Gas Services, Ltd. ("the Respondent") 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 the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a natural gas processing plant 4.5 miles east of State Highway 18 on Farm-to-Market Road 874 then two miles north on County Road 301 in Winkler 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 the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 13, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Two Thousand Seven Hundred Ninety-Four Dollars (\$22,794) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand One Hundred Eighteen Dollars

- (\$9,118) of the administrative penalty and Four Thousand Five Hundred Fifty-Eight Dollars (\$4,558) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Nine Thousand One Hundred Eighteen Dollars (\$9,118) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.
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 the Respondent 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 the Respondent 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 Plant, the Respondent is alleged to have:

1. Failed to maintain a minimum 95% sulfur recovery efficiency, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review ("NSR") Permit No. 2724, Special Condition 3, as documented during an investigation conducted on February 11, 2009. Specifically, the Respondent had 199 days during the January 7, 2007 to January 6, 2009 certification periods that it did not maintain the minimum 95% efficiency required.
2. Failed to prevent unauthorized emissions on November 14-15, 2008, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b), and NSR Permit No. 2724 General Condition 8, as documented during an investigation conducted on February 11, 2009. Specifically, the Respondent released 4.22 pounds ("lbs") of unauthorized sulfur dioxide ("SO<sub>2</sub>") emissions on November 14-15, 2008 from the Sulfur Recovery Unit Stack.
3. Failed to prevent unauthorized emissions on December 3-4, 2008, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F), TEX. HEALTH & SAFETY CODE § 382.085(b), and NSR Permit No. 2724 General Condition 8, as documented during an investigation conducted on February 11, 2009. Specifically, the Respondent released 23.52 lbs of unauthorized SO<sub>2</sub> emissions on December 3-4, 2008 from the Sulfur Recovery Unit Stack.

4. Failed to operate engines C-8, C-15, and C-16 at 10% duty maximum as represented in exemption registration no. 36121, in violation of 30 TEX. ADMIN. CODE § 106.6(b) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 11, 2009. Specifically, the Respondent operated engines C-8, C-15, and C-16 in excess of the 10% duty maximum for a duration of 24 months for C-8 and C-16 and 23 months for C-15 in 2007 and 2008.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Southern Union Gas Services, Ltd., Docket No. 2009-0592-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 Respondent shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Nine Thousand One Hundred Eighteen Dollars (\$9,118) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, implement improvements to training, design, operation, or maintenance procedures, in order to address the release of SO<sub>2</sub> emissions on November 14-15, 2008 and December 3-4, 2008;
  - b. Implement improvements to training, design, operation, or maintenance procedures in order to maintain a minimum 95% sulfur recovery efficiency; and
  - c. Implement improvements to training, design, operation, or maintenance procedures in order to maintain the 10% duty maximum on engines C-8, C-15, and C-16; and

- d. 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 Nos. 3.a., b., and c. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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 Section, Manager  
Midland Regional Office  
Texas Commission on Environmental Quality  
3300 North A Street, Building 4, Suite 107  
Midland, Texas 79705-5404

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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.
5. If the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent

receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
9. Under 30-TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

*J. L. Sidler*  
For the Executive Director

10/19/2009  
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 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

*Dennis W. Slack*  
Signature

8/7/09  
Date

Dennis W. Slack  
Name (Printed or typed)  
Authorized Representative of  
Southern Union Gas Services, Ltd.

Director EHS  
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.

Attachment A  
Docket Number: 2009-0592-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Southern Union Gas Services, Ltd.</b>
<b>Payable Penalty Amount:</b>	<b>Eighteen Thousand Two Hundred Thirty-Six Dollars (\$18,236)</b>
<b>SEP Amount:</b>	<b>Nine Thousand One Hundred Eighteen Dollars (\$9,118)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D")- Clean School Buses</b>
<b>Location of SEP:</b>	<b>Texas Air Quality Control Region 218 – Midland-Odessa-San Angelo</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO<sub>x</sub>) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

Southern Union Gas Services, Ltd.  
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

