

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2008-1625-AIR-E **TCEQ ID:** RN102344645 **CASE NO.:** 36643  
**RESPONDENT NAME:** Frontera Generation Limited Partnership

<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> Frontera Energy Center, 320 South Goodwin Road, Mission, Hidalgo County</p> <p><b>TYPE OF OPERATION:</b> Power station</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 February 16, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  TCEQ Attorney/SEP Coordinator: None  TCEQ Enforcement Coordinator: Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-1460; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  Respondent: Mr. Nick Nixon, Operations Manager, Frontera Generation Limited Partnership, 320 South Goodwin Road, Mission, Texas 78572  Mr. Michael G. Taylor, Plant Director, Frontera Generation Limited Partnership, 320 South Goodwin Road, Mission, Texas 78572  Respondent's Attorney: 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> August 25, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 28, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failure to timely submit a complete permit compliance certification ("PCC") and semi-annual deviation report ("SDR") within 30 days of the end of the reporting period. Specifically, the Respondent submitted the PCC for the April 4, 2007 through October 3, 2007 reporting period, and the SDR for the April 4, 2007 through October 3, 2007 reporting period, on October 7, 2008. The PCC and SDR were 156 days late [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B) and (C), and 122.146(1) and (2), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-01888, General Terms and Conditions].</p>	<p><b>Total Assessed:</b> \$5,450</p> <p><b>Total Deferred:</b> \$1,090  <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> \$4,360</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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent submitted the completed annual PCC and SDR on October 7, 2008.</p>

Additional ID No(s): HN0403K



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

DATES	Assigned	28-Aug-2008	Screening	16-Sep-2008	EPA Due	24-May-2009
	PCW	15-Sep-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Frontera Generation Limited Partnership
Reg. Ent. Ref. No.	RN102344645
Facility/Site Region	15-Harlingen
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36643	No. of Violations	1
Docket No.	2008-1625-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jeremy Escobar
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$5,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	19.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$950
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Notes: Enhancement is due to one NOV with similar violations, and seven NOVs with dissimilar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$500
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$23
Approx. Cost of Compliance	\$500

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$5,450
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$5,450
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,450
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,090
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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>	\$4,360
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Screening Date 16-Sep-2008

Docket No. 2008-1625-AIR-E

PCW

Respondent Frontera Generation Limited Partnership

Policy Revision 2 (September 2002)

Case ID No. 36643

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102344645

Media [Statute] Air

Enf. Coordinator Jeremy Escobar

## Compliance History Worksheet

## &gt;&gt; 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	7	14%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (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) 19%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement is due to one NOV with similar violations, and seven NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 19%

<b>Screening Date</b> 16-Sep-2008	<b>Docket No.</b> 2008-1625-AIR-E	<b>PCW</b>																		
<b>Respondent</b> Frontera Generation Limited Partnership		<i>Policy Revision 2 (September 2002)</i>																		
<b>Case ID No.</b> 36643		<i>PCW Revision June 12, 2008</i>																		
<b>Reg. Ent. Reference No.</b> RN102344645																				
<b>Media [Statute]</b> Air																				
<b>Enf. Coordinator</b> Jeremy Escobar																				
<b>Violation Number</b> <input type="text" value="1"/>																				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(B) and (C), and 122.146(1) and (2), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit No. O-01888, General Terms and Conditions																			
<b>Violation Description</b>	Failed to timely submit a complete annual permit compliance certification ("PCC") and semi-annual deviation reports ("SDR") within 30 days of the end of the reporting period. Specifically, the Respondent submitted the PCC for the April 4, 2007 through October 3, 2007, and the SDR for the April 4, 2007 through October 3, 2007 period, on October 7, 2008. The PCC and SDR were 156 days late.																			
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>																		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																				
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td>Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="text-align: right; vertical-align: middle;"><b>Percent</b> <input type="text" value="0%"/></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Harm																			
Release	Major	Moderate	Minor																	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>																
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>																	
<b>&gt;&gt; Programmatic Matrix</b>																				
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td>Falsification</td> <td style="text-align: center;">x</td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="text-align: right; vertical-align: middle;"><b>Percent</b> <input type="text" value="25%"/></td> </tr> </table>		Major	Moderate	Minor		Falsification	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>									
	Major	Moderate	Minor																	
Falsification	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>																
<b>Matrix Notes</b>	100% of the rule requirement was not met.																			
	<b>Adjustment</b>	<input type="text" value="\$7,500"/>																		
		<input type="text" value="\$2,500"/>																		
<b>Violation Events</b>																				
	<b>Number of Violation Events</b> <input type="text" value="2"/>	<input type="text" value="156"/> <b>Number of violation days</b>																		
<i>mark only one with an x</i>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x	<b>Violation Base Penalty</b> <input type="text" value="\$5,000"/>						
daily	<input type="text"/>																			
monthly	<input type="text"/>																			
quarterly	<input type="text"/>																			
semiannual	<input type="text"/>																			
annual	<input type="text"/>																			
single event	x																			
	Two single events are recommended for each report.																			
<b>Good Faith Efforts to Comply</b>																				
	<input type="text" value="10.0%"/> <b>Reduction</b>	<input type="text" value="\$500"/>																		
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>Ordinary</td> <td><input type="text"/></td> <td style="text-align: center;">x</td> </tr> <tr> <td>N/A</td> <td colspan="2" style="text-align: center;">(mark with x)</td> </tr> </table>		Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>	Ordinary	<input type="text"/>	x	N/A	(mark with x)								
	Before NOV	NOV to EDPRP/Settlement Offer																		
Extraordinary	<input type="text"/>	<input type="text"/>																		
Ordinary	<input type="text"/>	x																		
N/A	(mark with x)																			
<b>Notes</b>	The Respondent came into compliance October 7, 2008																			
	<b>Violation Subtotal</b>	<input type="text" value="\$4,500"/>																		
<b>Economic Benefit (EB) for this violation</b>																				
	<b>Estimated EB Amount</b> <input type="text" value="\$23"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$5,450"/>																		
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$5,450"/>																			

## Economic Benefit Worksheet

**Respondent** Frontera Generation Limited Partnership  
**Case ID No.** 36643  
**Reg. Ent. Reference No.** RN102344645  
**Media** Air  
**Violation No.** 1

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

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

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$500	3-Nov-2007	7-Oct-2008	0.93	\$23	n/a	\$23
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit the two reports. Date required is 30 days after the end of the reporting period. Final date is the date of compliance when the reports were submitted.

**Avoided Costs**

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

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

\$500

TOTAL

\$23

# Compliance History

Customer/Respondent/Owner-Operator:	CN601235534 Frontera Generation Limited Partnership	Classification: AVERAGE	Rating: 0.34
Regulated Entity:	RN102344645 FRONTERA ENERGY CENTER	Classification: AVERAGE	Site Rating: 0.34
ID Number(s):	WASTEWATER PERMIT WQ0004051000 WASTEWATER PERMIT TPDES0116785 WASTEWATER PERMIT TX0116785 AIR NEW SOURCE PERMITS PERMIT 37613 AIR NEW SOURCE PERMITS ACCOUNT NUMBER HN0403K AIR NEW SOURCE PERMITS AFS NUM 4821500084 AIR NEW SOURCE PERMITS EPA ID PSDTX900 AIR NEW SOURCE PERMITS REGISTRATION 81457 AIR NEW SOURCE PERMITS EPA ID PSDTX900M1 AIR OPERATING PERMITS ACCOUNT NUMBER HN0403K AIR OPERATING PERMITS PERMIT 1827 AIR OPERATING PERMITS PERMIT 1888 STORMWATER PERMIT TXR05S699 IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 86176		
Location:	320 S GOODWIN RD, MISSION, TX, 78572	Rating Date: 9/1/2008 Repeat Violator: NO	
TCEQ Region:	REGION 15 - HARLINGEN		
Date Compliance History Prepared:	September 26, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 24, 2003 to September 24, 2008		

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

Name: Jeremy Escobar Phone: 512-239-1460

### Site Compliance History Components

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

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 

N/A	1	11/26/2003	(253896)
	2	04/16/2004	(265090)
	3	05/27/2005	(349968)
	4	03/07/2008	(638442)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date:	10/31/2003	(325835)
Self Report?	YES	
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)	

Classification: Moderate

Description: Failure to meet the limit for one or more permit parameter  
Date: 04/30/2004 (366148)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter  
Date: 07/14/2004 (276861)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: PERMIT PERMIT CONDITIONS: b, (P.7)  
Description: Failure to comply with all conditions of the permit and with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation or suspension, or denial of a permit renewal application or of an

Date: 09/30/2004 (366153)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter  
Date: 12/31/2004 (389578)  
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter  
Date: 05/05/2005 (349968)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter C 335.62  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11  
Description: Failure to perform a hazardous waste determination on every solid waste generated.

Date: 08/20/2007 (572339)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.146(1)  
Description: Failure to certify compliance with the terms and conditions of the permit for at least each 12-month period following the initial permit issuance.

Date: 02/29/2008 (695640)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

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  
FRONTERA GENERATION LIMITED  
PARTNERSHIP  
RN102344645**

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

**AGREED ORDER  
DOCKET NO. 2008-1625-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 Frontera Generation Limited Partnership ("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 power station at 320 South Goodwin Road in Mission, Hidalgo 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 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 September 2, 2008.
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 Five Thousand Four Hundred Fifty Dollars (\$5,450) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Three Hundred Sixty Dollars (\$4,360) of the administrative penalty and One Thousand Ninety Dollars (\$1,090) 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.
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 recognizes that the Respondent submitted the completed annual permit compliance certification ("PCC") and semi-annual deviation report ("SDR") on October 7, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Station, the Respondent is alleged to have failed to timely submit a complete PCC and SDR within 30 days of the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B) and (C), and 122.146(1) and (2), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-01888, General Terms and Conditions, as documented during an investigation conducted on August 25, 2008. Specifically, the Respondent submitted the PCC for the April 4, 2007 through October 3, 2007 reporting period, and the SDR for the April 4, 2007 through October 3, 2007 reporting period, on October 7, 2008. The PCC and SDR were 156 days late.

## **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: Frontera Generation Limited Partnership, Docket No. 2008-1625-AIR-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
3. 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.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to 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

John Sullie  
For the Executive Director

1/22/2009  
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.

Michael G. Taylor  
Signature

12/1/08  
Date

MICHAEL G. TAYLOR  
Name (Printed or typed)  
Authorized Representative of  
Frontera Generation Limited Partnership

PLANT DIRECTOR  
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.

