

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1766-PWS-E **TCEQ ID:** RN104415815 and RN104415823 **CASE NO.:** 36792

RESPONDENT NAME: Comcast of Houston, LLC

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" 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>SITE WHERE VIOLATION(S) OCCURRED: Comcast – Keith Harrow, 18500 Keith Harrow Boulevard and Comcast Old Galveston Road, 10801 Galveston Road, Houston, Harris County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 13, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Tony Speller, Vice President, Comcast of Houston, LLC, 8590 West Tidwell Road, Houston, Texas 77040 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 1, 2008</p> <p>Date of NOV/NOE Relating to this Case: November 5, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample at the Comcast Keith Harrow Facility [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p> <p>2) Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample at the Comcast Old Galveston Road Facility [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p>	<p>Total Assessed: \$4,252</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,252</p> <p>RN104415823 and RN104415815 Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: Six or more NOVs within a five year period for the same violation.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that in December 2008, the Respondent achieved compliance with the coliform monitoring requirements at the facilities.</p>

Additional ID No(s): PWS 1013331 and 1013304



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	10-Nov-2008	Screening	12-Nov-2008	EPA Due	1-Jan-2009
	PCW	12-Nov-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Comcast of Houston, LLC (Comcast Keith Harrow Facility)		
Reg. Ent. Ref. No.	RN104415815		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	36792	No. of Violations	1
Docket No.	2008-1766-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,500
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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.

Compliance History	32.0% Enhancement	Subtotals 2, 3, & 7	\$480
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Notes: The penalty enhancement is due to six prior Notices of Violation ("NOV"s) for violations that are the same as the violations in the current enforcement action and one prior dissimilar NOV.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$161
 Approx. Cost of Compliance: \$150
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,980
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OTHER FACTORS AS JUSTICE MAY REQUIRE	8.1%	Adjustment	\$161
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance.

Final Penalty Amount	\$2,141
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,141
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$2,141
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Screening Date 12-Nov-2008

Docket No. 2008-1766-PWS-E

PCW

Respondent Comcast of Houston, LLC (Comcast Keith Harrow Facil

Policy Revision 2 (September 2002)

Case ID No. 36792

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104415815

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	6	30%
	Other written NOV's	1	2%
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%
<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) 32%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty enhancement is due to six prior Notices of Violation ("NOV"s) for violations that are the same as the violations in the current enforcement action and one prior dissimilar NOV.

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

Screening Date 12-Nov-2008		Docket No. 2008-1766-PWS-E		PCW	
Respondent Comcast of Houston, LLC (Comcast Keith Harrow Facility)		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36792		<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN104415815					
Media [Statute] Public Water Supply					
Enf. Coordinator Epifanio Villarreal					
Violation Number		<input type="text" value="1"/>			
Rule Cite(s)		<input type="text" value="30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and Tex. Health & Safety Code § 341.033(d)"/>			
Violation Description		<input type="text" value="Failed to collect routine distribution water samples for coliform analysis for the months of January 2008 through June 2008 and failed to provide public notification of the failure to sample for the months of January 2008 through June 2008."/>			
Base Penalty				<input type="text" value="\$1,000"/>	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="25%"/>	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
					Percent <input type="text" value="0%"/>
Matrix Notes		<input type="text" value="Failure to perform bacteriological monitoring of the public water supply may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health."/>			
Adjustment				<input type="text" value="\$750"/>	
				<input type="text" value="\$250"/>	
Violation Events					
Number of Violation Events		<input type="text" value="6"/>	<input type="text" value="181"/>	Number of violation days	
<small>mark only one with an x</small>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input checked="" type="checkbox"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
<input type="text" value="Six monthly events are recommended."/>				Violation Base Penalty <input type="text" value="\$1,500"/>	
Good Faith Efforts to Comply		<input type="text" value="0.0%"/> Reduction		<input type="text" value="\$0"/>	
		<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>		
Extraordinary		<input type="text"/>	<input type="text"/>		
Ordinary		<input type="text"/>	<input type="text"/>		
N/A		<input checked="" type="checkbox"/>	<small>(mark with x)</small>		
Notes		<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
Violation Subtotal				<input type="text" value="\$1,500"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$161"/>		Violation Final Penalty Total <input type="text" value="\$2,141"/>	
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$2,141"/>	

Economic Benefit Worksheet

Respondent Comcast of Houston, LLC (Comcast Keith Harrow Facility)

Case ID No. 36792

Reg. Ent. Reference No. RN104415815

Media Public Water Supply

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			0.00	\$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			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

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]	\$150	1-Jan-2008	30-Jun-2008	1.41	\$11	\$150
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs includes the amount to conduct monthly bacteriological sampling and provide public notification, calculated for the months when the violations occurred.

Approx. Cost of Compliance \$150

TOTAL \$161

Compliance History Report

Customer/Respondent/Owner-Operator: CN603202292 Comcast of Houston, LLC Classification: Rating:

Regulated Entity: RN104415815 COMCAST - KEITH HARROW Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1013331

Location: 18500 KEITH HARROW BLVD, HOUSTON, HARRIS COUNTY, TX

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: November 12, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 12, 2003 to November 12, 2008

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

Name: Epi Villarreal Phone: 361-825 - 3425

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? Comcast of Houston, LLC
4. If Yes, who was/were the prior owner(s)? TIME WARNER CABLE
5. When did the change(s) in ownership occur? August 15, 2006

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. (CEEDS Inv. Track. No.)
- | | | | |
|---|------------|----------|--|
| 1 | 01/12/2005 | (343940) | |
| 2 | 08/13/2007 | (563184) | |
| 3 | 10/31/2008 | (706985) | |
| 4 | 11/05/2008 | (707004) | |
| 5 | 11/05/2008 | (707008) | |
| 6 | 11/05/2008 | (707012) | |
| 7 | 11/05/2008 | (707013) | |
| 8 | 11/05/2008 | (707018) | |
| 9 | 11/05/2008 | (707329) | |
- E. Written notices of violations (NOV). (CEEDS Inv. Track. No.)
- Date: 08/10/2007 (563184)
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
- Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine as per agency regulations.
- Date: 03/11/2008 (706985)
- Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Monitoring Violation 01/2008 - Failure to collect any monitoring sample(s).
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Monitoring Violation 01/2008 - Failure to post public notice for not collecting any monitoring sample(s).

Date: 04/16/2008 (707004)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Monitoring Violation 02/2008 - Failure to collect any monitoring sample(s).
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Monitoring Violation 02/2008 - Failure to post public notice for not collecting any monitoring sample(s).

Date: 04/29/2008 (707008)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Monitoring Violation 03/2008 - Failure to collect any monitoring sample(s).
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Monitoring Violation 03/2008 - Failure to post public notice for not collecting any monitoring sample(s).

Date: 05/22/2008 (707012)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Monitoring Violation 04/2008 - Failure to collect any monitoring sample(s).
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Monitoring Violation 04/2008 - Failure to post public notice for not collecting any monitoring sample(s).

Date: 06/27/2008 (707013)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Monitoring Violation 05/2008 - Failure to collect any monitoring sample(s).
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Monitoring Violation 05/2008 - Failure to post public notice for not collecting any monitoring sample(s).

Date: 07/31/2008 (707018)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Monitoring Violation 06/2008 - Failure to collect any monitoring sample(s).

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Monitoring Violation 06/2008 - Failure to post public notice for not collecting any monitoring sample(s).

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





Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	10-Nov-2008	Screening	12-Nov-2008	EPA Due	1-Jan-2009
	PCW	12-Nov-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Comcast of Houston, LLC (Comcast Old Galveston Road Facility)
Reg. Ent. Ref. No.	RN104415823
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36792	No. of Violations	1
Docket No.	2008-1766-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$1,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 30.0% Enhancement **Subtotals 2, 3, & 7** \$450

Notes The penalty enhancement is due to six prior Notices of Violation ("NOV"s) for violations that are the same as the violations in the current enforcement action.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$161
Approx. Cost of Compliance \$150
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$1,950

OTHER FACTORS AS JUSTICE MAY REQUIRE 8.3% **Adjustment** \$161

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement recommended for recovery of avoided costs of compliance.

Final Penalty Amount \$2,111

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$2,111

DEFERRAL 0.0% Reduction **Adjustment** \$0

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

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$2,111

Screening Date 12-Nov-2008

Docket No. 2008-1766-PWS-E

PCW

Respondent Comcast of Houston, LLC (Comcast Old Galveston Roa

Policy Revision 2 (September 2002)

Case ID No. 36792

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104415823

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	6	30%
	Other written NOV's	0	0%
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) 30%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The penalty enhancement is due to six prior Notices of Violation ("NOV"s) for violations that are the same as the violations in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 12-Nov-2008	Docket No. 2008-1766-PWS-E	PCW
Respondent Comcast of Houston, LLC (Comcast Old Galveston Road Facility)		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 36792		<small>PCW Revision October 30, 2008</small>
Reg. Ent. Reference No. RN104415823		
Media [Statute] Public Water Supply		
Enf. Coordinator Epifanio Villarreal		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and Tex. Health & Safety Code § 341.033(d)	
Violation Description	Failed to collect routine distribution water samples for coliform analysis for the months of January 2008 through June 2008 and failed to provide public notification of the failure to sample for the months of January 2008 through June 2008.	
	Base Penalty	\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	x	<input type="text"/>	<input type="text"/>
				Percent <input style="width: 50px;" type="text" value="25%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="0%"/>

Matrix Notes Failure to perform bacteriological monitoring of the public water supply may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.

Adjustment \$250

Violation Events

Number of Violation Events <input style="width: 50px;" type="text" value="6"/>		Number of violation days <input style="width: 50px;" type="text" value="181"/>														
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">weekly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;">x</td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input type="text"/></td></tr> </table> <p style="font-size: small; margin-top: 5px;">mark only one with an x</p>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	x	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>		Violation Base Penalty <input style="width: 100px;" type="text" value="\$1,500"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	x															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input type="text"/>															

Six monthly events are recommended.

Good Faith Efforts to Comply Reduction \$0

	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width:50%;"></td> <td style="width:50%; text-align: center;">Before NOV</td> <td style="width:50%;"></td> <td style="width:50%; text-align: center;">NOV to EDRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> <td style="text-align: center;"><input type="text"/></td> </tr> </table>		Before NOV		NOV to EDRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	N/A	x	(mark with x)	<input type="text"/>	
	Before NOV		NOV to EDRP/Settlement Offer															
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>															
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>															
N/A	x	(mark with x)	<input type="text"/>															
Notes	The Respondent does not meet the good faith criteria for this violation.																	
		Violation Subtotal	<input style="width: 100px;" type="text" value="\$1,500"/>															

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input style="width: 100px;" type="text" value="\$161"/>	Violation Final Penalty Total <input style="width: 100px;" type="text" value="\$2,111"/>
This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100px;" type="text" value="\$2,111"/>	

Economic Benefit Worksheet

Respondent Comcast of Houston, LLC (Comcast Old Galveston Road Facility)
Case ID No. 36792
Reg. Ent. Reference No. RN104415823
Media Public Water Supply
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			0.00	\$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			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

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]	\$150	1-Jan-2008	30-Jun-2008	1.41	\$11	\$150
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs includes the amount to conduct monthly bacteriological sampling and provide public notification, calculated for the months when the violations occurred.

Approx. Cost of Compliance

\$150

TOTAL

\$161

Compliance History Report

Customer/Respondent/Owner-Operator: CN603202292 Comcast of Houston, LLC Classification: Rating:
Regulated Entity: RN104415823 COMCAST OLD GALVESTON ROAD Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1013304
Location: 10801 GALVESTON RD, HOUSTON, HARRIS COUNTY, TX
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: November 12, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: November 12, 2003 to November 12, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Epi Villarreal Phone: 361-825-3425

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? Comcast of Houston, LLC
4. If Yes, who was/were the prior owner(s)? TIME WARNER CABLE
5. When did the change(s) in ownership occur? August 15, 2006

Components (Multimedia) for the Site :

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

N/A

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1	01/11/2005	(343975)
2	07/13/2007	(563209)
3	10/30/2008	(706648)
4	10/31/2008	(706827)
5	10/31/2008	(706828)
6	10/31/2008	(706829)
7	10/31/2008	(706830)
8	10/31/2008	(706831)
9	11/05/2008	(706970)

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

Date: 03/11/2008 (706648)

Self NO
Report?

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 01/2008 - Failure to collect any routine monitoring sample(s).

Self NO
Report?

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 01/2008 - Failure to post public notice for not

collecting any routine monitoring sample(s).

Date: 04/16/2008 (706827)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 02/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 02/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 04/29/2008 (706828)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 03/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 03/2008 - Failure to collect any routine monitoring sample(s).

Date: 05/22/2008 (706829)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 04/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 04/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 06/27/2008 (706830)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 05/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 05/2008 - Failure to collect any routine monitoring sample(s).

Date: 07/31/2008 (706831)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 06/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 06/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

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
COMCAST OF HOUSTON, LLC
RN104415823
RN104415815

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1766-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Comcast of Houston, LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 18500 Keith Harrow Boulevard (the "Comcast Keith Harrow Facility") and 10801 Galveston Road (the "Old Galveston Road

Facility”) in Houston, Harris County, Texas (“the Facilities”) that have one service connection each and serve at least 25 people per day for at least 60 days per year.

2. During a record review of the Comcast Keith Harrow Facility conducted on July 1, 2008, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of January 2008 through June 2008 and failed to provide public notification of the failure to sample for the months of January 2008 through June 2008.
3. During a record review of the Comcast Old Galveston Road Facility conducted on July 1, 2008, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of January 2008 through June 2008 and failed to provide public notification of the failure to sample for the months of January 2008 through June 2008.
4. The Respondent received notice of the violations on or about November 10, 2008.
5. The Executive Director recognizes that in December 2008, the Respondent achieved compliance with the coliform monitoring requirements at the Facilities.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample at the Comcast Keith Harrow Facility, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample at the Comcast Old Galveston Road Facility, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 341.033(d).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission’s jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Four Thousand Two Hundred Fifty-Two Dollars (\$4,252) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Four Thousand Two Hundred Fifty-Two Dollar (\$4,252) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Four Thousand Two Hundred Fifty-Two Dollars (\$4,252) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Comcast of Houston, LLC, Docket No. 2008-1766-PWS-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 Facilities operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
5. 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.
6. 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.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Zedler
For the Executive Director

3/24/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Comcast of Houston, LLC. I am authorized to agree to the attached Agreed Order on behalf of Comcast of Houston, LLC, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Comcast of Houston, LLC waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Tony Speller
Signature

1-9-09
Date

Tony Speller
Name (Printed or typed)
Authorized Representative of
Comcast of Houston, LLC

Senior Vice President
Title

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