

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2010-1517-AIR-E **TCEQ ID:** RN100222041 **CASE NO.:** 40402  
**RESPONDENT NAME:** Pasadena Cogeneration L.P.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Pasadena Cogeneration, 955 Phillips Road, Pasadena, Harris County</p> <p><b>TYPE OF OPERATION:</b> Electric generation facility</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 March 21, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Gena Hawkins, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2583; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. W. Thaddeus Miller, Chief Legal Officer, Pasadena Cogeneration L.P., P.O. Box 3038, Pasadena, Texas 77501  Ms. Thelma Gaffney, Environmental Health and Safety Specialist, Pasadena Cogeneration L.P., P.O. Box 3038, Pasadena, Texas 77501  <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> June 8, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 31, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failed to include all deviations in a deviation report. Specifically, the deviation report for the period September 11, 2008 through March 10, 2009 failed to contain the recordable emissions event (Incident No. 115112) that occurred on October 6, 2008 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit O-01797 General Terms and Conditions, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failed to certify compliance with the terms and conditions of the permit for at least each 12 month period. Specifically, a permit compliance certification ("PCC") certifying March 11, 2008 through September 11, 2008 was submitted, however, the Respondent did not certify the period from September 11, 2007 through March 10, 2008 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-01797 General Terms and Conditions].</p>	<p><b>Total Assessed:</b> \$883</p> <p><b>Total Deferred:</b> \$176  <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> \$707</p> <p><b>Compliance History Classifications:</b>            Person/CN - Average            Site/RN - Average</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 on August 21, 2009, the Respondent submitted a corrected PCC for the period September 11, 2007 through September 10, 2008.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, conduct and complete training of all Site personnel responsible for submitting reports, specifically personnel responsible for the submittal of deviation reports, detailing all proper procedures that should be followed; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): Air Account HG9954A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	7-Sep-2010	<b>Screening</b>	13-Sep-2010	<b>EPA Due</b>	28-May-2011
	<b>PCW</b>	28-Sep-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Pasadena Cogeneration L.P.				
<b>Reg. Ent. Ref. No.</b>	RN100222041				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40402	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-1517-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Gena Hawkins
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$1,100**

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

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

**Compliance History** **3.0%** Enhancement **Subtotals 2, 3, & 7** **\$33**

Notes: Enhancement for one same/similar NOV and two dissimilar NOVs. Reduction for one Notice of Intent and voluntary participation in a pollution reduction program.

**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** **\$250**

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

Total EB Amounts **\$357**  
 Approx. Cost of Compliance **\$3,000**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$883**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** **\$883**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$883**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$176**

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

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$707**

**Screening Date** 13-Sep-2010

**Docket No.** 2010-1517-AIR-E

**PCW**

**Respondent** Pasadena Cogeneration L.P.

Policy Revision 2 (September 2002)

**Case ID No.** 40402

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN100222041

**Media [Statute]** Air

**Enf. Coordinator** Gena Hawkins

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<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	Yes	-5%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)**

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

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one same/similar NOV and two dissimilar NOVs. Reduction for one Notice of Intent and voluntary participation in a pollution reduction program.

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

Screening Date 13-Sep-2010

Docket No. 2010-1517-AIR-E

PCW

Respondent Pasadena Cogeneration L.P.

Policy Revision 2 (September 2002)

Case ID No. 40402

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100222041

Media [Statute] Air

Enf. Coordinator Gena Hawkins

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit O-01797 General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to include all deviations in a deviation report, as documented during an investigation conducted on June 8, 2010. Specifically, the deviation report for the period September 11, 2008 through March 10, 2009 failed to contain the recordable emissions event (Incident No. 115112) that occurred on October 6, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
			X

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

522 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV 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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$313

Violation Final Penalty Total \$103

This violation Final Assessed Penalty (adjusted for limits) \$103

# Economic Benefit Worksheet

**Respondent** Pasadena Cogeneration L.P.  
**Case ID No.** 40402  
**Req. Ent. Reference No.** RN100222041  
**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	\$2,000	9-Apr-2008	28-May-2011	3.13	\$313	n/a	\$313
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 provide additional Title V reporting oversight. The date required is the date the first incomplete report was due. The final date is the date the additional oversight is expected to be completed.

### 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

\$2,000

**TOTAL**

\$313

Screening Date 13-Sep-2010

Docket No. 2010-1517-AIR-E

PCW

Respondent Pasadena Cogeneration L.P.

Policy Revision 2 (September 2002)

Case ID No. 40402

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100222041

Media [Statute] Air

Enf. Coordinator Gena Hawkins

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.146(1), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit No. O-01797 General Terms and Conditions

Violation Description

Failed to certify compliance with the terms and conditions of the permit for at least each 12 month period, as documented during an investigation conducted on June 8, 2010. Specifically, a permit compliance certification ("PCC") certifying March 11, 2008 through September 11, 2008 was submitted, however the Respondent did not certify the period from September 11, 2007 through March 10, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
		x	

Percent 10%

Matrix Notes

50% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

315 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended, based on the one report.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes A corrected PCC for September 11, 2007 through September 10, 2008 was submitted on August 21, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$43

Violation Final Penalty Total \$780

This violation Final Assessed Penalty (adjusted for limits) \$780

## Economic Benefit Worksheet

**Respondent** Pasadena Cogeneration L.P.  
**Case ID No.** 40402  
**Req. Ent. Reference No.** RN100222041  
**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	\$1,000	10-Oct-2008	21-Aug-2009	0.86	\$43	n/a	\$43
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 costs to improve the record keeping/reporting system. The Date Required is the date the report was due, and the Final Date is the 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

\$1,000

**TOTAL**

\$43

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN601228604 Pasadena Cogeneration L.P.	Classification: AVERAGE	Rating: 0.67
Regulated Entity:	RN100222041 PASADENA COGENERATION	Classification: AVERAGE	Site Rating: 0.67
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG9954A
	AIR OPERATING PERMITS	PERMIT	1797
	AIR NEW SOURCE PERMITS	AFS NUM	4820101474
	AIR NEW SOURCE PERMITS	PERMIT	37283
	AIR NEW SOURCE PERMITS	PERMIT	N015
	AIR NEW SOURCE PERMITS	REGISTRATION	91385
	STORMWATER	PERMIT	TXR05X059
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	86526
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG9954A
Location:	955 PHILLIPS RD, PASADENA, TX, 77506		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	September 17, 2010		

Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: September 13, 2005 to September 13, 2010

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

Name: Gena Hawkins Phone: (52) 239 - 2583

### 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? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 08/03/2006 (488504)
- 2 06/28/2007 (532557)
- 3 07/10/2007 (564145)
- 4 10/04/2007 (566240)
- 5 10/15/2007 (572637)
- 6 10/19/2007 (594215)
- 7 01/18/2008 (610527)
- 8 01/28/2008 (612515)
- 9 11/14/2008 (686404)
- 10 11/14/2008 (686545)
- 11 06/24/2009 (744121)
- 12 04/08/2010 (793092)
- 13 04/08/2010 (793280)
- 14 08/31/2010 (794208)

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

Date: 06/29/2007 (532557)  
 Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 106, SubChapter A 106.6(b)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 FOP No. O-1797, General Terms OP  
 FOP No. O-1797, SC 10 OP  
 FOP No. O-1797, SC 9 OP

Description: RE failed to comply with emission limits established in PBR 106.263 during start-up.

Date: 07/10/2007 (564145)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Permit No. 37283/Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)

Description: Failed to include the preconstruction authorization number or rule citation of the permit governing the facility in the initial notification and final report.

Date: 09/01/2010 (794208)

CN601228604

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP, Special Condition 7 OP  
NSR, Special Condition 4C PERMIT  
Description: Failure to operate EPN CG-1 within the permitted NOx concentration of 12.0 ppmvd.  
Category C4 violation

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP, Special Condition 7 OP  
NSR, Special Condition 8 PERMIT  
Description: Failure to operate EPN CG-2 and CG-3 within the permitted ammonia (NH3)  
concentration of 10 ppmvd.  
(Category B14 violation)

F. Environmental audits.

Notice of Intent Date: 04/27/2010 (826673)  
No DOV Associated

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.

Type	Tier	Certification Date
CLEAN TEXAS PROGRAM	PARTNER	06/12/2009
CLEAN TEXAS PROGRAM	PARTNER	06/12/2009
CLEAN TEXAS PROGRAM	PARTNERSHIP	06/12/2009

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PASADENA COGENERATION L.P.  
RN100222041**

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

## **AGREED ORDER DOCKET NO. 2010-1517-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 Pasadena Cogeneration L.P. ("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 an electric generation facility at 955 Phillips Road in Pasadena, Harris County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and 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 5, 2010.
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 Eight Hundred Eighty-Three Dollars (\$883) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Hundred Seven Dollars (\$707) of the administrative penalty and One Hundred Seventy-Six Dollars (\$176) 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 on August 21, 2009, the Respondent submitted a corrected permit compliance certification ("PCC") for the period September 11, 2007 through September 10, 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 Site, the Respondent is alleged to have:

1. Failed to include all deviations in a deviation report, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit O-01797 General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 8, 2010. Specifically, the deviation report for the period September 11, 2008 through March 10, 2009 failed to contain the recordable emissions event (Incident No. 115112) that occurred on October 6, 2008.
2. Failed to certify compliance with the terms and conditions of the permit for at least each 12 month period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-01797 General Terms and Conditions, as documented during an investigation conducted on June 8, 2010. Specifically, a PCC certifying March 11, 2008 through September 11, 2008 was submitted, however, the Respondent did not certify the period from September 11, 2007 through March 10, 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: Pasadena Cogeneration L.P., Docket No. 2010-1517-AIR-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, conduct and complete training of all Site personnel responsible for submitting reports, specifically personnel responsible for the submittal of deviation reports, detailing all proper procedures that should be followed; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. 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 Site operations referenced in this Agreed Order.
4. 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.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
6. 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.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature

could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. 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

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

\_\_\_\_\_  
Date 2/24/2011

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.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date January 6, 2011

  
\_\_\_\_\_  
Name (Printed or typed) Chief Legal Officer  
Authorized Representative of  
Pasadena Cogeneration L.P.

\_\_\_\_\_  
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.