

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 39800
K C UTILITIES, INC.
RN101243921
Docket No. 2012-2088-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

intersection of County Road 144 and County Road 870, Brazoria County

Type of Operation:

public water system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$19,104.77 (2010-1111-MWD-E)
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: August 2, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$2,145

Total Paid to General Revenue: \$145

Total Due to General Revenue: \$2,000

Payment Plan: 20 payments of \$100 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Unsatisfactory
Site/RN – Not Applicable

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002 (PCW 1); September 2011 (PCW 2)

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: May 16, 2012

Date(s) of NOV(s): N/A

Date(s) of NOE(s): September 11, 2012

K C UTILITIES, INC.
RN101243921
Docket No. 2012-2088-PWS-E

Violation Information

1. Failed to ensure the Facility is enclosed by an intruder-resistant fence [30 TEX. ADMIN. CODE § 290.42(m) and TCEQ Agreed Order Docket No. 2010-0905-PWS-E, Ordering Provision No. 2.c.i.].
2. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment [30 TEX. ADMIN. CODE § 290.46(m)].
3. Failed to calibrate the Facility's well meter at least once every three years [30 TEX. ADMIN. CODE § 290.46(s)(1)].
4. Failed to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days [30 TEX. ADMIN. CODE § 290.110(c)(4)(A)].
5. Failed to inspect the ground storage tank ("GST") annually [30 TEX. ADMIN. CODE § 290.46(m)(1)(A)].
6. Failed to inspect the pressure tank annually [30 TEX. ADMIN. CODE § 290.46(m)(1)(B)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Provided documentation demonstrating that the fencing at the northeast corner of the Facility had been repaired on November 14, 2012 (violation no. 1);
2. Provided documentation on November 7, 2012, demonstrating that the well slab had been cleared and was no longer overgrown with grass, allowing water to drain away properly, and that the pressure tank had been repainted (violation no. 2);
3. Began monitoring the disinfectant residual at representative locations in the distribution system at least once every seven days on September 28, 2012 (violation no. 4); and
4. Provided documentation demonstrating that both the GST and pressure tank were inspected with passing results on November 9, 2012 (violation nos. 5 and 6).

Technical Requirements:

1. Within 30 days, calibrate the well meter (violation no. 3); and
2. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: March 13, 2013
Date Green Card(s) Signed: March 15, 2013
Date Answer(s) Filed: N/A
Settlement Date: July 9, 2013

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Katy Montgomery, Enforcement Division, (512) 239-2602

TCEQ Regional Contact: Steve Smith, Houston Regional Office, (713) 767-3500

Respondent Contact: Marshall Kus, President, K C UTILITIES, INC., P.O. Box 2088, Alvin, Texas 77512

Respondent's Attorney: Helen Gilbert, Attorney at Law, 2206 Greenlee Drive, Austin, Texas 78703



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	17-Sep-2012	Screening	4-Oct-2012	EPA Due	
	PCW	7-Jan-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	K C UTILITIES, INC.		
Reg. Ent. Ref. No.	RN101243921		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	39800	No. of Violations	1
Docket No.	2012-2088-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Katy Schumann
		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	\$50
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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	55.0% Enhancement	Subtotals 2, 3, & 7	\$27
Notes	Enhancement for one final enforcement order containing a denial of liability and one final enforcement order not containing a denial of liability, and an unsatisfactory performer classification.		
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	\$5
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$66	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$500		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$72
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
	Final Penalty Amount \$72

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$72
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$72
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Screening Date 4-Oct-2012

Docket No. 2012-2088-PWS-E

PCW

Respondent K C UTILITIES, INC.

Policy Revision 2 (September 2002)

Case ID No. 39800

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101243921

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

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>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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>)	0	0%
	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	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) 45%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one final enforcement order containing a denial of liability and one final enforcement order not containing a denial of liability, and an unsatisfactory performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 55%

Screening Date	4-Oct-2012	Docket No.	2012-2088-PWS-E	PCW
Respondent	K C UTILITIES, INC.	Policy Revision 2 (September 2002)		
Case ID No.	39800	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN101243921			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 290.42(m) and TCEQ Agreed Order Docket No. 2010-0905-PWS-E, Ordering Provision No. 2.c.i.

Violation Description

Failed to ensure the Facility is enclosed by an intruder-resistant fence. Specifically, at the time of the investigation, it was documented that the barbed wire around the fence at the northeast corner of the Facility was sagging and not appropriately attached to the supporting arms.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="5%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	

>> Programmatic Matrix

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

Matrix Notes

Failure to ensure the Facility fencing is intruder-resistant could expose customers of the Facility to insignificant amounts of pollutants which would not exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text" value="x"/>
N/A	(mark with x)	

Notes

The Respondent achieved compliance on November 14, 2012.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent K C UTILITIES, INC.
Case ID No. 39800
Reg. Ent. Reference No. RN101243921
Media Public Water Supply
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	\$500	25-Dec-2010	14-Nov-2012	1.89	\$3	\$63	\$66
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

The delayed cost includes the estimated amount necessary to render the fence intruder-resistant, calculated from the effective date of TCEQ Agreed Order Docket No. 2010-0905-PWS-E to 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 \$500

TOTAL \$66



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	17-Sep-2012	Screening	4-Oct-2012	EPA Due	
	PCW	7-Jan-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	K C UTILITIES, INC.
Reg. Ent. Ref. No.	RN101243921
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39800	No. of Violations	5
Docket No.	2012-2088-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Katy Schumann
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for one final enforcement order containing a denial of liability and one final enforcement order not containing a denial of liability, and an unsatisfactory performer classification.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to recover the avoided costs of compliance associated with Violation Nos. 2, 3, 4 and 5.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Screening Date 4-Oct-2012

Docket No. 2012-2088-PWS-E

PCW

Respondent K C UTILITIES, INC.

Policy Revision 3 (September 2011)

Case ID No. 39800

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101243921

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

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>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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>)	0	0%
	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	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) 45%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one final enforcement order containing a denial of liability and one final enforcement order not containing a denial of liability, and an unsatisfactory performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 55%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 55%

Screening Date	4-Oct-2012	Docket No.	2012-2088-PWS-E	PCW
Respondent	K C UTILITIES, INC.	Policy Revision 3 (September 2011)		
Case ID No.	39800	PCW Revision August 3, 2011		
Reg. Ent. Reference No.	RN101243921			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 290.46(m)

Violation Description

Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, at the time of the investigation, it was documented that the well slab was overgrown with grass and could not be seen and water would not drain away properly, and the coating on the pressure tank was flaking off and rust spots were visible.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Failure to maintain the good working condition and general appearance of the Facility's equipment could expose the customers to a significant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Four quarterly events are recommended (two events per deficiency), calculated from the investigation date, May 16, 2012, to the screening date, October 4, 2012.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>
N/A	<input type="text"/>	(mark with x)

Notes

The Respondent achieved compliance on November 7, 2012.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent K C UTILITIES, INC.
Case ID No. 39800
Reg. Ent. Reference No. RN101243921
Media Public Water Supply
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)	\$700	16-May-2012	7-Nov-2012	0.48	\$1	\$22	\$23
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 The delayed cost includes the estimated amount to clear the well slab and recoat the pressure tank, calculated from the date of the investigation to 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	\$700	TOTAL	\$23
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Screening Date	4-Oct-2012	Docket No.	2012-2088-PWS-E	PCW
Respondent	K C UTILITIES, INC.	<i>Policy Revision 3 (September 2011)</i>		
Case ID No.	39800	<i>PCW Revision August 3, 2011</i>		
Reg. Ent. Reference No.	RN101243921			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Harm			Percent <input type="text" value="3.0%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0.0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent K C UTILITIES, INC.
Case ID No. 39800
Reg. Ent. Reference No. RN101243921
Media Public Water Supply
Violation No. 2

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]	\$31	16-May-2009	16-May-2012	3.92	\$6	\$31	\$37
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to properly calibrate the well meter (\$31 x 1 meter), calculated for the three years prior to the investigation date.

Approx. Cost of Compliance \$31

TOTAL \$37

Screening Date	4-Oct-2012	Docket No.	2012-2088-PWS-E	PCW
Respondent	K C UTILITIES, INC.	<i>Policy Revision 3 (September 2011)</i>		
Case ID No.	39800	<i>PCW Revision August 3, 2011</i>		
Reg. Ent. Reference No.	RN101243921			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text" value="x"/>
N/A	<input type="text"/>	(mark with x)

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent K C UTILITIES, INC.
Case ID No. 39800
Reg. Ent. Reference No. RN101243921
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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	\$520	16-May-2012	28-Sep-2012	0.37	\$10	\$192	\$202
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

The avoided costs include the estimated amount to perform weekly monitoring of the disinfectant residual at representative locations within the distribution system (\$10 per week, annualized), calculated from the investigation date to the compliance date.

Approx. Cost of Compliance \$520

TOTAL \$202

Screening Date	4-Oct-2012	Docket No.	2012-2088-PWS-E	PCW
Respondent	K C UTILITIES, INC.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	39800			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101243921			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input checked="" type="text" value="x"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>
N/A	<input type="text"/>	(mark with x)

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent K C UTILITIES, INC.
Case ID No. 39800
Reg. Ent. Reference No. RN101243921
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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	\$41	16-May-2011	4-Oct-2012	1.39	\$3	\$57	\$60
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

The avoided cost includes the estimated amount necessary to conduct an inspection of the GST, calculated for the 12-month period prior to the investigation to the screening date.

Approx. Cost of Compliance

\$41

TOTAL

\$60

Screening Date	4-Oct-2012	Docket No.	2012-2088-PWS-E	PCW
Respondent	K C UTILITIES, INC.	<i>Policy Revision 3 (September 2011)</i>		
Case ID No.	39800	<i>PCW Revision August 3, 2011</i>		
Reg. Ent. Reference No.	RN101243921			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text" value="x"/>
single event	<input type="text"/>	

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text" value="x"/>
N/A	<input type="text"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent K C UTILITIES, INC.
Case ID No. 39800
Reg. Ent. Reference No. RN101243921
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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	\$41	16-May-2011	4-Oct-2012	1.39	\$3	\$57	\$60
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

The avoided cost includes the estimated amount necessary to conduct inspections of the pressure tank, calculated for the 12-month period prior to the investigation to the screening date.

Approx. Cost of Compliance

\$41

TOTAL

\$60

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PENDING Compliance History Report for CN601492705, RN101243921, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN601492705, K C UTILITIES, INC. **Classification:** UNSATISFACTORY **Rating:** 67.00

Regulated Entity: RN101243921, PINE COLONY MOBILE HOME PARK **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: COUNTY ROAD 144 AND COUNTY ROAD 870, BRAZORIA COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION

0200419

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: October 04, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 04, 2007 to October 04, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Katy Schumann

Phone: (512) 239-2602

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 12/25/2010 ADMINORDER 2010-0905-PWS-E (1660 Order)

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(m)

Description: Failed to ensure the Facility is enclosed by an intruder-resistant fence.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

30 TAC Chapter 290, SubChapter F 290.121(b)

Description: Failed to maintain an up-to date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failed to provide a thorough and up-to-date plant operations manual for operator review and reference.

2 Effective Date: 08/17/2012 ADMINORDER 2011-1270-PWS-E (Findings Order)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2010.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the third quarter of 2010.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the second quarter of 2009.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the second quarter of 2007 but notice of violation was not sent.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the first quarter of 2010.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the second quarter of 2010.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2009.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
K C UTILITIES, INC.;
RN101243921**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-2088-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding K C UTILITIES, INC. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

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, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Respondent.

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system located at the intersection of County Road 144 and County Road 870 in Brazoria County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 150 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During an investigation conducted on May 16, 2012, a TCEQ Houston Regional Office investigator documented that Respondent:
 - a. Failed to ensure the Facility is enclosed by an intruder-resistance fence. Specifically, the barbed wire around the fence at the northeast corner of the Facility was sagging and not appropriately attached to the supporting arms;
 - b. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, the well slab was overgrown with grass and could not be seen and water would not drain away properly, and the coating on the pressure tank was flaking off and rust spots were visible;

- c. Failed to calibrate the Facility's well meter at least once every three years. Specifically, the well meter for Well No. 1 had not been calibrated in the previous three years;
 - d. Failed to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days;
 - e. Failed to inspect the ground storage tank ("GST") annually. Specifically, the Facility's GST had not been inspected in the prior twelve months; and
 - f. Failed to inspect the pressure tank annually. Specifically, the Facility's pressure tank had not been inspected in the prior twelve months.
3. Respondent received notice of the violations on or about September 16, 2012.
 4. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. Provided documentation demonstrating that the fencing at the northeast corner of the Facility had been repaired on November 14, 2012 (Finding of Fact No. 2.a.);
 - b. Provided documentation on November 7, 2012, demonstrating that the well slab had been cleared and was no longer overgrown with grass, allowing water to drain away properly, and that the pressure tank had been repainted (Finding of Fact No. 2.b.);
 - c. Began monitoring the disinfectant residual at representative locations in the distribution system at least once every seven days on September 28, 2012 (Finding of Fact No. 2.d.);
 - d. Respondent provided documentation demonstrating that both the GST and pressure tank were inspected with passing results on November 9, 2012 (Findings of Fact Nos. 2.e. and 2.f.).

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, 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 Finding of Fact No. 2.a., Respondent failed to ensure the Facility is enclosed by an intruder-resistance fence, in violation of 30 TEX. ADMIN. CODE § 290.42(m) and TCEQ Agreed Order Docket No. 2010-0905-PST-E, Ordering Provision No. 2.c.i.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to calibrate the Facility's well meter at least once every three years, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(1).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(4)(A);
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to inspect the GST annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A).
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to inspect the pressure tank annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B).

8. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of two thousand one hundred forty-five dollars (\$2,145.00) 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. Respondent paid one hundred forty-five dollars (\$145.00) of the administrative penalty. The remaining amount of two thousand dollars (\$2,000.00) of the administrative penalty shall be payable in twenty (20) monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 9, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: K C UTILITIES, INC., Docket No. 2012-2088-PWS-E" to:
 - Financial Administration Division, Revenues Section
 - Texas Commission on Environmental Quality
 - Attention: Cashier's Office, MC 214
 - P.O. Box 13088
 - Austin, Texas 78711-3088
2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Respondent shall calibrate the well meter, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Finding of Fact No. 2.c.);
 - b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:
 - "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals

immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

Bob Patton, Jr., Section Manager
Public Drinking Water Section, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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 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. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. 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.

10. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

