

Executive Summary – Enforcement Matter – Case No. 48511
AES Deepwater, LLC
RN100216837
Docket No. 2014-0498-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

AES Deepwater Cogeneration Plant, 701 Light Company Road, Pasadena, Harris County

Type of Operation:

Electric power generation plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 20, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$17,124

Amount Deferred for Expedited Settlement: \$3,424

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$13,700

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 3, 2014

Date(s) of NOE(s): February 28, 2014

Executive Summary – Enforcement Matter – Case No. 48511
AES Deepwater, LLC
RN100216837
Docket No. 2014-0498-AIR-E

Violation Information

1. Failed to certify compliance for at least each 12-month period following initial permit issuance. Specifically, the permit compliance certification (“PCC”) that was submitted on September 19, 2013 did not certify compliance for the period from August 26, 2012 through April 25, 2013, and the accompanying Form OP-CRO1, Certification by Responsible Official, was not signed and dated [30 TEX. ADMIN. CODE §§ 122.143(4) and (15), 122.146(1), and 122.165(a)(8), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit (“FOP”) No. O95, General Terms and Conditions (“GTC”) and Special Terms and Conditions No. 11].
2. Failed to submit a deviation report for at least each six-month period after permit issuance. Specifically, the deviation report that was submitted on September 19, 2013 was for a reporting period that was greater than six months (February 27 to August 31, 2013). Additionally, the Form OP-CRO1, Certification by Responsible Official, that accompanied the deviation reports for the August 26, 2012 through February 26, 2013 and February 27, 2013 through August 31, 2013 reporting periods were not signed and dated [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B), and 122.165(a)(7), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O95, GTC].
3. Failed to comply with the maximum daily system cap for nitrogen oxides (“NOx”). Specifically, the Respondent exceeded the NOx daily system cap of 2,685 pounds (“lbs”) by 4,523.7 lbs on July 9, 2013, 1,466.7 lbs on July 31, 2013, and 1,204 lbs on August 21, 2013 [30 TEX. ADMIN. CODE §§ 117.1220(a) and 122.143(4) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to submit a continuous emissions monitoring system (“CEMS”) semiannual report within 30 days following the end of each calendar semiannual period. Specifically, the CEMS semiannual report for the period from July 1 through December 31, 2012 was due on January 30, 2013, but was not submitted until January 31, 2013 [30 TEX. ADMIN. CODE §§ 117.1245(d) and 122.143(4) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
5. Failed to report all instances of deviations. Specifically, the deviation report for the reporting period from August 26, 2012 through February 26, 2013 did not include deviations for the late PCC that was submitted on September 25, 2012 and the late CEMS semiannual report that was submitted on January 31, 2013; and the deviation report for the reporting period from February 27 through August 25, 2013 did not include deviations for failing to submit a Form OP-CRO1, Certification by Responsible Official, with the deviation report that was submitted on March 26, 2013 and failing to comply with the daily system cap NOx emission limitation on July 9, July 31, and August 21, 2013 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O95, GTC].

**Executive Summary – Enforcement Matter – Case No. 48511
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Docket No. 2014-0498-AIR-E**

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On January 31, 2013, submitted a CEMS semiannual report for the period from July 1 through December 31, 2012;
- b. On September 1, 2013, ceased operations at the Plant indefinitely;
- c. On February 4, 2014:
 - i. Submitted a PCC for the certification period from August 26, 2012 through August 25, 2013; and
 - ii. Submitted corrected deviation reports for the reporting periods from August 26, 2012 through February 26, 2013 and February 27 through August 25, 2013.
- d. On April 3, 2014, reported all instances of deviations for the two reporting periods from August 26, 2012 through February 26, 2013 and February 27, 2013 through August 25, 2013 in a corrected deviation report for the reporting period from August 26, 2013 through February 25, 2014.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Carol McGrath, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4063; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Jason Jin, Plant Manager, AES Deepwater, LLC, 701 Light Company Road, Pasadena, Texas 77506

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES Assigned PCW 4-Mar-2014
 8-Apr-2014 Screening 2-Apr-2014 EPA Due 25-Nov-2014

RESPONDENT/FACILITY INFORMATION

Respondent AES Deepwater, LLC
 Reg. Ent. Ref. No. RN100216837
 Facility/Site Region 12-Houston Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No. 48511 No. of Violations 4
 Docket No. 2014-0498-AIR-E Order Type 1660
 Media Program(s) Air Government/Non-Profit No
 Multi-Media Inf. Coordinator Kimberly Morales
 EC's Team Enforcement Team 5
 Admin. Penalty \$ Limit Minimum \$0 Maximum \$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$22,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History -7.0% Enhancement Subtotals 2, 3, & 7 **-\$1,592**

Notes Enhancement for one NOV with same/similar violations. Reduction for one disclosure of violations and high 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 **-\$4,561**

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

Total EB Amounts \$557 *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance \$1,500

SUM OF SUBTOTALS 1-7 Final Subtotal **\$16,597**

OTHER FACTORS AS JUSTICE MAY REQUIRE 3.2% Adjustment **\$527**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to capture the avoided costs of compliance associated with Violation No. 3.

Final Penalty Amount **\$17,124**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$17,124**

DEFERRAL 20.0% Reduction Adjustment **-\$3,424**

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 **\$13,700**

Screening Date 2-Apr-2014

Docket No. 2014-0498-AIR-E

PCW

Respondent AES Deepwater, LLC

Policy Revision 3 (September 2011)

Case ID No. 48511

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100216837

Media [Statute] Air

Enf. Coordinator Kimberly Morales

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	0	0%
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 judgments 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>)	1	-2%
<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)

>> 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 NOV with same/similar violations. Reduction for one disclosure of violations and high performer classification.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 2-Apr-2014

Docket No. 2014-0498-AIR-E

PCW

Respondent AES Deepwater, LLC

Policy Revision 3 (September 2011)

Case ID No. 48511

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100216837

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and (15), 122.146(1), and 122.165(a)(8), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit ("FOP") No. 095, General Terms and Conditions ("GTC") and Special Terms and Conditions No. 11

Violation Description Failed to certify compliance for at least each 12-month period following initial permit issuance. Specifically, the permit compliance certification ("PCC") that was submitted on September 19, 2013 did not certify compliance for the period from August 26, 2012 through April 25, 2013, and the accompanying Form OP-CRO1, Certification by Responsible Official, was not signed and dated.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

The Respondent failed to comply with 100% of the rule requirement.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

133 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes The Respondent completed corrective actions on February 4, 2014, before the February 28, 2014 NOE.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$2,631

This violation Final Assessed Penalty (adjusted for limits) \$2,631

Economic Benefit Worksheet

Respondent AES Deepwater, LLC
Case ID No. 48511
Reg. Ent. Reference No. RN100216837
Media Air
Violation No. 1

Percent Interest 5.0 | **Years of Depreciation** 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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)	\$250	24-Sep-2013	4-Feb-2014	0.36	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to submit a PCC for the certification period from August 26, 2012 through August 25, 2013 and sign and date the OP-CRO1. The date required is the date the PCC was due. The final date is the date that corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$5

Screening Date 2-Apr-2014
 Respondent AES Deepwater, LLC
 Case ID No. 48511

Docket No. 2014-0498-AIR-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100216837
 Media [Statute] Air
 Enf. Coordinator Kimberly Morales
 Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(A) and (B) and 122.165(a)(7),
 Tex. Health & Safety Code § 382.085(b), and FOP No. O95, GTC

Violation Description Failed to submit a deviation report for at least each six-month period after permit issuance and report all instances of deviations. Specifically, the deviation report that was submitted on September 19, 2013 was for a reporting period that was greater than six months (February 27 to August 31, 2013); the Form OP-CRO1, Certification by Responsible Official, that accompanied the deviation reports for the August 26, 2012 through February 26, 2013 and February 27, 2013 through August 31, 2013 reporting periods were not signed and dated; the deviation report for the reporting period from August 26, 2012 through February 26, 2013 did not include deviations for the late PCC that was submitted on September 25, 2012 and the late continuous emissions monitoring system ("CEMS") semiannual report that was submitted on January 31, 2013; and the deviation report for the reporting period from February 27 through August 25, 2013 did not include deviations for failing to submit a Form OP-CRO1, Certification by Responsible Official, with the deviation report that was submitted on March 26, 2013 and failing to comply with the daily system cap NOx emission limitation on July 9, July 31, and August 21, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

Matrix Notes The Respondent failed to comply with 100% of the rule requirement.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 313 Number of violation days

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

Violation Base Penalty \$7,500

Two single events are recommended for the two deviation reports.

Good Faith Efforts to Comply

10.0% Reduction \$750

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

Notes The Respondent completed corrective actions on April 3, 2014, after the February 28, 2014 NOE.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$6,423

This violation Final Assessed Penalty (adjusted for limits) \$6,423

Economic Benefit Worksheet

Respondent AES Deepwater, LLC
Case ID No. 48511
Reg. Ent. Reference No. RN100216837
Media Air
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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)	\$500	28-Mar-2013	3-Apr-2014	1.02	\$25	n/a	\$25

Notes for DELAYED costs

Estimated cost to submit corrected deviation reports. The date required is the date the first deviation report was due. The final date is the date that corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$25

Screening Date 2-Apr-2014
 Respondent AES Deepwater, LLC
 Case ID No. 48511

Docket No. 2014-0498-AIR-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100216837
 Media [Statute] Air
 Enf. Coordinator Kimberly Morales

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 117.1220(a) and 122.143(4) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the maximum daily system cap for nitrogen oxides ("NOx"). Specifically, the Respondent exceeded the NOx daily system cap of 2,685 pounds ("lbs") by 4,523.7 lbs on July 9, 2013, 1,466.7 lbs on July 31, 2013, and 1,204 lbs on August 21, 2013.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty

Three single events are recommended for the exceedances on July 9, 2013, July 31, 2013, and August 21, 2013.

Good Faith Efforts to Comply

Reduction

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

Notes The Respondent completed corrective actions on September 1, 2013, before the February 28, 2014 NOE.

Violation Subtotal

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent AES Deepwater, LLC
Case ID No. 48511
Reg. Ent. Reference No. RN100216837
Media Air
Violation No. 3

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$500	9-Jul-2013	1-Sep-2013	1.07	\$27	\$500	\$527

Notes for AVOIDED costs

Estimated avoided cost to comply with the maximum NOx daily system cap. The date required is the date of the first exceedance. The final date is the date the Plant ceased operations.

Approx. Cost of Compliance \$500

TOTAL \$527

Screening Date 2-Apr-2014
 Respondent AES Deepwater, LLC
 Case ID No. 48511

Docket No. 2014-0498-AIR-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100216837
 Media [Statute] Air
 Enf. Coordinator Kimberly Morales
 Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 117.1245(d) and 122.143(4) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit a CEMS semiannual report within 30 days following the end of each calendar semiannual period. Specifically, the CEMS semiannual report for the period from July 1 through December 31, 2012 was due on January 30, 2013, but was not submitted until January 31, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm		
		Major	Moderate	Minor
Actual				
Potential				

Percent 0.0%

>> Programmatic Matrix

	Harm		
	Major	Moderate	Minor
Falsification			X

Percent 1.0%

Matrix Notes

The Respondent failed to comply with less than 30% of the rule requirement.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

1 Number of violation days

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

Violation Base Penalty \$250

One single event is recommended for the late CEMS report.

Good Faith Efforts to Comply

	25.0% Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

\$62

Notes

The Respondent completed corrective actions on January 31, 2013, before the February 28, 2014 NOE.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$176

This violation Final Assessed Penalty (adjusted for limits) \$176

Economic Benefit Worksheet

Respondent AES Deepwater, LLC
Case ID No. 48511
Reg. Ent. Reference No. RN100216837
Media Air
Violation No. 4

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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)	\$250	30-Jan-2013	31-Jan-2013	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit a CEMS semiannual report for the period from July 1 through December 31, 2012. The date required is the date the report was due. The final date is the date that corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$0



Compliance History Report

PUBLISHED Compliance History Report for CN600128847, RN100216837, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN600128847, AES Deepwater, LLC	Classification: HIGH	Rating: 0.06
Regulated Entity:	RN100216837, AES DEEPWATER COGENERATION PLANT	Classification: HIGH	Rating: 0.00
Complexity Points:	27	Repeat Violator: NO	
CH Group:	06 - Electric Power Generation		
Location:	701 LIGHT COMPANY RD PASADENA, TX 77506-1038, HARRIS COUNTY		
TCEQ Region:	REGION 12 - HOUSTON		

ID Number(s):

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD122072366	INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 34986
AIR OPERATING PERMITS ACCOUNT NUMBER HG1495V	AIR OPERATING PERMITS PERMIT 95
AIR NEW SOURCE PERMITS PERMIT 9276	AIR NEW SOURCE PERMITS REGISTRATION 46496
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG1495V	AIR NEW SOURCE PERMITS EPA PERMIT PSDTX499
AIR NEW SOURCE PERMITS REGISTRATION 55488	AIR NEW SOURCE PERMITS AFS NUM 4820100405
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX499M1	AIR NEW SOURCE PERMITS REGISTRATION 93889
AIR NEW SOURCE PERMITS REGISTRATION 112106	WATER LICENSING LICENSE 1012331
STORMWATER PERMIT TXR05T917	WASTEWATER PERMIT WQ0004795000
WASTEWATER EPA ID TX0128830	AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG1495V
POLLUTION PREVENTION PLANNING ID NUMBER P03854	

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: March 19, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 19, 2009 to March 19, 2014

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

Name: Kimberly Morales

Phone: (713) 422-8938

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	April 26, 2010	(793988)
Item 2	May 06, 2010	(798141)
Item 3	June 28, 2010	(824845)
Item 4	May 09, 2011	(906510)
Item 5	July 20, 2011	(912126)
Item 6	September 08, 2011	(952113)
Item 7	April 03, 2012	(988964)

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.

1	Date:	08/30/2013	(1114169)	CN600128847
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.146(2) 5C THSC Chapter 382 382.085(b) FOP Special Term & Condition 11 OP		
	Description:	Failure to submit the permit compliance certification (PCC) by the submittal due date. [Category B3]		

F. Environmental audits:

Notice of Intent Date:	12/08/2008	(461383)
Disclosure Date:	07/20/2009	
Viol. Classification:	Moderate	
Citation:	40 CFR Chapter 75, SubChapter C, PT 75, SubPT A 75.1	
Description:	Failure to ensure the concentration of CO2 calibration gas used for daily calibration checks was within the the regulatory limit.	
Viol. Classification:	Moderate	
Citation:	40 CFR Chapter 60, SubChapter C, PT 60, SubPT OOO 60.672(e)(1)	
Description:	Failure to properly maintain records for daily visible emissions inspections.	
Viol. Classification:	Moderate	
Citation:	30 TAC Chapter 122, SubChapter B 122.145	
Description:	Failure to include on a prior deviation report, violation number 2 identified in the self audit.	

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
AES DEEPWATER, LLC
RN100216837**

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

**AGREED ORDER
DOCKET NO. 2014-0498-AIR-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding AES Deepwater, LLC ("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 together stipulate that:

1. The Respondent owns and operates an electric power generation plant at 701 Light Company Road in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director 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 March 5, 2014.
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 Seventeen Thousand One Hundred Twenty-Four Dollars (\$17,124) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Thirteen Thousand Seven Hundred Dollars (\$13,700) of the administrative penalty and Three Thousand Four

Hundred Twenty-Four Dollars (\$3,424) 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On January 31, 2013, submitted a continuous emissions monitoring system ("CEMS") semiannual report for the period from July 1 through December 31, 2012;
 - b. On September 1, 2013, ceased operations at the Plant indefinitely;
 - c. On February 4, 2014:
 - i. Submitted a permit compliance certification ("PCC") for the certification period from August 26, 2012 through August 25, 2013; and
 - ii. Submitted corrected deviation reports for the reporting periods from August 26, 2012 through February 26, 2013 and February 27 through August 25, 2013.
 - d. On April 3, 2014, reported all instances of deviations for the two reporting periods from August 26, 2012 through February 26, 2013 and February 27, 2013 through August 25, 2013 in a corrected deviation report for the reporting period from August 26, 2013 through February 25, 2014.
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 Plant, the Respondent is alleged to have:

1. Failed to certify compliance for at least each 12-month period following initial permit issuance, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and (15), 122.146(1), and 122.165(a)(8), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. 095, General Terms and Conditions ("GTC") and Special Terms and Conditions No. 11, as documented during an investigation conducted on February 3, 2014. Specifically, the PCC that was submitted on September 19, 2013 did not certify compliance for the period from August 26, 2012 through April 25, 2013, and the accompanying Form OP-CRO1, Certification by Responsible Official, was not signed and dated.
2. Failed to submit a deviation report for at least each six-month period after permit issuance, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B), and 122.165(a)(7), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. 095, GTC, as documented during an investigation conducted on February 3, 2014. Specifically, the deviation report that was submitted on September 19, 2013 was for a reporting period that was greater than six months (February 27 to August 31, 2013). Additionally, the Form OP-CRO1, Certification by Responsible Official, that accompanied the deviation reports for the August 26, 2012 through February 26, 2013 and February 27, 2013 through August 31, 2013 reporting periods were not signed and dated.
3. Failed to comply with the maximum daily system cap for nitrogen oxides ("NOx"), in violation of 30 TEX. ADMIN. CODE §§ 117.1220(a) and 122.143(4) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 3, 2014. Specifically, the Respondent exceeded the NOx daily system cap of 2,685 pounds ("lbs") by 4,523.7 lbs on July 9, 2013, 1,466.7 lbs on July 31, 2013, and 1,204 lbs on August 21, 2013.
4. Failed to submit a CEMS semiannual report within 30 days following the end of each calendar semiannual period, in violation of 30 TEX. ADMIN. CODE §§ 117.1245(d) and 122.143(4) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 3, 2014. Specifically, the CEMS semiannual report for the period from July 1 through December 31, 2012 was due on January 30, 2013, but was not submitted until January 31, 2013.
5. Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. 095, GTC, as documented during an investigation conducted on February 3, 2014. Specifically, the deviation report for the reporting period from August 26, 2012 through February 26, 2013 did not include deviations for the late PCC that was submitted on September 25, 2012 and the late CEMS semiannual report that was submitted on January 31, 2013; and the deviation report for the reporting period from February 27 through August 25, 2013 did not include deviations for failing to submit a Form OP-CRO1, Certification by Responsible Official, with the deviation report that was submitted on March 26, 2013 and failing to comply with the daily system cap NOx emission limitation on July 9, July 31, and August 21, 2013.

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: AES Deepwater, LLC, Docket No. 2014-0498-AIR-E" to:

Financial Administration Division, Revenue Operations 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 Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Monica J
For the Executive Director

9/5/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

J
Signature

05/15/2014
Date

JASON JIN
Name (Printed or typed)
Authorized Representative of
AES Deepwater, LLC

PLANT MANAGER
Title

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