

IN THE MATTER OF AN	§	BEFORE THE
AGREED ORDER CONCERNING	§	
TXU ELECTRIC COMPANY	§	
MARTIN LAKE	§	TEXAS NATURAL RESOURCE
ACCOUNT NO. RL-0020-K	§	
MONTICELLO	§	
ACCOUNT NO. TF-0013-B	§	CONSERVATION COMMISSION

DOCKET NO.2001-0879-RUL

The Texas Natural Resource Conservation Commission (the Commission or TNRCC) and TXU Electric Company (TXU or the Company) enter into this Agreed Order for the purpose of achieving early reductions of emissions of nitrogen oxide (NO<sub>x</sub>) as part of the development of a voluntary one hour ozone state implementation plan (SIP) for the Northeast Texas Region, which is composed of Gregg, Harrison, Rusk, Smith and Upshur counties. The Northeast Texas Region has been operating under a Flexible Attainment Region (FAR) Agreement between the United States Environmental Protection Agency (EPA), TNRCC and Northeast Texas Air Care (NETAC) since September 16, 1996, which expires September 16, 2001. The FAR concept was developed to encourage local efforts to maintain levels of ground level ozone below the National Ambient Air Quality Standard (NAAQS). The Commission and the Northeast Texas Region agree that an early SIP proposal will continue to allow local officials to address air quality issues, while providing benefits for air quality in the Northeast Texas Region. As part of this continuing local effort, the Company has agreed to voluntarily reduce emissions of NO<sub>x</sub> as agreed herein.

The Commission hereby orders the Company to comply with the requirements herein regarding control of NO<sub>x</sub> from the facilities referenced below, pursuant to §§ 382.011, 382.012, 382.023, 382.024, and 382.025 of the Texas Clean Air Act (TCAA or the Act), Texas Health & Safety Code, Chapter 382, and § 110 of the Federal Clean Air Act, 42 U.S.C. § 7401 et. seq., for the purpose of revising the Texas SIP for Ozone Control.

**I. STIPULATIONS**

For the purpose of this Agreed Order, the parties have agreed and stipulated as follows:

1. Section 110 of the Federal Clean Air Act, 42 U.S.C. 7401 et. seq., requires Texas to submit SIP revisions to the United States Environmental Protection Agency (EPA) for approval and to demonstrate that such SIP revisions provide for protection of the NAAQS.

2. Sections 382.011 and 382.012 of the TCAA provide authority for the Commission to control the quality of the state's air and prepare and develop a general, comprehensive plan for the proper control of the state's air; and sections 382.023, 382.024, and 382.025 of the TCAA provide the Commission's authority to issue orders. The issuance of this order is in compliance with the TCAA.

3. The Commission and the Company agree that the Commission has jurisdiction to enter this Agreed Order, and the Company is subject to the Commission's jurisdiction.

4. In order to better safeguard the air resources of this state, the Company agrees to comply with the terms of this Order.

5. The Commission and the Company acknowledge that the Company has entered into this Order voluntarily. Nothing in this Order shall be interpreted as evidence that the Company is causing or contributing to a violation of the NAAQS or is in any respect non-compliant with any federal, state or local law. Additionally, this Order shall not constitute a "compliance event" as defined in 30 TAC § 116.11 or any similar designation under federal, state or local law.

6. Nothing in this Order limits the defenses in the TCAA or rules adopted pursuant to the TCAA, including 30 TAC §§ 101.6 (Upset Reporting and Recordkeeping Requirements), 101.7 (Maintenance, Start-up and Shutdown Reporting, Recordkeeping, and Operational Requirements), 101.11 (Demonstrations), and 101.12 (Temporary Exemptions During Drought Conditions).

7. Nothing in this Order supercedes any requirement of the TCAA or the rules and requirements of the Commission.

8. The Company owns and operates the following electric power generating plants (the Plants):

A. a coal-fired power plant known as Martin Lake Steam Electric Station, located approximately six miles southwest of Tatum, Rusk County, Texas (MLSES) (Account No. RL-0020-K, EPA Facility ID Number TXD988068672) (referred to herein specifically as Martin Lake); and

B. a coal-fired power plant known as Monticello Steam Electric Station, located approximately nine miles southwest of Mount Pleasant, Titus County, Texas (Account No. TF-0013-B, EPA Facility ID Number TXD000145656) (referred to herein specifically as Monticello).

9. The plants consist of one or more sources as defined in §382.003(12) of the Act.

10. All monitoring, recordkeeping, reporting, and testing shall be conducted in accordance with the provisions of 30 TAC 117.141, 117.143, 117.145, 117.147 and 117.149 with the exception that section 117.141(d), 117.145(c), and 117.149(e) shall be calculated on a 30 day rolling average. The Company shall make records available upon request by the TNRCC or any other air pollution control agency with jurisdiction.

11. This Order does not authorize or prohibit any modification of the Plants listed above, nor does it authorize or prohibit the construction of any abatement equipment that may be necessary to achieve the emission rates noted in this Order. The Company is ordered to submit the appropriate application or registration documentation to the TNRCC's Office of Permitting, Remediation and Registration for any authorization necessary to implement the requirements of this Order.

12. Notwithstanding any other provision of this Order, any delays in or failure of performance by the Company under this Order caused by an act of God, war, strike, riot, compliance with the rules and regulations or an order of any governmental authority, or other catastrophe beyond the reasonable control of the company (Force Majeure) shall not constitute a violation of this Order. The Company has the burden of establishing that such an event has occurred. In the event the Company's performance under this Order is prevented by the Force Majeure condition, the Company shall promptly notify the TNRCC of the particulars and estimated duration of such condition, shall keep TNRCC advised of the

progress in eliminating such condition, and proceed with compliance with this Order as expeditiously as practicable.

13. In lieu of the Company's completion of one or more of the projects described in paragraphs 15-17 below, Company may propose one or more alternative projects provided the emissions reductions or the effect on the environment from such alternative projects are at least equivalent to those of the project(s) in paragraphs 15-17 below that will be replaced. If the Company elects to propose an alternative project, it will submit to TNRCC all information necessary for the TNRCC to evaluate and approve the alternative project. TNRCC will not unreasonably withhold such approval. Until TNRCC approves an alternative project or otherwise grants permission to the Company to cease performance of a project required under this Order, the Company shall remain obligated to perform the original project that the alternative project would otherwise replace. Any such alternative project(s) will not require modification to this Order or a SIP revision.

14. All notifications required by this Order (unless otherwise specified herein) shall be sent to:

Office of Environmental Policy, Analysis & Assessment  
Strategic Implementation Plans Section, MC-206  
P.O. Box 13087  
Austin, Texas 78711-3087

Notifications required by this Order shall not substitute for any other notification requirement of the Commission or the TCAA.

15. On or before May 1, 2003, the Company will install low NO<sub>x</sub> technology on each of the three primary generating units (identified as emission point numbers S-1, S-2 and S-3) at Martin Lake to achieve a thirty-day rolling average NO<sub>x</sub> emission rate of 0.2 lb/mmBtu averaged for the three units.

16. On or before May 1, 2003, the Company will install low NO<sub>x</sub> technology on each of the three primary generating units (identified as emission point numbers S1, S2 and S3) at Monticello to achieve a thirty-day rolling average NO<sub>x</sub> emission rate of 0.2 lb/mmBtu averaged for the three units.

17. As used herein, the term “thirty-day rolling average” means an average, calculated for each day that fuel is combusted in a unit, of all the hourly emissions data for the preceding 30 days that fuel was combusted in the unit.

## **II. ORDER**

It is therefore ordered by the Texas Natural Resource Conservation Commission that TXU Electric Company shall, from and after the date of this Agreed Order, limit its emissions of NOx as specified in paragraphs 15 and 16 above, and maintain compliance with this Order.

The provisions of this Agreed Order shall apply to and be binding upon TXU Electric Company, its successors, assigns and upon those persons in active concert or participation with them who receive actual notice of this Agreed Order by personal service or otherwise. TXU Electric Company is hereby ordered to give notice of this Agreed Order to any successor in interest prior to transfer of ownership of all or any part of its plants:

A. a coal-fired power plant known as Martin Lake Steam Electric Station, located approximately six miles southwest of Tatum, Rusk County, Texas (Account No. RL-0020-K, EPA Facility ID Number TXD988068672) (referred to herein specifically as Martin Lake); and

B. a coal-fired power plant known as Monticello Steam Electric Station, located approximately nine miles southwest of Mount Pleasant, Titus County, Texas (Account No. TF-0013-B, EPA Facility ID Number TXD000145656) (referred to herein specifically as Monticello) and within ten days of any such transfer, provide the Texas Natural Resource Conservation Commission with written certification that such notice has been given.

The Chief Clerk shall provide a copy of this Order to each of the parties.

**PASSED AND APPROVED** at the regular meeting of the Texas Natural Resource Conservation  
Commission on \_\_\_\_\_.

**TEXAS NATURAL RESOURCE CONSERVATION COMMISSION**

\_\_\_\_\_  
**For the Commission**

**ATTEST:**

\_\_\_\_\_  
**, Chief Clerk**

**S E A L**

I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and do hereby agree to the terms and conditions specified therein.

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Margaret Hoffman  
Deputy Director, Office of Legal Services  
Texas Natural Resource Conservation Commission

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Date

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Authorized representative of  
TXU Electric Company

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Date