

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
AGREED ORDER CONCERNING	§	
SOUTHWESTERN PUBLIC SERVICE	§	
COMPANY, dba XCEL ENERGY,	§	
HARRINGTON STATION POWER	§	TEXAS COMMISSION
PLANT	§	
	§	
CN 601481336	§	ON
RN 100224849	§	
	§	
ACCOUNT NO. PG0041R	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2020-0982-MIS

The Texas Commission on Environmental Quality (Commission or TCEQ) and Southwestern Public Service Company, dba Xcel Energy, Harrington Station Power Plant (Xcel Energy or the Company) enter into this Agreed Order for the purpose of supporting attainment and maintenance of the sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) as required by the Federal Clean Air Act (FCAA).

The Executive Director of the Commission (the Executive Director) and the Company have agreed on the commitments documented in this Agreed Order to support attainment and maintenance of the SO₂ NAAQS, subject to the approval of the Commission.

The Commission hereby orders the Company, and the Company agrees, that it shall comply with the requirements contained in this Agreed Order from the facility or facilities referenced below, pursuant to §§382.011, 382.012, 382.023, and 382.024, of the Texas Clean Air Act (TCAA or the Act), Texas Health & Safety Code, Chapter 382, and the Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7401 *et seq.*, for the purpose of supporting attainment and maintenance of the SO₂ NAAQS.

I. STIPULATIONS

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

1. Section 109 of the FCAA, 42 USC, §7409, requires the United States Environmental Protection Agency (EPA) to set NAAQS for the protection of public health and welfare.
2. EPA originally established the NAAQS for SO₂ in 1971, effective upon publication, as published on April 30, 1971, 36 *Fed. Reg.* 8186. The EPA last revised the SO₂ primary standard effective August 23, 2010, as published on June 22, 2010, 75 *Fed. Reg.* 35520. The EPA retained the primary standard without revision effective April 17, 2019, as published on March 18, 2019, 84 *Fed. Reg.* 9866.
3. Section 110 of the FCAA, 42 USC, §7410 requires Texas to provide for attainment and maintenance of the NAAQS.
4. 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 §§382.023, and 382.024 of the TCAA provide the Commission with authority to issue orders. The issuance of this Agreed Order complies with the TCAA.
5. 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.
6. Nothing in this Agreed Order shall be interpreted as evidence that the Company is either in compliance or is in any respect non-compliant with any federal, state, or local law. This Agreed Order shall not be considered as part of the Company's compliance history under 30 Texas Administrative Code (TAC) Chapter 60 or the Commission's Penalty Policy.
7. Nothing in this Agreed Order supersedes any requirement of the TCAA or the rules and requirements of the Commission, except as explicitly provided herein.
8. Potter County was designated unclassifiable for the 2010 SO₂ NAAQS by the EPA effective September 12, 2016, as published on July 12, 2016, 81 *Fed. Reg.* 45039.
9. The Company owns and operates the Harrington Station Power Plant located at 8300 N. Lakeside, Amarillo, Potter County, Texas 79108.
10. In December 2019, three (3) years of SO₂ air quality monitoring data in Potter County in the vicinity of the Harrington Station Power Plant indicated that the SO₂ NAAQS was exceeded during that period. If commitments such as those

provided in this Agreed Order were not implemented, continued exceedance of the NAAQS standard could occur. An area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant may be designated as a nonattainment area. Following a nonattainment designation, TCEQ would be required to develop a plan to achieve compliance with the SO₂ NAAQS in Potter County. Such a plan would, in these circumstances, necessarily involve requiring emissions reductions at the Harrington Station Power Plant that would necessitate either installation of extensive emissions controls (if technically feasible), fuel conversion, or retirement of the units to meet the NAAQS standards. Regardless of the Company's compliance with existing emissions requirements, TCEQ would need to require emissions reductions at the Harrington Station Power Plant in order to achieve the NAAQS standard. The nonattainment designation would also impact requirements associated with permitting modifications to the Harrington Station Power Plant, as well as other new and existing facilities in the area.

11. On March 5, 2020, TCEQ Region 1 provided the Company information indicating an alleged violation of the NAAQS requirements and referral to enforcement. TCEQ Region 1 informed the Company that the Harrington Station Power Plant is emitting the majority of SO₂ in the area, contributing to the exceedance of this NAAQS standard. The Company enters into this agreement to support attainment and maintenance of the NAAQS standard and avoid a designation of the area to nonattainment.
12. The Harrington Station Power Plant consists of one or more sources as defined in TCAA, §382.003(12), including three (3) coal-fired electric generating units (coal-fired units or units):
 - a. Harrington Unit 1, Emission Point Number (EPN) HS-1;
 - b. Harrington Unit 2, EPN 2-1; and
 - c. Harrington Unit 3, EPN 3-1.
13. The coal-fired units described above at the Harrington Station Power Plant are authorized to emit air contaminants as specified in the new source review (NSR) permits listed below:
 - a. Harrington Unit 1 – Permit 1388 issued on February 13, 2014; and
 - b. Harrington Unit 2 and 3 – Permit 5129 issued on February 13, 2017.

All 3 coal-fired units are also authorized under Federal Operating Permit O15 issued on January 5, 2015. Unless otherwise specified, all references in this Agreed Order are for the NSR and Federal Operating permits listed above.

14. The Company and the Commission agree that, effective upon the completion of all of the requirements of this Agreed Order, the units specified in Paragraph

12 shall no longer utilize coal to fuel the units and will document this commitment in its NSR Permit Nos. 1388 and 5129.

15. This Agreed Order does not authorize or prohibit any modification of the facility or facilities listed above, as long as such modification does not conflict with provision II.1 of this Agreed Order. The Company is ordered to submit the appropriate application or registration documentation to the TCEQ for any authorization, if any, necessary to implement the requirements of this Agreed Order. This Agreed Order does not prohibit the non-substantive renumbering or reorganization of the provisions of NSR Permit Nos. 1388 and 5129 or Federal Operating Permit O15.

II. ORDER

In accordance with the Stipulations noted above, it is therefore ordered by the Commission that:

1. The Company shall demonstrate compliance with this Order as described in subparagraphs (1) - (6) below.
 - (1) By January 1, 2025, the Company shall cease burning coal at the units specified in Paragraph 12 of this Order.
 - (2) By April 1, 2021, the Company shall apply for a revision to its NSR Permits 1388 and 5129, incorporating a requirement to cease burning coal consistent with the terms of this Order. Such application shall also include any other proposed changes to permit terms or requirements to facilitate the purposes of this Order. The Company shall make best efforts to obtain the required permit revision as expeditiously as is reasonably possible.
 - (3) After revision of the NSR permits referenced above, the Company shall seek to have any revised applicable requirements incorporated into Federal Operating Permit O15 consistent with state and federal rules.
 - (4) The Company shall make the appropriate modifications to the three (3) units at the facility or facilities to cease coal operations and resume full operation utilizing natural gas by January 1, 2025. These actions will include installation of additional gas line capacity and site improvements to infrastructure and the unit boilers to burn natural gas at full capacity.
 - (5) The Company shall provide quarterly reports to TCEQ regarding the status of compliance with this Order. Reports shall include progress toward the conversion of these units to burn natural gas and cease burning coal and permitting efforts related to the same. The first report shall be due for the first full calendar quarter after full approval of this Order. Each report shall be due 30 calendar

days after the end of a calendar quarter until this order is terminated pursuant to Provision II.3 below.

- (6) The Company shall make records available upon request by the TCEQ or any other air pollution control agency with jurisdiction over the Company to establish compliance with this Agreed Order.
2. The provisions of this Agreed Order shall apply to, and be binding upon, the 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. The 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 the plant, located at 8300 N. Lakeside, Amarillo, Potter County, Texas, 79108, and within ten (10) days of any such transfer, provide the TCEQ with written certification of such transfer, and that such notice has been given.
3. This Order shall terminate upon written confirmation by the Company that it has met all the requirements set forth herein and subsequent written concurrence by TCEQ.
4. Notification points of contact:

For Xcel Energy:

Jeffrey L. West
Senior Director, Environmental Services
1800 Larimer Street, Suite 1300
Denver, CO 80202

For TCEQ:

Donna F. Huff
Director, Air Quality Division
P.O. Box 13087
MC-206
Austin, Texas 78711-3087
5. If any portion of this Agreed Order is for any reason held to be invalid by a court of competent jurisdiction, the invalidity of any portion shall not affect the validity of the remaining portions.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

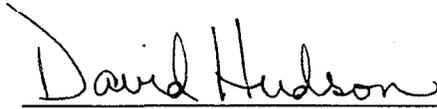


For the Commission
Jon Niermann
Chairman
Texas Commission on Environmental Quality

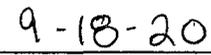
10/27/2020

Date

I, the undersigned, have read and understood 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 specified terms and conditions.



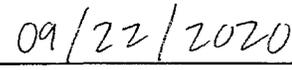
David Hudson
President
Southwestern Public Service Company



Date of Signature



Erin E. Chancellor
Deputy Director
Office of Legal Services
Texas Commission on Environmental Quality



Date of Signature