

Executive Summary – Enforcement Matter – Case No. 61277

NRG Texas Power LLC

RN100888312

Docket No. 2021-1208-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

WA Parish Electric Generating Station, 2500 Y.U. Jones Road, Thompsons, Fort Bend 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: April 21, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$14,100

Amount Deferred for Expedited Settlement: \$2,820

Total Paid to General Revenue: \$5,640

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$5,640

Name of SEP: Houston-Galveston Area Council-AERCO (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 28, 2021 through August 10, 2021 and June 4, 2021 through August 10, 2021

Date(s) of NOE(s): August 23, 2021

Executive Summary – Enforcement Matter – Case No. 61277

NRG Texas Power LLC

RN100888312

Docket No. 2021-1208-AIR-E

Violation Information

1. Failed to prevent an excess opacity event. Specifically, the Respondent experienced 41 percent opacity at the WA Parish Unit No. 5, Emissions Point Number ("EPN") WAP5, during an excess opacity event (Incident No. 359223) that occurred on May 28, 2021 and lasted two hours and 48 minutes. The excess opacity event occurred when the bypass damper shaft had broken below the locking clamp that allowed the six-foot bypass disc to slip down into the open position, resulting in the release to the atmosphere. Since the excess opacity event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 111.111(a)(1)(B), 116.115(c), and 122.143(4), New Source Review ("NSR") Permit Nos. 2348A, PSDTX901, and N033, Special Conditions ("SC") No. 11, Federal Operating Permit ("FOP") No. 074, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 11, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to prevent an excess opacity event. Specifically, the Respondent experienced 44.20 percent opacity at the WA Parish Unit No. 5, EPN WAP5, during an excess opacity event (Incident No. 359533) that occurred on June 4, 2021 and lasted one hour and 24 minutes. The excess opacity event occurred when one of the bags in the baghouse compartment became dislodged off the bottom support that caused 13 bags to be damaged, resulting in the release to the atmosphere. Since the excess opacity event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 111.111(a)(1)(B), 116.115(c), and 122.143(4), NSR Permit Nos. 2348A, PSDTX901, and N033, SC No. 11, FOP No. 074, GTC and STC No. 11, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. By June 11, 2021, welded all 18 by-pass dampers closed and added the inspection of the welds as part of the routine maintenance in order to prevent the recurrence of excess opacity events due to the same or similar causes as Incident No. 359223; and
- b. By July 1, 2021, implemented more rigorous inspections during all planned outages and when an issue is detected within a baghouse compartment that includes touching and inspecting every bag and component, allotting more time to look more closely at areas where any issues were found, and making any necessary repairs in order to

Executive Summary – Enforcement Matter – Case No. 61277

NRG Texas Power LLC

RN100888312

Docket No. 2021-1208-AIR-E

prevent the recurrence of excess opacity events due to the same or similar causes as Incident No. 359533.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Danielle Porras, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3682; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

SEP Third-Party Administrator: Houston-Galveston Area Council-AERCO, 3555 Timmons Lane, Suite 120, Houston, Texas 77027

Respondent: Daryl Miller, General Manager, NRG Texas Power LLC, P.O. Box 98, Thompsons, Texas 77481

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	30-Aug-2021	Screening	2-Sep-2021	EPA Due	
	PCW	24-Feb-2023				

RESPONDENT/FACILITY INFORMATION	
Respondent	NRG Texas Power LLC
Reg. Ent. Ref. No.	RN100888312
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	61277	No. of Violations	2
Docket No.	2021-1208-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
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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	19.0% Adjustment	Subtotals 2, 3, & 7	\$2,850
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Notes: Enhancement for one order containing a denial of liability, one NOV with same/similar violations, and one NOV with dissimilar violations. Reduction for two notices of intent to conduct an audit and three disclosures of violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$3,750
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$56
 Estimated Cost of Compliance \$20,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$14,100
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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	\$14,100
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$14,100
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,820
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$11,280
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Screening Date 2-Sep-2021

Docket No. 2021-1208-AIR-E

PCW

Respondent NRG Texas Power LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 61277

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100888312

Media Air

Enf. Coordinator Danielle Porras

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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	1	2%
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	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>)	2	-2%
	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>)	3	-6%
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) 19%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order containing a denial of liability, one NOV with same/similar violations, and one NOV with dissimilar violations. Reduction for two notices of intent to conduct an audit and three disclosures of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 19%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 19%

Screening Date 2-Sep-2021 **Docket No.** 2021-1208-AIR-E **PCW**
Respondent NRG Texas Power LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 61277 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN100888312
Media Air
Enf. Coordinator Danielle Porras
Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 111.111(a)(1)(B), 116.115(c), and 122.143(4), New Source Review ("NSR") Permit Nos. 2348A, PSDTX901, and N033, Special Conditions ("SC") No. 11, Federal Operating Permit ("FOP") No. 074, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 11, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent an excess opacity event. Specifically, the Respondent experienced 41 percent opacity at the WA Parish Unit No. 5, Emissions Point Number ("EPN") WAP5, during an excess opacity event (Incident No. 359223) that occurred on May 28, 2021 and lasted two hours and 48 minutes. The excess opacity event occurred when the bypass damper shaft had broken below the locking clamp that allowed the six-foot bypass disc to slip down into the open position, resulting in the release to the atmosphere. Since the excess opacity event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				X	30.0%
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended.

Good Faith Efforts to Comply 25.0% Reduction \$1,875

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		

Notes The Respondent achieved compliance by June 11, 2021, prior the Notice of Enforcement ("NOE") dated August 23, 2021.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation **Statutory Limit Test**
Estimated EB Amount \$19 **Violation Final Penalty Total** \$7,050
This violation Final Assessed Penalty (adjusted for limits) \$7,050

Economic Benefit Worksheet

Respondent NRG Texas Power LLC
Case ID No. 61277
Reg. Ent. Reference No. RN100888312
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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)	\$10,000	28-May-2021	11-Jun-2021	0.04	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to weld all 18 by-pass dampers closed and add the inspection of the welds as part of the routine maintenance in order to prevent the recurrence of excess opacity events due to the same or similar causes as Incident No. 359223. The Date Required is the date the excess opacity event occurred and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$19

Screening Date 2-Sep-2021 **Docket No.** 2021-1208-AIR-E **PCW**
Respondent NRG Texas Power LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 61277 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN100888312
Media Air
Enf. Coordinator Danielle Porras

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 111.111(a)(1)(B), 116.115(c), and 122.143(4), NSR Permit Nos. 2348A, PSDTX901, and N033, SC No. 11, FOP No. 074, GTC and STC No. 11, and Tex. Health & Safety Code § 382.085(b)

Violation Description
 Failed to prevent an excess opacity event. Specifically, the Respondent experienced 44.20 percent opacity at the WA Parish Unit No. 5, EPN WAP5, during an excess opacity event (Incident No. 359533) that occurred on June 4, 2021 and lasted one hour and 24 minutes. The excess opacity event occurred when one of the bags in the baghouse compartment became dislodged off the bottom support that caused 13 bags to be damaged, resulting in the release to the atmosphere. Since the excess opacity event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended.

Good Faith Efforts to Comply 25.0% Reduction \$1,875

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

Notes
 The Respondent achieved compliance by July 1, 2021, prior the NOE dated August 23, 2021.

Violation Subtotal \$5,625

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

Estimated EB Amount \$37 **Violation Final Penalty Total** \$7,050

This violation Final Assessed Penalty (adjusted for limits) \$7,050

Economic Benefit Worksheet

Respondent NRG Texas Power LLC
Case ID No. 61277
Reg. Ent. Reference No. RN100888312
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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)	\$10,000	4-Jun-2021	1-Jul-2021	0.07	\$37	n/a	\$37

Notes for DELAYED costs

Estimated cost to implement more rigorous inspections during all planned outages and when an issue is detected within a baghouse compartment that includes touching and inspecting every bag and component, allotting more time to look more closely at areas where any issues were found, and making any necessary repairs in order to prevent the recurrence of excess opacity events due to the same or similar causes as Incident No. 359533. The Date Required is the date the excess opacity event occurred and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$37



Compliance History Report

Compliance History Report for CN603207218, RN100888312, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN603207218, NRG Texas Power LLC **Classification:** SATISFACTORY **Rating:** 0.24
Regulated Entity: RN100888312, WA Parish Electric Generating Station **Classification:** SATISFACTORY **Rating:** 1.21
Complexity Points: 33 **Repeat Violator:** NO
CH Group: 06 - Electric Power Generation
Location: 2500 Y.U. Jones Road in Thompsons, Fort Bend County, Texas
TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER FG0020V
AIR OPERATING PERMITS PERMIT 3611
AIR NEW SOURCE PERMITS PERMIT 5530
AIR NEW SOURCE PERMITS PERMIT 4130A
AIR NEW SOURCE PERMITS PERMIT 18851
AIR NEW SOURCE PERMITS ACCOUNT NUMBER FG0020V
AIR NEW SOURCE PERMITS PERMIT 2349A
AIR NEW SOURCE PERMITS EPA PERMIT N035
AIR NEW SOURCE PERMITS EPA PERMIT N033
AIR NEW SOURCE PERMITS REGISTRATION 74046
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX33
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX902
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX234M1
AIR NEW SOURCE PERMITS REGISTRATION 46599
AIR NEW SOURCE PERMITS REGISTRATION 43191
AIR NEW SOURCE PERMITS REGISTRATION 39729
AIR NEW SOURCE PERMITS REGISTRATION 15527
AIR NEW SOURCE PERMITS EPA PERMIT N138
AIR NEW SOURCE PERMITS PERMIT 98664
AIR NEW SOURCE PERMITS REGISTRATION 97980
AIR NEW SOURCE PERMITS REGISTRATION 104887
AIR NEW SOURCE PERMITS PERMIT AMOC217
WASTEWATER PERMIT WQ0001038000
WASTEWATER EPA ID TX0006394
WASTEWATER EPA ID TX0135763
POLLUTION PREVENTION PLANNING ID NUMBER P01274
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 31631
TAX RELIEF ID NUMBER 16497
TAX RELIEF ID NUMBER 16490
TAX RELIEF ID NUMBER 17216
TAX RELIEF ID NUMBER 16503
TAX RELIEF ID NUMBER 16502
TAX RELIEF ID NUMBER 17313
TAX RELIEF ID NUMBER 18969
TAX RELIEF ID NUMBER 17192
COAL COMBUSTION RESIDUALS REGISTRATION CCR108

AIR OPERATING PERMITS PERMIT 74
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0790100
AIR NEW SOURCE PERMITS PERMIT 7704
AIR NEW SOURCE PERMITS PERMIT 7706A
AIR NEW SOURCE PERMITS PERMIT 45575
AIR NEW SOURCE PERMITS PERMIT 2348A
AIR NEW SOURCE PERMITS PERMIT 5126
AIR NEW SOURCE PERMITS EPA PERMIT N034
AIR NEW SOURCE PERMITS REGISTRATION 72347
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX234
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX901
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX33M1
AIR NEW SOURCE PERMITS REGISTRATION 45779
AIR NEW SOURCE PERMITS REGISTRATION 45326
AIR NEW SOURCE PERMITS REGISTRATION 40542
AIR NEW SOURCE PERMITS REGISTRATION 39571
AIR NEW SOURCE PERMITS REGISTRATION 30529
AIR NEW SOURCE PERMITS REGISTRATION 97958
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1268
AIR NEW SOURCE PERMITS REGISTRATION 108189
AIR NEW SOURCE PERMITS REGISTRATION 152549
AIR NEW SOURCE PERMITS AFS NUM 4815700005
WASTEWATER EPA ID TX0003694
WASTEWATER PERMIT WQ0005142000
AIR EMISSIONS INVENTORY ACCOUNT NUMBER FG0020V
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD097311849
TAX RELIEF ID NUMBER 16488
TAX RELIEF ID NUMBER 16494
TAX RELIEF ID NUMBER 17191
TAX RELIEF ID NUMBER 16501
TAX RELIEF ID NUMBER 16491
TAX RELIEF ID NUMBER 16493
TAX RELIEF ID NUMBER 16489
TAX RELIEF ID NUMBER 16496
TAX RELIEF ID NUMBER 19579

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022
Date Compliance History Report Prepared: December 21, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 21, 2017 to December 21, 2022

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

Name: Danielle Porras

Phone: (713) 767-3682

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

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

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

1 Effective Date: 04/12/2022 ADMINORDER 2021-0528-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: GTC OP

SC No. 11 PERMIT

STC No. 11 OP

Description: Failed to prevent an excess opacity event. Specifically, the Respondent experienced 91 percent opacity at the WA Parish Unit No. 5, Emissions Point Number WAP5, during an excess opacity event (Incident No. 348862) that occurred on January 9, 2021 and lasted 42 minutes.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: GTC OP

STC No. 2.F OP

Description: Failed to submit an initial notification no later than 24 hours after the discovery of an excess opacity event. Specifically, the initial notification for Incident No. 348862 was due by January 10, 2021 at 8:36 a.m., but was not submitted until January 11, 2021 at 10:27 a.m.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	January 18, 2018	(1474545)
Item 2	February 20, 2018	(1486771)
Item 3	March 19, 2018	(1490448)
Item 4	April 13, 2018	(1493685)
Item 5	April 17, 2018	(1496029)
Item 6	May 11, 2018	(1500603)
Item 7	May 15, 2018	(1503009)
Item 8	May 23, 2018	(1473856)
Item 9	May 29, 2018	(1482505)
Item 10	June 18, 2018	(1510090)
Item 11	June 20, 2018	(1507720)
Item 12	July 18, 2018	(1514038)
Item 13	July 19, 2018	(1516418)
Item 14	July 25, 2018	(1504373)
Item 15	August 07, 2018	(1499678)
Item 16	August 17, 2018	(1520099)

Item 17	September 17, 2018	(1527264)
Item 18	October 16, 2018	(1517134)
Item 19	October 18, 2018	(1533622)
Item 20	November 05, 2018	(1517750)
Item 21	November 15, 2018	(1541457)
Item 22	December 10, 2018	(1523623)
Item 23	December 11, 2018	(1545241)
Item 24	January 17, 2019	(1566819)
Item 25	February 01, 2019	(1499657)
Item 26	February 19, 2019	(1566817)
Item 27	March 19, 2019	(1559697)
Item 28	April 15, 2019	(1571838)
Item 29	May 14, 2019	(1556313)
Item 30	June 19, 2019	(1583287)
Item 31	June 26, 2019	(1556297)
Item 32	July 18, 2019	(1593151)
Item 33	August 13, 2019	(1580796)
Item 34	August 14, 2019	(1599497)
Item 35	August 21, 2019	(1575299)
Item 36	September 17, 2019	(1606402)
Item 37	October 09, 2019	(1591726)
Item 39	November 21, 2019	(1619062)
Item 40	December 19, 2019	(1626414)
Item 41	January 21, 2020	(1634055)
Item 42	February 20, 2020	(1640674)
Item 43	February 27, 2020	(1597718)
Item 44	March 16, 2020	(1647194)
Item 45	April 20, 2020	(1597674)
Item 46	April 21, 2020	(1653530)
Item 47	May 21, 2020	(1660117)
Item 48	June 19, 2020	(1666621)
Item 49	July 09, 2020	(1673578)
Item 50	July 15, 2020	(1675897)
Item 51	August 19, 2020	(1680354)
Item 52	August 21, 2020	(1592284)
Item 53	September 15, 2020	(1672726)
Item 54	September 22, 2020	(1686922)
Item 55	October 21, 2020	(1693269)
Item 56	November 18, 2020	(1712497)
Item 57	December 21, 2020	(1712498)
Item 58	January 21, 2021	(1712499)
Item 59	February 23, 2021	(1725552)
Item 60	March 22, 2021	(1725553)
Item 61	April 21, 2021	(1725554)
Item 62	May 24, 2021	(1740081)
Item 63	June 18, 2021	(1747587)
Item 64	July 20, 2021	(1751718)
Item 65	August 11, 2021	(1749976)
Item 66	August 24, 2021	(1757182)
Item 67	August 27, 2021	(1750652)
Item 68	September 21, 2021	(1766262)
Item 69	October 20, 2021	(1776725)
Item 70	November 19, 2021	(1783634)
Item 71	December 22, 2021	(1790660)
Item 72	January 24, 2022	(1798454)
Item 73	February 15, 2022	(1806328)
Item 74	March 11, 2022	(1813395)
Item 75	April 13, 2022	(1819966)
Item 76	May 16, 2022	(1828805)
Item 77	June 17, 2022	(1835097)

Item 78	July 20, 2022	(1842302)
Item 79	August 12, 2022	(1848435)
Item 80	September 13, 2022	(1856233)
Item 81	October 14, 2022	(1862590)
Item 82	October 21, 2022	(1846436)
Item 83	November 21, 2022	(1841292)
Item 84	December 07, 2022	(1819111)

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: 04/22/2022 (1810248)
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
WQ0001038000 PERMIT
Description: Failed to prevent the unauthorized discharge of wastewater.
- 2 Date: 05/25/2022 (1756973)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 6 PERMIT
Special Condition 7 PERMIT
Special Term and Condition 11 PERMIT
Description: Failure to maintain opacity within permitted limits for Unit 7 Boiler Stack (EPN: WAP 7). (Category C4)
- Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 6 PERMIT
Special Condition 7 PERMIT
Special Term and Condition 11 PERMIT
Description: Failure to maintain opacity within permitted limits for Unit 8 Boiler Stack (EPN: WAP 8). (Category C4)

F. Environmental audits:

- Disclosure Date: 12/21/2017
Viol. Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
Rqmt Prov: PERMIT SC 1
OP ST&C 7
Description: Although the Carbon Capture Plant does not yet have twelve full months of commercial operation, current emissions projections indicate that the facility MEAFUG emissions will be 0.085 tpy, which will exceed the currently permitted 0.08 tpy threshold, by the end of December 2017.
- Notice of Intent Date: 02/22/2018 (1473616)
Disclosure Date: 08/22/2018
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)
30 TAC Chapter 290, SubChapter D 290.46(l)
Description: No records could be located for flushing of the dead end potable water mains regarding TX0790100 and TX0790140.
Viol. Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(4)(A)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)
Description: Records indicate that the testing frequency exceeded seven days. Dates tested were 04/17/2018 and 04/25/2018, and 05/16/2018 and 05/24/2018. Specifically, this concerns the disinfectant residual at representative locations within the distribution system.
Viol. Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter S 335.565

Description: The 2017 Annual Groundwater Monitoring Report for Cell 2 was submitted late on 4/5/18. It should have been submitted by March 15th.

Viol. Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.10(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP STC 2(E)

Description: On 4/25/18 deficiencies were noted in the cogen initial compliance test report submitted in 2/17. Upon further review, it was determined that calculation updates were necessary, which impacted reported VOC, NH3, and PM test results. A revised cogen initial compliance test report was submitted on 7/11/18. In addition, updates to the 2016 and 2017 Els and 2016 TRI for the site will be necessary. These emission summaries are shown in Row 7 of the chart for the DOV dated 8/22/18.

Viol. Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
30 TAC Chapter 122, SubChapter B 122.146(5)(C)

Description: Failed to report deviations associated with Disclosure of Violation (DOV) item No. 7 in prior Title V compliance certifications.

Notice of Intent Date: 07/15/2021 (1750871)

Disclosure Date: 01/11/2022

Viol. Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter G 117.8100(a)(1)
40 CFR Chapter 75, SubChapter C, PT 75, SubPT G 75.61(a)(1)(i)

Description: The CO2 analyzer for the Unit 7 CEMs was replaced on April 6, 2021. Notification of recertification test dates not submitted to EPA and TCEQ within 2 days following sudden failure of existing CO2 analyzer

Viol. Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter G 117.8110(a)(1)
40 CFR Chapter 75, SubChapter C, PT 75, SubPT G 75.61(a)(1)(i)

Description: The CO2 analyzer for the Unit 7 CEMs was replaced on April 6, 2021. However, the RATA report submitted on May 27, 2021, did not contain the full recertification reports and referenced the previous serial and model number for the unit. Electronic submittal of updated monitoring plan not submitted at the time of the recertification application submission.

Viol. Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter G 117.8110(a)(1)
40 CFR Chapter 75, SubChapter C, PT 75, SubPT G 75.62(a)(2)

Description: The CO2 analyzer for the Unit 7 CEMs was replaced on April 6, 2021. However, the RATA report submitted on May 27, 2021, did not contain the full recertification reports and referenced the previous serial and model number for the unit. Hard copy of updated monitoring plan not submitted within 30 days of CO2 analyzer recertification event.

Viol. Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter G 117.8110(a)(1)
40 CFR Chapter 75, SubChapter C, PT 75, SubPT G 75.63(a)(2)

Description: The CO2 analyzer for the Unit 7 CEMs was replaced on April 6, 2021. However, the RATA report submitted on May 27, 2021, did not contain the full recertification reports and referenced the previous serial and model number for the unit. Electronic and hard copies of recertification application not submitted within 45 days of CO2 analyzer recertification event.

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PERMIT SC 19.B.
OP ST&C 11

Description: Records of delivery truck route watering/cleaning required by permit conditions were not maintained.

Viol. Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)
30 TAC Chapter 122, SubChapter B 122.146(5)(C)

Rqmt Prov: OP ST&C 15

Description: Failure to report the deviations associated with this Disclosure of Violation (DOV) In prior Title V compliance certifications for Title V Permit No. O74

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
NRG TEXAS POWER LLC
RN100888312

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2021-1208-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 NRG Texas Power LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates an electric power generation plant located at 2500 Y.U. Jones Road in Thompsons, Fort Bend County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$14,100 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$5,640 of the penalty and \$2,820 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$5,640 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms

and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. 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). 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.
6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. By June 11, 2021, welded all 18 by-pass dampers closed and added the inspection of the welds as part of the routine maintenance in order to prevent the recurrence of excess opacity events due to the same or similar causes as Incident No. 359223; and
 - b. By July 1, 2021, implemented more rigorous inspections during all planned outages and when an issue is detected within a baghouse compartment that includes touching and inspecting every bag and component, allotting more time to look more closely at areas where any issues were found, and making any necessary repairs in order to prevent the recurrence of excess opacity events due to the same or similar causes as Incident No. 359533.

II. ALLEGATIONS

1. During a record review for the Plant conducted from May 28, 2021 through August 10, 2021, an investigator documented that the Respondent failed to prevent an excess opacity event, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 111.111(a)(1)(B), 116.115(c), and 122.143(4), New Source Review ("NSR") Permit Nos. 2348A, PSDTX901, and N033, Special Conditions ("SC") No. 11, Federal Operating Permit ("FOP") No. 074, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 11, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent experienced 41 percent opacity at the WA Parish Unit No. 5, Emissions Point Number ("EPN") WAP5, during an excess opacity event (Incident No. 359223) that occurred on May 28, 2021 and lasted two hours and 48 minutes. The excess opacity event occurred when the bypass damper shaft had broken below the locking clamp that allowed the six-foot bypass disc to slip down into the open position, resulting in the release to the atmosphere. Since the excess opacity event was not caused by a sudden unavoidable breakdown of

equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

2. During a record review for the Plant conducted from June 4, 2021 through August 10, 2021, an investigator documented that the Respondent failed to prevent an excess opacity event, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 111.111(a)(1)(B), 116.115(c), and 122.143(4), NSR Permit Nos. 2348A, PSDTX901, and N033, SC No. 11, FOP No. 074, GTC and STC No. 11, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent experienced 44.20 percent opacity at the WA Parish Unit No. 5, EPN WAP5, during an excess opacity event (Incident No. 359533) that occurred on June 4, 2021 and lasted one hour and 24 minutes. The excess opacity event occurred when one of the bags in the baghouse compartment became dislodged off the bottom support that caused 13 bags to be damaged, resulting in the release to the atmosphere. Since the excess opacity event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: NRG Texas Power LLC, Docket No. 2021-1208-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 Respondent shall implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$5,640 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. All relief not expressly granted in this Order is denied.


4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This 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 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.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



6/5/2023

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 OAG 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 OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

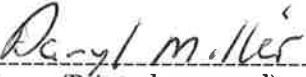
In addition, any falsification of any compliance documents may result in criminal prosecution.



5/6/23

Signature

Date



General Manager

Name (Printed or typed)

Title

Authorized Representative of
NRG Texas Power LLC

If mailing address has changed, please check this box and provide the new address below:

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

Attachment A
Docket Number: 2021-1208-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	NRG Texas Power LLC
Payable Penalty Amount:	\$11,280
SEP Offset Amount:	\$5,640
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston-Galveston Area Council-AERCO
Project Name:	<i>Clean Vehicles Partnership Project</i>
Location of SEP: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency (“EPA”) emissions standards (“Old Buses”) with new, lower emission buses that meet the most recent EPA emissions standards (“New Buses”) or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities (“SEP Administrators”) that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards.

Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months.

All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed to settle this enforcement action. The Respondent shall not profit from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate many respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO
Emission Reduction Credit Corporation
Attn: Air Quality Program Manager
3555 Timmons Lane, Suite 120
Houston, Texas 77027

3. **Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. **Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. **Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. **Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. **Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.