

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**CLECO POWER LLC**

**AI #s 585 & 2922**

**PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.**

\* **Settlement Tracking No.**  
\* **SA-AE-09-0031**  
\*  
\* **Enforcement Tracking No.**  
\* **AE-CN-07-0177**  
\*  
\* **Docket No. 2009-5176-EQ**  
\*

**SETTLEMENT**

The following Settlement is hereby agreed to between Cleco Power LLC (Respondent) and the Department of Environmental Quality (Department), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (the Act).

**I**

Respondent is a limited liability company that owns and/or operates the Dolet Hills Power Station (Agency Interest No. 585), located at 963 Power Plant Road, De Soto Parish, Louisiana and the Cleco Rodemacher Power Station (Agency Interest No. 2922) located at 275 Rodemacher Road in Lena, Rapides Parish, Louisiana (Facility(ies)).

**II**

On March 13, 2008, the Department issued to the Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-07-0177, which was based upon the following findings of fact:

- A. The Respondent owns and/or operates the Dolet Hills Power Station (the facility). The facility operates Unit 1 Boiler (a 430 megawatt unit) utilizing natural gas, propane, No. 2

fuel oil and lignite. The facility is located at 963 Power Plant Road, De Soto Parish, Louisiana. The Respondent currently operates under Title V Permit No. 0760-00001-V1 issued by the Department on December, 14, 2007, and PSD-LA-117 (M-5) issued by the Department on November 21, 2006.

On or about February 26, 2008, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The following violation(s) were noted during the course of the file review:

According to a letter submitted to the Department on December 07, 2007, the Respondent submitted a Quarterly Emissions Report. The Respondent reported the use of a NO<sub>x</sub> analyzer without completing all of the quality assurance testing as required by 40 CFR Part 75. Specific condition 59 of Title V Permit No. 0760-00001-V1 states, 'The owner or operator shall ensure that each continuous emission monitoring system meets the equipment, installation, and performance specifications in appendix A to 40 CFR 75; and is maintained according to the quality assurance and quality control procedures in appendix B to 40 CFR 75; and shall record SO<sub>2</sub> and NO<sub>x</sub> emissions in the appropriate units of measurement (i.e., lb/hr for SO<sub>2</sub> and lb/MMBtu for NO<sub>x</sub>)' Each failure to ensure proper operation of a continuous emission monitoring system is a violation of Title V Permit No. 0760-00001-V1, LAC 33:III.501.C.4, and La R.S. 30:2057(A)(2).

- B. The Respondent owns and/or operates Cleco Rodemacher Power Station (the facility). The facility operates Rodemacher Unit 1 (a 430 megawatt unit) utilizing primarily natural gas, and Rodemacher Unit 2 (a 530 megawatt unit) utilizing Powder River Basin sub-bituminous coal. The facility is located at 275 Rodemacher Road in Lena, Rapides Parish, Louisiana. The Respondent currently operates under Title V Permit No. 2360-00030-V0 issued by the Department on June 26, 2006, and 2360-00030-IV3 issued by the Department on June 22, 2006.

On or about September 14, 2007, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The following violation(s) were noted during the course of the file review:

1. According to a letter submitted to the Department dated July 18, 2007, the Respondent submitted a Quarterly Stack Emissions Report. The Respondent reported that Rodemacher Unit Two (EQT004) exceeded opacity limits for eight hundred fifty-eight (858) minutes as summarized in the following table:

Description	Duration (Minutes)	Six (6) Minute Occurrences*
Control Equipment Malfunction	90	15
Unknown Excess Cause	72	12
Total	162	27

\*As defined by LAC 33:III.1101.B

Specific condition 52 of Title V Permit No. 2360-00030-V0 states, "Opacity <= 20 percent, in excess of 20 percent, except during the cleaning of a firebox or building a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal or rapping of precipitators, which may have an excess of 20 percent for not more than one six minute period in any 60 consecutive minutes." Each of the twenty-seven (27) occurrences of an opacity limit exceedance as specified in Title V Permit No. 2360-00030-V0 is a violation of LAC 33:III.501.C.4, LAC 33:III.1101.B, La R.S. 30:2057(A)(1) and 30:2057(A)(2).

2. According to a letter submitted to the Department dated October 18, 2007, the Respondent submitted a Quarterly Stack Emissions Report. The Respondent reported that Rodemacher Unit Two (EQT004) exceeded opacity limits for one thousand five hundred and forty-two (1542) minutes as summarized in the following table:

Description	Duration (Minutes)	Six (6) Minute Occurrences*
Unknown Excess Cause	1212	202
Corrective Maintenance**	102	16
Total	1314	218

\*As defined by LAC 33:III.1101.B  
 \*\* Electrostatic Precipitator Rapping

Specific condition 52 of Title V Permit No. 2360-00030-V0 that states, "Opacity <= 20 percent, in excess of 20 percent, except during the cleaning of a firebox or building a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal or rapping of precipitators, which may have an excess of 20 percent for not more than one six minute period in any 60 consecutive minutes." Each of the two hundred eighteen (218) occurrences of an opacity limit exceedance as specified in Title V Permit No. 2360-00030-V0 is a violation of LAC 33:III.501.C.4, LAC 33:III.1101.B, La R.S. 30:2057(A)(1) and 30:2057(A)(2).

3. According to a letter submitted to the Department dated January 25, 2008, the Respondent submitted a Quarterly Stack Emissions Report. The Respondent reported that Rodemacher Unit Two (EQT004) exceeded opacity limits for one thousand one hundred and eighty-eight (1188) minutes as summarized in the following table:

Description	Duration (Minutes)	Six (6) Minute Occurrences*
Unknown Excess Cause	1188	198
Corrective Maintenance**	24	4
Total	1212	202

\*As defined by LAC 33:III.1101.B  
 \*\* Recalibrated analyzer

Specific condition 52 of Title V Permit No. 2360-00030-V0 that states, "Opacity <= 20 percent, in excess of 20 percent, except during the cleaning of a firebox or building a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal or rapping of precipitators, which may have an excess of 20 percent for not more than one six minute period in any 60 consecutive minutes." Each of the one hundred and ninety-eight (198) occurrences of an opacity limit exceedance as specified in Title V Permit No. 2360-00030-V0 is a violation of LAC 33:III.501.C.4, LAC 33:III.1101.B, La R.S. 30:2057(A)(1) and 30:2057(A)(2).

III

In response to the Consolidated Compliance Order and Notice of Potential Penalty, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TWENTY-TWO THOUSAND EIGHT HUNDRED FORTY and 96/100 Dollars (\$22,840.96), of which One Thousand Eight Hundred Forty and 96/100 Dollars (\$1,840.96) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

## VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

## VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA-R.S. 30:2025(E) of the Act. Respondent and the Department agree that this settlement shall compromise and settle all findings of fact and allegations of violations contained in Paragraph II of this agreement.

## IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in De Soto Parish, Louisiana and Rapides Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice from the newspaper of each affected parish to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notices.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement. Respondent's liability for those claims shall be discharged upon receipt by the Department of the payment described in Paragraph V above.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

CLECO POWER LLC

BY: [Signature]  
(Signature)

Stephan M. Carter  
(Print)

TITLE: V.P. - Regulated Generation

THUS DONE AND SIGNED in duplicate original before me this 21<sup>st</sup> day of September, 20 09, at Pineville, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 465018)

Betty D. Bruyinerckx  
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
Harold Leggett, Ph.D., Secretary

BY: [Signature]  
Peggy M. Hatch, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 29<sup>th</sup> day of December, 20 09, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 410539)

Ted R. Broyles A  
(Print)

Approved: [Signature]  
Peggy M. Hatch, Assistant Secretary