STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-15-0063**
ENTERGY LOUISIANA, LLC	*	
	*	**Enforcement Tracking No.**
AI # 19588	*	**AE-CN-11-00894**
	*	**AE-CN-11-00894A**
	*	**AE-CN-11-00894B**
	*	
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Entergy Louisiana, LLC f/k/a Entergy Gulf States Louisiana, L.L.C. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the 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 a facility located in Westlake, Calcasieu Parish, Louisiana ("the Facility").

II

On December 22, 2011, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-11-00894, which was based upon the following findings of fact:

"The Respondent owns and/or operates Nelson Electric Generating Plant (the facility), located at 3500 Houston River Road in Westlake, Calcasieu Parish, Louisiana. The facility operated

under Title V Permit No. 0520-00014-V0, issued on or about June 6, 2006. The facility currently operates under Title V Permit No. 0520-00014-V1, issued on or about June 8, 2010.

On or about November 29, 2011, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

While the investigation by the Department is not yet complete, the following violations were noted during the course of the file review:

A. In correspondence dated May 20, 2011, the Respondent notified the Department that the facility had exceeded the permit limits for Nelson 6 (Unit 6 Boiler/EQT 12) for Carbon Monoxide (CO) for the period encompassing January 2006 through December 2010. Excess emissions of CO for each year are shown in Table 1:

TABLE 1

Year	CO emitted, tons	CO Permit, tons	Excess CO emitted, tons
2006	7,267	994	**6,677**
2007	6,703		**6,270**
2008	6,854		**6,545**
2009	6,769		**6,356**
2010	6,558		**6,688**

Each emission of CO in excess of the annual limit of the permit for CO is a violation of Title V Permit No. 0520-00014-V0, Title V Permit No. 0520-00014-V1, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

B. In correspondence dated May 20, 2011, the Respondent notified the Department that the Emissions Reporting and Inventory Center (ERIC) submissions for the years encompassing 2006 through 2010 incorrectly reported the facility's emission of CO. Corrected calculations are shown in Table 2:

TABLE 2

Year	CO emission submitted in annual ERIC, tons	Corrected CO emissions, tons	Permitted CO emission, tons
2006	737	**7,267**	994
2007	701	**6,703**	
2008	749	**6,854**	
2009	688	**6,769**	
2010	6,558	**6,558**	

Each failure to submit an accurate and complete Emissions Inventory is a violation of Title V Permit No. 0520-00014-V0, Title V Permit No. 0520-00014-V1, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).

C. In correspondence dated May 20, 2011, the Respondent referenced the initial stack test which was conducted on or about October 18, 2006 on the Unit 6 boiler. The results indicated that the average CO emission rate, in pounds per hour (lb/hr), was higher than the Title V Permit No. 0520-00014-V0 limit. Emission rates are shown in Table 3:

TABLE 3

Permit average emission rate for CO, lb/hr	Permit maximum emission rate for CO, lb/hr	Stack test average emission rate for CO, lb/hr
226.85	2,961.00	**2,154.02**

The Respondent failed to submit an application to modify the permit to reflect the test results. The failure to request a permit modification within forty-five (45) days after receiving test results that demonstrate that the permit is inadequate is a violation of LAC 33:III.523.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

D. In correspondence dated August 10, 2011, the Respondent reported the results of stack testing conducted on or about June 16, 2011 for Boiler No. 6, EQT0012. The results are shown in Table 4:

TABLE 4

Permit 0520-00014-V1 average emission rate limit for CO, lb/hr	Permit 0520-00014-V1 maximum emission rate limit for CO, lb/hr	Stack test average emission rate for CO, lb/hr	Permit 0520-00014-V1 emission rate for CO, tpy	Stack test average emission rate for CO, tpy
226.86	2,961.00	**1,212.95**	993.65	**5,312.72**

The failure to control emission of CO below the permit limit is a violation of Title V Permit No. 0520-00014-V1, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

E. In correspondence dated May 20, 2011, the Respondent notified the Department that the Annual Compliance Certifications and the Semiannual Monitoring Reports for the years encompassing 2006 through 2010 incorrectly reported the Unit 6 Boiler's compliance with the emission limit for CO. Each failure to submit an accurate and complete Annual Compliance Certification is a violation

of Part 70 General Condition M of Title V Permit No. 0520-00014-V0 and Title V Permit No. 0520-00014-V1, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2). Each failure to submit an accurate and complete Semiannual Monitoring Report is a violation of Part 70 General Condition K of Title V Permit No. 0520-00014-V0 and Title V Permit No. 0520-00014-V1, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).

F. In correspondence dated September 28, 2011, the Respondent reported an exceedance of the SO_2 limit of Permit 0520-00014-V1 that occurred on or about September 21, 2011 as shown in Table 5:

TABLE 5

Date	Time	Maximum permit rate limit for SO_2, lb/hr	Actual emission of SO_2, lbs	Excess hourly emission of SO_2, lbs
9/21/11	13:00 to 14:00	7,459.20	7,899.0	**439.80**
9/21/11	14:00 to 14:59	7,459.20	7,697.2	**237.80**

The failure to control emission of SO_2 below the permit limit is a violation of Title V Permit No. 0520-00014-V1, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

In correspondence dated May 20, 2011, the Respondent submitted ERIC statements for the facility modifying the CO values for the years 2006 through 2010."

On March 29, 2012, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-11-00894A, which was based upon the following findings of fact:

"The Department hereby amends Paragraph II, Subparagraph A of the Findings of Fact to read as follows:

'On or about February 10, 2012, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

While the investigation by the Department is not yet complete, the following violations were noted during the course of the file review:

A. In correspondence dated May 20, 2011, the Respondent notified the Department that the facility had exceeded the permit limits for Nelson 6 (Unit 6 Boiler/EQT 12) for Carbon Monoxide (CO) for the period encompassing January 2006 through December 2010. Excess emissions of CO for each year are shown in Table 1:

TABLE 1

Year	Nelson Unit 6 CO emitted, tons	Nelson Unit 6 CO Permit, tons	Nelson Unit 6 Excess CO emitted, tons
2006	7,267	994	**6,273**
2007	6,703		**5,709**
2008	6,854		**5,860**
2009	6,769		**5,775**
2010	6,558		**5,564**

Each emission of CO in excess of the annual limit of the permit for CO is a violation of Title V Permit No. 0520-00014-V0, Title V Permit No. 0520-00014-V1, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).'

The Department hereby replaces Paragraph II, Subparagraph D of the Findings of Fact to read as follows:

'D. In correspondence dated May 20, 2011, the Respondent requested interim limits for the facility. In electronic correspondence dated February 24, 2012, the Respondent submitted the CO emissions for Boiler No. 6, EQT0012 for the period encompassing from on or about January 1, 2011, through on or about May 19, 2011, the day prior to the request for interim limits; and for the period encompassing from on or about January 1, 2011, through on or about December 31, 2011. The calculation is based on CO stack test results conducted on or about June 16, 2011, for Boiler No. 6, EQT0012. The calculation is shown in Table 4:

TABLE 4

Stack test CO lb/MMBTU factor	MMBTU produced, 1/1/11 through 5/19/11	CO emissions, Boiler No. 6 1/1/2011 thru 5/19/2011, tons	MMBTU produced, 1/1/11 through 12/31/11	CO emissions, Boiler No. 6 1/1/2011 thru 12/31/2011, tons	Permit 0520-00014-V1 CO annual emissions limit, Boiler No. 6, tons
0.188	12,830,997	**1,206.11**	41,456,121	**3,896.88**	993.65

The failure to control annual emission of CO below the permit limit is a violation of

Title V Permit No. 0520-00014-V1, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).'

The Department incorporates all of the remainder of the original **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. AE-CN-11-00894** and **AGENCY INTEREST NO. 19588** as if reiterated herein."

On December 13, 2012, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-11-00894B, which was based upon the following findings of fact:

"The Department hereby amends Paragraph I of the **FINDING OF FACTS SECTION** to read as follows:

'The Respondent owns and/or operates Nelson Electric Generating Plant (the facility), located at 3500 Houston River Road in Westlake, Calcasieu Parish, Louisiana. The facility operated under Title V Permit No. 0520-00014-V0, issued on or about June 6, 2006, and administratively amended on or about June 8, 2006. The facility currently operates under Title V Permit No. 0520-00014-V1, issued on or about June 8, 2010. In correspondence dated October 9, 2012, the Respondent requested interim limits for Boiler No. 6 (EQT 0012) at the facility for annual emission of Carbon Monoxide (CO) based on results of stack testing conducted on or about June 16, 2011.'

The Department hereby amends Paragraph I, Subparagraph A of the **COMPLIANCE ORDER SECTION** to read as follows:

'A. If the Respondent chooses to emit any air contaminant in the State of Louisiana from its facility, the following interim limitations shall apply:

EMISSION POINT	POLLUTANT	EMISSION RATE (AVG LB/HR)	EMISSION RATE (MAX LB/HR)*	ANNUAL EMISSION RATE (TONS/YEAR)
EQT0012	CO	1,168.61	2,961.00	5,118.50

*Maximum hourly rate as averaged over any consecutive one (1) hour period.

The Respondent shall also operate its facility in accordance with all other emission limitations, terms, and conditions stated in Title V Permit No. 0520-00014-V1 unless otherwise notified in writing by the Department. The Respondent shall at all times properly operate and maintain all facilities and systems of control (and related appurtenances) which are installed or used by the Respondent to achieve compliance with the conditions of these interim limitations.'

The Department incorporates all of the remainder of the original **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. AE-CN-11-00894A** and **AGENCY INTEREST NO. 19588** as if reiterated herein."

III

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

IV

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 THOUSAND AND NO/100 DOLLARS ($20,000.00), of which One Thousand Seven Hundred Thirty-Eight and 43/100 Dollars ($1,738.43) 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 the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the permit record(s), the Consolidated Compliance Order & Notice of Potential Penalty, Amended Consolidated Compliance Orders & Notices 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.

VI

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.

VII

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 La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Calcasieu Parish, Louisiana. The advertisement, in form and wording 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 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 notice.

X

Payment is to be made within thirty (30) 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.

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.

ENTERGY LOUISIANA, LLC

BY: _____
(Signature)

_____
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
Lourdes Iturralde, Assistant Secretary