

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-AE-14-0045
ENTERGY LOUISIANA, LLC	*	
	*	Enforcement Tracking No.
AI # 83898	*	AE-CN-07-0026
	*	AE-CN-07-0026A
PROCEEDINGS UNDER THE LOUISIANA	*	AE-CN-12-00951
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between Entergy Louisiana, LLC (“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 power generating facility located in St. Charles Parish, Louisiana (“the Facility”).

II

On March 7, 2007, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-07-0026**, which was based upon the following findings of fact:

“The Respondent owns and/or operates the Waterford 1 & 2 Steam Electric Station, a power generation facility located at 17705 River Road in Killona, St. Charles Parish, Louisiana. The facility currently operates under Title V Permit No. 2435-V1, issued on June 30, 2004.

On or about December 14, 2006, January 30, 2007, and February 23, 2007, the Respondent held meetings with representatives of the Department to self-report potential noncompliance with emission limitations established by Title V Permit No. 2435-V1. During the course of the January 30th meeting, the Respondent verbally requested a permit variance. While the Department's investigation is not yet complete, the following violations were self-reported during the course of the aforementioned meetings:

The Respondent reported that it exceeded the NOx maximum lb/hr limit in the facility's Part 70 Operating Permit as follows:

Facility Name	2006 Exceedances	2005 Exceedances	2004 Exceedances
Waterford Unit 1	7	327 ¹	584 ²
Waterford Unit 2	59	345 ³	489 ⁴
Waterford Total	64	672	1073

- 1 1 of the 327 exceedances represents substituted data.
- 2 17 of the 584 exceedances represent substituted data.
- 3 1 of the 345 exceedances represents substituted data.
- 4 1 of the 489 exceedances represents substituted data.

Each exceedance of the permitted emission rate as reported by the Respondent in Appendix A and B is a violation of General Condition III of Title V Permit No. 2435-V1, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

On or about February 16, 2007, the Assistant Secretary for the Office of Environmental Services, Air Permits Division, verbally declined the issuance of a variance for Title V Permit No. 2435-V1.

The Respondent submitted a letter to the Department dated February 23, 2007. In the letter the Respondent disclosed the times and duration for the above listed violations. The Respondent has also requested interim limits for the Waterford 1 & 2 Steam Electric Station until such time that a Title V Permit modification containing the appropriate emission limitations can be issued by the Department.”

On June 18, 2007, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-07-0026A**, which was based upon the following findings of fact:

“The Department hereby amends paragraph II. of the Findings of Fact to read as follows:

II.

On or about December 14, 2006, January 30, 2007, and February 23, 2007, the Respondent held meetings with representatives of the Department to self-report potential noncompliance with emission limitations established by Title V Permit No. 2435-V1. During the course of the January 30th meeting, the Respondent verbally requested a permit variance. While the Department’s investigation is not yet complete, the following violations were self-reported during the course of the aforementioned meetings:

The Respondent reported that it exceeded the NOx maximum lb/hr limit in the facility’s Part 70 Operating Permit as follows:

Facility Name	2006 Exceedances	2005 Exceedances	2004 Exceedances
Waterford Unit 1	8	327 ¹	584 ²
Waterford Unit 2	59	345 ³	489 ⁴
Waterford Total	67	672	1073

¹ 4 of the 327 exceedances represents substituted data.

² 15 of the 584 exceedances represent substituted data.

³ 1 of the 345 exceedances represents substituted data.

⁴ 18 of the 489 exceedances represents substituted data.

Each exceedance of the permitted emission rate as reported by the Respondent in Appendix A and B is a violation of General Condition III of Title V Permit No. 2435-V1, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.”

On March 26, 2013, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-12-00951**, which was based upon the following findings of fact:

“The Respondent owns and/or operates Waterford 1 & 2 Generating Plant (the facility), a natural gas and/or oil-fueled electricity generating facility located at 17705 River Road in Killona, St. Charles Parish, Louisiana. The facility operates, or has operated under the authority of the following

Title V Air Permits, as shown in Table A:

TABLE A

Permit No.	Issue Date	Expiration Date
2435-V1	June 30, 2004	June 3, 2009
2435-V2	February 7, 2008	June 3, 2009*
2435-V3	May 5, 2010	May 5, 2015

*the facility submitted an application to renew the Title V permit and continued to operate until the modified permit was issued.

On or about November 22, 2012, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations and all Annual Reports from June 30, 2004 through November 22, 2012.

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 March 31, 2008, the Respondent submitted the facility's 2007 Second Semiannual Monitoring Report. The report was for the period encompassing January 1, 2007 through August 31, 2007. The Respondent had failed to report the January 1, 2007 through July 31, 2007 deviations in the facility's 2007 First Semiannual Monitoring Report. The report stated that on or about January 7, 2007, while fired with No. 6 Fuel Oil, one opacity exceedance occurred from the Unit 2 Boiler (GRP5) for 36 minutes, from 10:36 am until 11:12 am. The failure to maintain opacity below 20% for no more than one six-minute interval in any 60 consecutive minutes is a violation of GRP5 requirements of Title V Permit No. 2435-V1, LAC 33:III.501.C.4 La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. In correspondence dated September 28, 2007, the Respondent submitted the facility's 2007 First Semiannual Monitoring Report for the period encompassing January 1, 2007 through June 30, 2007. The report stated that no deviations occurred during the semiannual period. The report failed to list the opacity exceedances reported in Paragraph A. The failure to submit a complete and accurate Semiannual Monitoring Report is a violation of Part 70 General Condition K of Title V Permit No. 2435-V1, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- C. In correspondence dated September 30, 2008, the Respondent submitted the facility's 2008 First Semiannual Monitoring Report for the period encompassing January 1, 2008 through June 30, 2008. The report listed two

opacity exceedances for Unit 2 Boiler, while fired with No. 6 Fuel Oil as shown in Table B:

TABLE B

Date	Deviation began	Deviation ended	Duration
January 2, 2008	09:36	10:30	54 minutes
February 26, 2008	19:12	19:42	30 minutes

Each failure to maintain opacity below 20% for no more than one six-minute interval in any 60 consecutive minutes is a violation of GRP5 requirements of Title V Permit No. 2435-V1, Specific Requirement 51 of Title V Permit No. 2435-V2, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- D. In correspondence dated March 30, 2009, the Respondent submitted the facility's 2008 Annual Compliance Certification for the period encompassing January 1, 2008 through December 31, 2008. The certification failed to list two opacity exceedances reported in Paragraph C. The failure to submit a complete and accurate Annual Compliance Certification is a violation of Part 70 General Condition M of Title V Permit No. 2435-V1, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2)."

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 FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) of which Seven Hundred Thirty-Nine and No/100 Dollars (\$739.00) 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 inspection report(s),

Consolidated Compliance Order & 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.

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

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Charles 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 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.

IX

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).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

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
Peggy M. Hatch, Secretary

BY: _____
Cheryl Sonnier Nolan, 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: 
Cheryl Sonnier Nolan, Assistant Secretary