

**STATE OF TENNESSEE
AIR POLLUTION CONTROL BOARD**

IN THE MATTER OF:)	DIVISION OF AIR POLLUTION
)	CONTROL
)	
TENNESSEE VALLEY)	
AUTHORITY,)	
)	
RESPONDENT.)	CASE NO. APC22-0175

**TECHNICAL SECRETARY'S ORDER AND
ASSESSMENT OF CIVIL PENALTY**

Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, states:

PARTIES

I.

Michelle Walker Owenby is the Technical Secretary of the Air Pollution Control Board ("Board") and Director of the Division of Air Pollution Control ("Division"), Department of Environment and Conservation ("Department").

II.

Tennessee Valley Authority ("Respondent") is a federal corporation formed under the Tennessee Valley Authority Act of 1933. The Respondent's facility address is 815 Cumberland City Road, Cumberland City, Tennessee 37050. Service of process may be made upon David B. Fountain, Executive Vice President and General Counsel for the Respondent at 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

AUTHORITY

III.

The Technical Secretary may assess a civil penalty of up to \$25,000.00 per day for each day of violation of the Tennessee Air Quality Act, Tenn. Code Ann. §§ 68-201-101 to -121 ("Act"), or Tennessee Air Pollution Control Regulations, Tenn. Comp. R. & Regs. 1200-03-01 to -36; 0400-30-01 to -39, ("Rules"). Tenn. Code Ann. § 68-201-116. The Technical Secretary may issue

an order for correction to the responsible person when provisions of the Act or Rules are violated, and such person may be liable for resulting damages to the State. *Id.*

IV.

The Respondent is a “person,” Tenn. Code Ann. § 68-201-102(7), and has violated the Act and Rules.

V.

“Air contaminant” means particulate matter, dust, fumes, gas, mist, smoke, vapor, or any combinations thereof. Tenn. Code Ann. § 68-201-102(1).

VI.

“Air contaminant source” means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Tenn. Code Ann. § 68-201-102(2). The Respondent operates an air contaminant source.

FACTS

VII.

On July 1, 2021, the Technical Secretary issued Major Source operating permit (“Title V”) permit number 577855, (facility 81-0011), to the Respondent for a coal-fired steam electric generating plant.

VIII.

Condition E3-18 of Title V permit number 577855 requires the Respondent to comply with the requirements of 40 C.F.R. Part 63, Subpart UUUUU (National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units). Condition E3-18(a) of Title V permit number 577855 establishes a sulfur dioxide (SO₂) emission limit of 0.2 pounds per million British thermal units under the Input-Based Standard, as per the requirement in Table 2 of Subpart UUUUU.

IX.

On July 22, 2022, the Division received the Respondent’s 40 C.F.R. Part 63, Subpart UUUUU semiannual compliance reports (“Report”) for the period from January 1, through June

30, 2022. The Report indicated that excess SO₂ emissions occurred for five consecutive days, May 17, 2022, to May 21, 2022, due to control equipment malfunctions. The Report and subsequent correspondence indicated the following:

- There were 120 hours of excess emissions due to control equipment failures occurring simultaneously.
- Multiple recycle pumps were out of service for several days. Several recycle pumps were out of service when the board tripped for few hours.
- The inlet damper (2B) was inoperable for one scrubber recycle pump.
- A large section of the upper header was severed which caused another scrubber recycle pump to be out of service.
- On May 20, 2022, the load was first dropped from approximately 650 MW to 500 MW. On May 21, 2022, two recycle pumps were returned to service and the load was dropped from 650 MW to 500 MW as corrective action. On May 21, 2022, the load was increased; however, within the next hour, 2F 6.9 KV board tripped. On May 21, 2022, the load was once again reduced. Once the board malfunction was addressed, load was brought back up on May 22, 2022.

X.

On September 22, 2022, the Division issued a Notice of Violation to the Respondent for failing to comply with condition E3-18 of Title V permit number 577855.

VIOLATIONS

XI.

By failing to comply with condition E3-18 of Title V permit number 577855, the Respondent violated Division Rule 1200-03-09-.02(6), which states, in pertinent part:

Operation of each air contaminant source shall be in accordance with the provisions and stipulations set forth in the operating permit, all provisions of these regulations, and all provisions of the Tennessee Air Quality Act.

ORDER AND ASSESSMENT OF CIVIL PENALTY

XII.

The Respondent is assessed a civil penalty of \$1,500.00 for violation of the Act and Rules, to be paid to the Department at the following address:

Division of Fiscal Services - Consolidated Fees Section
Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 10th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

The civil penalty shall be delivered to the Department on or before the thirty-first day after receipt of this Order and Assessment of Civil Penalty. The case number, APC22-0175, should be clearly written on all correspondence.

RESERVATION OF RIGHTS

In issuing this Order and Assessment of Civil Penalty, the Department does not implicitly or expressly waive any provision of the Act or Rules promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent. The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for future enforcement action.

NOTICE OF RIGHTS

The Respondent may appeal this Order and Assessment. Tenn. Code Ann. §§ 68-201-108(a) and 68-201-116(b). To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Technical Secretary within 30 days of the date the Respondent received this Order and Assessment or this Order and Assessment becomes final. Any petition for review must be directed to:

Commissioner of the Department of Environment and Conservation
c/o Jenny L. Howard, General Counsel
Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 2nd Floor

312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Judge as a contested case hearing. Tenn. Code Ann. § 68-201-108(a); Tenn. Code Ann. § 4-5-301 to -325; Tenn. Comp. R. & Regs. 1360-04-01. Such hearings are legal proceedings in the nature of a trial. Individual respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial respondents (*e.g.*, corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

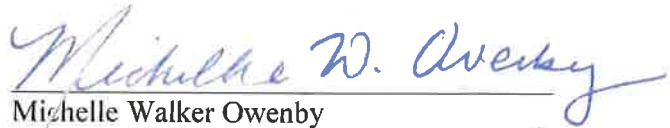
At the conclusion of any initial hearing, the Administrative Judge has the authority to affirm, modify, or deny this Order and Assessment of Civil Penalty, including the authority to increase or decrease the penalty. Tenn. Code Ann. § 68-201-116. The Administrative Judge, on behalf of the Board, has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing, and the hourly fees incurred due to the presence of the Administrative Judge and a court reporter.

Technical questions and other correspondence involving compliance issues should be sent to:

Kevin McLain, Division of Air Pollution Control
Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 15th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

Attorneys should contact the undersigned counsel of record. The case number, APC22-0175, should be written on all correspondence regarding this matter.

Issued by the Technical Secretary, Air Pollution Control Board, Department of Environment and Conservation, on January 20, 2023.


Michelle Walker Owenby
Technical Secretary
Air Pollution Control Board

Reviewed by:



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