



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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## STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO VIRGINIA ELECTRIC AND POWER COMPANY FOR DOMINION-YORKTOWN POWER STATION

Registration No. 60137

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Virginia Electric and Power Company, d/b/a Dominion Virginia Power for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "C.F.R." means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Dominion" means Virginia Electric and Power Company, d/b/a Dominion Virginia Power, a corporation authorized to do business in Virginia. Dominion is a "person" within the meaning of Va. Code § 10.1-1300.
6. "Facility" means the Dominion-Yorktown Power Station power station, including coal-fired Units ES-1 and ES-2, located at 1600 Waterview Road, Yorktown, VA, that generates and supplies electrical energy to the grid.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
9. "Permit" or "Title V Permit" means the Title V Federal Operating Permit to operate a Stationary Source of Air Pollution, which was issued under the Virginia Air Pollution Control Law and Regulations to Dominion for the Facility on December 27, 2007.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 Chapters 10 through 80.
11. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*), of Title 10.1 of the Va. Code.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Dominion owns and operates the power station Facility located at 1600 Waterview Road in Yorktown, Virginia.
2. The Facility is subject to a 2003 Federal Consent Decree ("Decree"), with Decree pertinent conditions subsequently included in the Permit. The Decree Condition 80 and Permit Condition III.A.28 required the Facility to meet a Particulate Matter ("PM") emission limit of 0.030 lb/mmBtu from Units ES-1 and ES-2 at the Facility.
3. The Decree Conditions 81 and 95 and the Permit Conditions III.A.25 and III.D.2. require that stack testing for PM on Units ES-1 and ES-2 be conducted at least once per every four successive quality assurance operating quarters with the results of the testing submitted to DEQ.

4. On June 26, 2014 and July 29/30, 2014, Dominion conducted 40 C.F.R. Part 60, Appendix A, Method 5 PM emission testing on the common stack for coal-fired Units ES-1 and ES-2 at the Facility. Stack tests results were received by DEQ on August 28, 2014 and September 23, 2014, respectively. The stack test results indicated exceedances of the PM emission limit, respectively, as shown in Table 1:

Table 1

Yorktown Power Station Units ES-1 and ES-2 Common Stack Average Test Results						
	Pollutant	Reporting Units	Emission Limit	Sampling Train "A"	Sampling Train "B"	Sampling Trains "A" and "B" Combined Average
Stack Test June 26, 2014	Particulate Matter (PM) by EPA Method 5	lb/MMBtu (O2 based)	0.030	0.043	0.063	0.053
Stack Test July 29/30, 2014	Particulate Matter (PM) by EPA Method 5	lb/MMBtu (O2 based)	0.030	0.036	0.034	0.035

According to records supplied by Dominion, the Units operated the days (24-hour basis) shown in Table 2 following each stack test exceedance of the emission limit:

Table 2

Yorktown Power Station Combined Units ES-1 and ES-2 Operating Hours following stack test exceedances						
	Pollutant	Reporting Units	Emission Limit	Stack Test Result	% over Emission Limit	Operating Days over Emission Limit
Stack Test June 26, 2014	Particulate Matter (PM) by EPA Method 5	lb/MMBtu (O2 based)	0.030	0.053	76.7	18.3 (439.27 hours)
Stack Test July 29/30, 2014	Particulate Matter (PM) by EPA Method 5	lb/MMBtu (O2 based)	0.030	0.035	16.7	7.6 (183.17 hours)

5. On September 4/5, 2014, Dominion conducted 40 C.F.R. Part 60, Appendix A, Method 5 Particulate Matter ("PM") emission testing on the common stack for Units ES-1 and ES-2 at the Facility. By letter dated September 22, 2014, Dominion submitted results of the September 4/5, 2014 stack test. The stack test results indicated compliance at 0.028 lb/mmBtu PM.
6. According to the Dominion letter dated September 22, 2014, the Units ES-1 and ES-2 remained in service following the June 26, 2014 stack test and were removed from service when Dominion received the results of the stack test, indicating non-compliance. The Units were placed back in service for the July 29/30 stack test and the Units were taken out of service immediately after the completion of testing. The units did not return to service until the Units were re-started for a September 4/5,

2014 stack test. The units were immediately removed from service following the stack test, and placed back into service following receipt of results that indicated compliance at 0.028 lb/mmBtu PM (operating hours shown in Table 2).

7. The Permit Condition III.A.28 states "...the PM emission limit for each Unit shall be 0.030 lb/mmBtu..."
8. The 2003 Federal Consent Decree, U.S. et al, v. Virginia Electric and Power Company, Nos. 03-517-A and 03-603-A (E.D. Va. October 3, 2003) Paragraph 80 sets an enforceable PM emission limit of 0.030 lb/mmBtu that is applicable to Yorktown Power Station each Units ES-1 and ES-2.
9. Va. Code § 10.1-1132(A) provides failure to comply with any condition of a permit shall be considered a violation of the Virginia Air Pollution Control Law.
10. On September 22 and October 3, 2014, based on the results of the June 26 and July 29/30, 2014 stack tests, and follow-up information, the Department issued a Notice of Violation to Dominion for the violations described in paragraph C(3), above.
11. Based upon the September 4/5, 2014 stack test results of Units ES-1 and ES-2 for PM as described in paragraph C(4), above, the violations described in paragraph C(3), above, have been corrected.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and 1316, the Board orders Dominion and Dominion agrees to pay a civil charge of \$106,207.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Dominion shall include its Federal Employer Identification Number (FEIN) 54-0418825 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Dominion shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Dominion, for good cause shown by Dominion, or on its own motion pursuant to the

Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For the purposes of this Order and subsequent actions with respect to this Order only, Dominion admits the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
4. Dominion consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Dominion declares it has received fair and due process under the Administrative Process Act, Va. Code and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Dominion to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority. Dominion does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Dominion shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Dominion shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Dominion shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;

- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours and in writing within three business days, of learning of any condition above, which Dominion intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Dominion. Nevertheless, Dominion agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Dominion has completed all of the requirements of the Order;
  - b. Dominion petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Dominion.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Dominion from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Dominion and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Dominion certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Dominion to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Dominion.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Dominion voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 30 day of January, 2015.

Maria R. Nold  
Maria R. Nold, Regional Director  
Department of Environmental Quality

Virginia Electric and Power Company voluntarily agrees to the issuance of this Order.

Date: 1/28/2015 By: Edward H. Baine  
Edward Baine, Vice-President  
Power Generation System Operations  
Virginia Electric and Power Company

**Commonwealth of Virginia**

City/County of Henrico

The foregoing document was signed and acknowledged before me this 28 day of January, 2015, by Edward H. Baine, who is Vice President of Virginia Electric and Power Company on behalf of the corporation.

Amy Leigh Bowers  
Notary Public

7296406  
Registration No.

My commission expires: 07/31/2017  
Notary Seal:

