



COMMONWEALTH of VIRGINIA

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Secretary of Natural Resources

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO VIRGINIA ELECTRIC AND POWER COMPANY, D/B/A DOMINION ENERGY VIRGINIA FOR THE VIRGINIA CITY HYBRID ENERGY CENTER

Registration No. 11526

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, regarding Virginia City Hybrid Energy Center, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permits and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings 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. “CFB” means circulating fluidized bed.
3. “CFR” means the Code of Federal Regulations, as incorporated into the Regulations.
4. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "FCE" means a full compliance evaluation by DEQ staff.
7. "Facility" means the Virginia City Hybrid Energy Center located at 3425 Russell Creek Road, in Wise County, Virginia.
8. "HCl" means Hydrochloric acid.
9. "MACT Permit" means an Article 7 Case-by-Case MACT Permit to construct and operate two circulating fluidized bed boilers which was issued under the Air Pollution Control Law and the Regulations to Virginia City Hybrid Energy Center, approved June 30, 2008 (as amended September 2, 2009, October 23, 2012 and June 26, 2014).
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
11. "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.
12. "PCE" means a partial compliance evaluation by DEQ staff.
13. "PM-2.5" means particulate matter 2.5 micrometers or less in diameter.
14. "PM-10" means particulate matter 10 micrometers or less in diameter.
15. "PSD Permit" means a Prevention of Significant Deterioration (PSD) Permit to modify and operate an electric power generating facility which was issued to Virginia Electric and Power Company, Article 8 permit approved on May 2, 2014.
16. "Regulations" or "Regulations for the Control and Abatement of Air Pollution", means 9 VAC 5 chapters 10 through 80.
17. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
18. "Title V Permit" means the Article 3 Federal Operating Permit to modify and operate an electric power generating facility which was issued to Virginia Electric and Power Company effective January 1, 2014 (modified June 1, 2015, significantly modified September 30, 2015, administrative amendments December 3, 2015 and June 9, 2016).
19. "Va. Code" means the Code of Virginia (1950), as amended.

20. "VAC" means the Virginia Administrative Code.
21. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
22. "Virginia City Hybrid Energy Center" or "VCHEC" means Virginia City Hybrid Energy Center, owned by Virginia Electric and Power Company, a company authorized to do business in Virginia and its affiliates, partners and subsidiaries. Virginia City Hybrid Energy Center is a "person" within the meaning of Va. Code § 10.1 - 1300.

SECTION C: Findings of Facts and Conclusions of Law

1. Virginia Electric and Power Company owns and operates the Facility in Wise County, Virginia. The Facility is the subject of the Title V, PSD and MACT Permits which allow the company to operate the electric power generating facility.
2. On August 10, 2017, DEQ staff conducted a FCE at the Facility for review of the permit conditions and records. Biomass fuel had not been sampled and analyzed for chlorides, fluorides, and mercury and spreadsheet calculation check did not provide lb/hr and lb/MMBtu estimates for comparison to applicable emission limits. Sampling for sulfur and BTU content had been conducted.
3. Condition No. 26 of the Title V Permit, Condition No. 23 of the PSD Permit and Condition No. 9 of the MACT Permit state in part, "The permittee shall sample and analyze the fuel as fired in each CFB boiler for mercury, fluorides, chlorides, sulfur and Btu content...Results of analyses shall be used in calculations to verify compliance with mercury, hydrogen fluoride, hydrogen chloride and sulfuric acid mist emission limits for the CFB boilers..."
4. 9 VAC 5-80-490 E states in part: "Each permit shall contain terms and conditions setting out the following requirements with respect to monitoring: 1. All emissions monitoring and analysis procedure or test methods required under the applicable monitoring and testing requirements, including 40 CFR Part 64 and any other procedures and methods promulgated pursuant to § 504(b) or § 14(a)(3) of the federal Clean Air Act concerning compliance monitoring, including enhanced compliance monitoring..."
5. 9 VAC 5-80-1470 states in part: "A. No permit shall be granted pursuant to this article unless it is shown to the satisfaction of the board that the source will be designed, built and equipped to operate without causing a violation of the applicable provisions of the regulations of the board and that the following standards have been met:...D.10. Other requirements as may be necessary to ensure compliance with the applicable regulations."

6. 9 VAC 5-80-1985 E. states: "Permits issued under this article shall be subject to such terms and conditions set forth in the permit as the board may deem necessary to ensure compliance with all applicable requirements of the regulations of the board."
7. 40 CFR 63.43(g) states in part: "... (2) The Notice of MACT Approval will specify any notification, operation and maintenance, performance testing, monitoring, reporting and record keeping requirements. The Notice of MACT Approval shall include: (i) In addition to the MACT emission limitation or MACT work practice standards established under this subpart, additional emission limits, production limits, operational limits or other terms and conditions necessary to ensure Federal enforceability of the MACT emission limitation..."
8. 9 VAC 5-170-160(A) states: "The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals. This section shall apply, but not be limited, to approval of variances, approval of control programs, and granting of permits."
9. Va. Code § 10.1-1322(A) gives the Department the authority to issue, amend, revoke or terminate and reissue permits, and failure to comply with any condition of a permit is considered a violation of the Air Pollution Control Law.
10. On September 25, 2017, based on the results of the August 10, 2017 FCE, the Department issued a Notice of Violation No. ASWRO000715 to Virginia Electric and Power Company for the alleged violations described in paragraphs C(2) through C(9) above.
11. On October 4, 2017, the Department received a telephone response and on October 19, 2017 a detailed electronic response to the NOV from the Facility. The response detailed the steps the Facility had taken to sample and analyze for all required pollutants and include in the spreadsheet calculation the lb/hr and lb/MMBtu estimates for comparison to applicable emission limits.
12. On October 26, 2017, DEQ staff conducted a PCE for review of the performance test results from testing of the CFB boilers conducted at the Facility on August 10, 2017. Review of the submitted report demonstrated the test results for Unit 11 for HCl emissions were <0.0049 lb/MMBtu and <14.69 lb/hr and test results for Unit 12 for PM-10 and PM-2.5 emissions were 0.13 lb/MMBtu.
13. Condition No. 18 of the Title V Permit and Condition No. 13 of the MACT

Permit limit HCL emissions to 0.0029 lb/MMBtu and 9.08 lb/hr.

14. Condition No. 18 of the Title V Permit, Condition No. 29 of the PSD Permit and Condition No. 13 of the MACT Permit limit PM-10 and PM-2.5 emissions to 0.012 lb/MMBtu.
15. 9 VAC 5-50-280 states: "A. For major stationary sources located in prevention of significant deterioration areas, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of that resultant from using best available control technology, as reflected in any condition that may be placed upon the permit approval for the facility..."
16. 9 VAC 5-80-1705 B. states: "A new stationary source shall apply best available control technology for each regulated NSR pollutant that it would have the potential to emit in significant amounts."
17. On October 13, 2017, the Department received the stack test protocol for re-testing for HCL and PM-10 and PM-2.5 for CFB Units 11 and 12. The anticipated testing date was submitted as November 13, 2017.
18. On November 2, 2017, based on the results of the October 26, 2017 PCE, the Department issued a Notice of Violation No. ASWRO000715-002 to Virginia Electric and Power Company for the alleged violations described in paragraphs C(12) through C(16), above.
19. On November 8, 2017, the Department spoke with Virginia Electric and Power Company via teleconference regarding the November 2, 2017 NOV and on November 22, 2017 received a detailed electronic response to the NOV from the Facility.
20. On November 14, 2017, the Facility conducted re-testing of Unit 11 for HCL emissions and Unit 12 for PM10 / PM2.5 emissions. The official report has not been received however through verbal communication with the Facility, all test results are confirmed within permit emission limitations.
21. Based on the results of the August 10, 2017 FCE, the October 4, 2017 response, the October 19, 2017 written response, the October 26, 2017 PCE, and the November 8, 2017 response the Board concludes that Virginia Electric and Power Company has violated Conditions 18 and 26 of the Title V Permit, Conditions 23 and 29 of the PSD Permit, Conditions 9 and 13 of the MACT Permit, 9 VAC 5-80-490, 9 VAC 5-80-1470, 9 VAC 5-80-1705, 9 VAC 5-80-1985E and 40 CFR 63.43(g) as described in paragraphs C(2) through C(9) and paragraphs C(12) through C(16), above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and - 1316, the Board orders Virginia Electric and Power Company and Virginia Electric and Power Company agrees to:

Pay a civil charge of \$73,351 within 30 days of the effective date of the Order in settlement of the violation cited in this Order.

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

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

Virginia Electric and Power Company shall include its Federal Employer Identification Number (FEIN) 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, Virginia Electric and Power Company 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 Virginia Electric and Power Company for good cause shown by Virginia Electric and Power Company, 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 only those violations specifically identified in Section C of this Order, NOV No.ASWRO000715 dated September 25, 2017, and NOV No.ASWRO000715-002 dated November 2, 2017. This Order shall not preclude the Board or 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 purposes of this Order and subsequent actions with respect to this Order only, Virginia Electric and Power Company is not contesting the jurisdictional allegations, findings of fact, and conclusions of law contained herein. The parties do not authorize any other persons to use the findings or conclusions of law in this Order in any matter or proceeding.

4. Virginia Electric and Power Company 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. Virginia Electric and Power Company declares it has received fair and due process under the Administrative Process Act 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 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 or Director to modify, rewrite, amend, or enforce this Order.
6. Failure by Virginia Electric and Power Company 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.
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. Virginia Electric and Power Company 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Virginia Electric and Power Company shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Virginia Electric and Power Company shall notify 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 this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of 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 verbally within 24 hours and in writing

within three business days, of learning of any condition listed above, which the parties intend to assert will result in the impossibility of compliance, shall constitute 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 Virginia Electric and Power Company. Nevertheless, Virginia Electric and Power Company 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 Virginia Electric and Power Company has completed all of the requirements of the Order.
 - b. Virginia Electric and Power Company 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 Virginia Electric and Power Company.

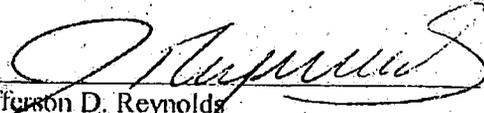
Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Virginia Electric and Power Company from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Virginia Electric and Power Company 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 Virginia Electric and Power Company 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 Virginia Electric and Power Company to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Virginia Electric and Power Company.
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, Virginia Electric and Power Company voluntarily agrees to the issuance of this Order.

And it is ORDERED this 5th day of January, 2018



Jefferson D. Reynolds
Director, Division of Enforcement
Virginia Department of Environmental Quality

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

Date: 01-04-2018

By: Pamela Faggert

Pamela F. Faggert, Chief Environmental Officer and Senior Vice President – Sustainability
Virginia Electric and Power Company

Commonwealth of Virginia

City/County of Henrico

The foregoing document was signed and acknowledged before me this 4th day of
January, 2018 by Pamela F. Faggert who is
Senior Vice President of Virginia Electric and Power Company, on
behalf of the corporation.

Angela B. Fitzgerald
Notary Public

7022016

Registration No.

My commission expires: 3/31/18



Notary Seal:

**COMMONWEALTH of VIRGINIA
DEPARTMENT of ENVIRONMENTAL QUALITY
SOUTHWEST REGIONAL OFFICE**

MEMORANDUM

TO: Dominion Energy – Virginia City Hybrid Energy Center – reg# 11526 file

FROM: Crystal Bazyk - Enforcement and Air Compliance Monitoring Manager *CCB*

SUBJECT: Consent Order effective 1-5-18 / terminated 2-5-18 for
Virginia Electric and Power Company, d/b/a Dominion Energy Virginia for the Virginia
City Hybrid Energy Center – reg# 11526

DATE: February 20, 2019

Upon recent review of the Order by Consent effective January 5, 2018 and terminated February 5, 2018, issued to Virginia Electric and Power Company, d/b/a Dominion Energy Virginia for the Virginia City Hybrid Energy Center, an error was found in Condition #12 of the Order by Consent.

The Order by Consent effective January 5, 2018 and terminated February 5, 2018, states in Section C Condition #12 (page 4 of 10): "...Review of the submitted report demonstrated the test results ...for Unit 12 for PM-10 and PM-2.5 emissions were 0.13 lb/MMBtu."

The correct test results for CFB boiler Unit 12 for PM-10 and PM-2.5 emissions was 0.013 lb/MMBtu.

The October 26, 2017 stack test report submitted by the Facility for testing conducted on August 10, 2017 for CFB boiler Unit 12 documents 0.013 lb/MMBtu PM-10 and PM-2.5 as the emission test result. Additionally, DEQ inspection report dated October 30, 2017, documents 0.013 lb/MMBtu PM-10 and PM-2.5 as the emission test result and all additional enforcement documents incorporate the correct 0.013 lb/MMBtu PM-10 and PM-2.5 as the emission test result.