



# **COMMONWEALTH of VIRGINIA**

## **DEPARTMENT OF ENVIRONMENTAL QUALITY**

PIEDMONT REGIONAL OFFICE

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Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

Michael P. Murphy  
Regional Director

### **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO VIRGINIA ELECTRIC AND POWER COMPANY Registration Number 52404**

#### **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 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. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facility" means VEPCO's Brunswick facility, a gas-fired electric power generation plant, located at 20100 Governor Harrison Parkway, Freeman, Virginia.
5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
6. "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.
7. "PCE" means a partial compliance evaluation by DEQ staff.
8. "Permit" means a Prevention of Significant Deterioration permit issued under the Virginia Air Pollution Control Law and the Regulations to VEPCO for the Facility, Registration Number 52404, on January 28, 2015.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "VEPCO" means Virginia Electric and Power Company, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. VEPCO is a "person" within the meaning of Va. Code § 10.1-1300.
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. Virginia Electric and Power Company owns and operates the Facility in Freeman, Brunswick County, Virginia. The Facility is an electric power generation plant.
2. On April 2, 2015, DEQ staff received a letter from Dominion Resources Services, Inc. on behalf of VEPCO, disclosing that VEPCO had installed two additional circuit breakers not listed in the Permit and had received delivery of a third circuit breaker at the construction site.
3. On April 9, 2015, DEQ staff reviewed the April 2, 2015, letter and documented this review in a PCE. Based on this review, DEQ staff made the following observations:

The Permit allowed installation and operation of 11 circuit breakers. These circuit breakers contain sulfur hexafluoride (SF6), a greenhouse gas (GHG). SF6 is rated to have 22,800 to 1 greenhouse gas equivalency. The April 2, 2015 disclosure letter from VEPCO reported the installation of two additional circuit breakers for a total of 13. The two additional circuit breakers were installed without the required permit changes. DEQ staff determined that the installation of the two additional circuit breakers is subject to the Significant Amendment Procedures listed under Chapter 80, Article 8, 9VAC5-80-1955. The two additional circuit breakers had not been loaded with SF6. This means that the emissions units were not operated without a permit. The circuit breakers that were constructed without a permit are designated as CB-13(Unit 1B) and CB-14(Unit 1C).

4. 9VAC5-80-1955 of the Regulations "Significant Amendment Procedures" states in paragraph E, "The owner shall not make the change applied for in the significant amendment request until the amendment is approved by the board under subsection D of this section."
5. Va. Code § 10.1-1322 states that "failure to comply with any condition of a permit shall be considered a violation of the Air Pollution Control Board."
6. On April 14, 2015, the Department issued Notice of Violation No. APRO000134-001, for the violations as described above.
7. Based on the information submitted in the April 2, 2015, letter and the results of the April 9, 2015 PCE, the Board concludes that VEPCO violated 9VAC5-80-1955(E), as described in Section C, above.
8. VEPCO has completed the corrective actions by applying for a modification to the Permit to install and operate three additional Circuit breakers. On May 13, 2015, DEQ issued a significant amendment to VEPCO's Prevention of Significant Deterioration (PSD) Permit for the Facility, which superseded its January 28, 2015, PSD Permit. VEPCO has performed the corrective actions that demonstrate the violations described in Section C above, have been addressed.

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

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

1. Pay a civil charge of **\$22,984** 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", delivered to:

Receipts Control  
Department of Environmental Quality

Post Office Box 1104  
Richmond, Virginia 23218

VEPCO 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).

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of VEPCO, for good cause shown by VEPCO, 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 purposes of this Order and subsequent actions with respect to this Order only, VEPCO admits the jurisdictional allegations, the findings of fact, and conclusions of law in this Order.
4. VEPCO 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. VEPCO declares it has received fair and due process under the Administrative Process Act and 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 VEPCO 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. VEPCO 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. VEPCO shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. VEPCO 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.

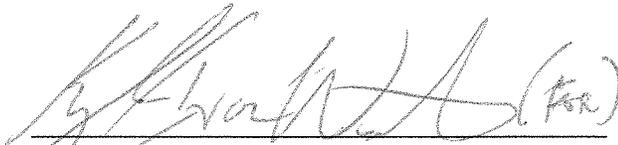
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement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

9. This Order is binding on the parties hereto and any 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 VEPCO. Nevertheless, VEPCO 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 VEPCO has completed all of the requirements of the Order; or
  - b. VEPCO 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 VEPCO.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve VEPCO 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 VEPCO 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 VEPCO 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 VEPCO to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of VEPCO.
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, VEPCO voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 1<sup>st</sup> day of September, 2015.

  
Michael P. Murphy, Regional Director  
Department of Environmental Quality

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

Date: 8/25/2015 By: Mark D. Mitchell, Vice President Generation Construction  
Mark D. Mitchell (Title)  
Virginia Electric and Power Company

State of Virginia  
City/County of HENRICO

The foregoing document was signed and acknowledged before me this 25<sup>TH</sup> day of  
AUGUST, 2015, by MARK D. MITCHELL, who is  
(name)

VP GENERATION CONSTRUCTION of Virginia Electric and Power Company on behalf of the  
company.

Kathy W. Prokopis  
Notary Public  
253183  
Registration No.

My commission expires: SEPT. 30, 2016

Notary seal:

