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Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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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 alleged violations of the Virginia Air Pollution Control Law and the applicable permits and regulations. The parties to this Consent Order acknowledge that Virginia Electric and Power Company agrees not to contest, but does not admit, that it committed the violations addressed.

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. "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. "Facility" means the Virginia City Hybrid Energy Center located at 3425 Russell Creek Road, in Wise County, Virginia.

6. "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).

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. "PCE" means a partial compliance evaluation by DEQ staff.

10. "PM-2.5" means particulate matter 2.5 micrometers or less in diameter.

11. "PM-10" means particulate matter 10 micrometers or less in diameter.

12. "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.

13. "Regulations" or "Regulations for the Control and Abatement of Air Pollution", means 9 VAC 5 chapters 10 through 80.

14. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.

15. "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).

16. "Va. Code" means the Code of Virginia (1950), as amended.

17. "VAC" means the Virginia Administrative Code.

18. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

19. "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 Electric and Power Company 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 allows the company to operate the electric power generating facility.

2. On April 23, 2019, the Facility conducted an annual performance test of the CFB Unit 11 boiler as required by the MACT Permit, PSD Permit and Title V Permit.

3. On May 16, 2019, DEQ received a voicemail and electronic correspondence regarding the laboratory results received for the performance test of CFB Unit 11 boiler which indicated non-compliance with the total particulate matter/condensable permit limit. CFB Unit 11 boiler came offline on May 4, 2019, for economic reasons and was removed from dispatchable service immediately upon receipt of the preliminary laboratory results on May 16, 2019. On June 20, 2019, the Facility submitted correspondence detailing the results of the performance test of CFB Unit 11 boiler and corrective actions taken and in depth investigation into the cause of the testing results.

4. On May 30, 2019, the Facility conducted a retest of CFB Unit 11 boiler for particulate matter. CFB Unit 11 was operated specifically to perform retesting and was promptly removed from dispatchable service following the testing.

5. On June 27, 2019, representatives of the Facility met with DEQ to discuss the preliminary test results for the performance test of the CFB Unit 11 boiler.

6. On July 1, 2019, DEQ received documentation regarding the laboratory results for Particulate Matter/condensable results from the annual performance test of CFB Unit 11 boiler on April 23, 2019.

7. On July 16, 2019, DEQ staff conducted a PCE for review of the performance test results from testing of the CFB Unit 11 boiler conducted at the Facility on April 23, 2019. Review of the submitted report demonstrated the test results for Unit 11 for PM-10 and PM-2.5 emissions were <0.017 lb/MMBtu and <55.23 lb/hr.

8. 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 and 37.58 lb/hr.

9. 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…"

10. 9 VAC 5-80-490 states: "Each permit shall contain terms and conditions setting out the following requirements with respect to emission limitations and standards: 1. The permit shall specify and reference applicable emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of the permit issuance…"

11. 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."

12. On July 17, 2019, based on the results of the July 16, 2010 PCE, the Department issued a Notice of Violation No. ASWRO001250 to Virginia Electric and Power Company for the alleged violations described in paragraphs C(7) through C(11) above.

13. On July 18, 2019, the Department received a telephone response to the NOV from the Facility. On July 22, 2019, the Department spoke with Virginia Electric and Power Company via teleconference regarding the July 17, 2019 NOV.

14. On July 26, 2019, the Department received the performance test results from retesting of CFB Unit 11 conducted on May 30, 2019. On September 10, 2019, DEQ performed a PCE on the performance test report for retesting of CFB Unit 11 and results indicated that PM-10 and PM-2.5 emissions were below permit limits for CFB 11.

15. On August 15, 2019, the Department received detailed electronic correspondence regarding the event investigation and corrective action taken in response to the alleged violations cited in the NOV. The correspondence detailed the event investigation of the April 23, 2019 test for the cause of the elevated inorganic condensable PM, which the Facility believes was partially the results of artifact formation in the test equipment and not from CFB Unit 11. The correspondence also described operational adjustments and corrective actions taken.

16. Based on the results of the July 16, 2019 PCE, the July 18, 2019 response, the July 22, 2019 teleconference, and the August 15, 2019 correspondence, the Board concludes that Virginia Electric and Power Company has violated Condition 18 of the Title V Permit, Condition 29 of the PSD Permit, Condition 13 of the MACT

Permit, 9 VAC 5-50-280, 9 VAC 5-80-490 and 9 VAC 5-80-1705 as described in paragraphs C(7) through C(11), 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 $32,550 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 and NOV No.ASWRO001250 dated July 17, 2019. 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, and subject to Section A above, 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 21st day of October, 2019

Jeffrey L. Hurst – Regional Director
Department of Environmental Quality

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

Date: 10/17/19

By: Amanda Tornabene

Amanda B. Tornabene, Vice President – Environmental Services
Virginia Electric and Power Company

Commonwealth of Virginia

City/County of Henrico

The foregoing document was signed and acknowledged before me this 17th day of October, 2019 by Amanda Tornabene who is Vice President of Virginia Electric and Power Company, on behalf of the corporation.

Angela B. Fitzgerald
Notary Public

7022016
Registration No.

My commission expires: 3-31-2022

Notary Seal:

ANGELA B. FITZGERALD
NOTARY PUBLIC
REGISTRATION # 7022016
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
MARCH 31, 2022