



Oregon

Kate Brown, Governor

Department of Environmental Quality

Headquarters
811 SW Sixth Avenue
Portland, OR 97204-1390
(503) 229-5696
FAX (503) 229-6124
TTY: 711

November 24, 2015

CERTIFIED MAIL No. 7011 2000 0000 5122 8759

Portland General Electric Company
c/o Stephen A. Redshaw, Registered Agent
121 SW Salmon Street
Portland, OR 97204

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/V-NWR-15-173

This letter is to inform you that DEQ has issued you a civil penalty of \$7,200 for exceeding the nitrogen oxides (NO_x) three-hour rolling average limit, in violation of your Oregon Title V Operating Permit (Permit). The violation occurred on July 9, 2015, at your Port Westward Power Plant at 80997 Kallunki Road, Clatskanie, Oregon.

DEQ issued this penalty because the NO_x limit in your permit is a Best Available Control Technology (BACT) standard pursuant to the federal Prevention of Significant Deterioration program to protect public health and the airshed from degradation caused by emissions from your power plant. NO_x can irritate the lungs, cause bronchitis and pneumonia, and lower resistance to respiratory infections. They are an important precursor to both ozone and acid rain, and may affect both terrestrial and aquatic ecosystems.

DEQ appreciates your efforts to mitigate the effects of the violation by switching the ammonia injection system into manual mode to reduce the NO_x emissions and providing additional training to your employees with your systems' vendors. DEQ considered these efforts when determining the amount of civil penalty.

If you wish to appeal this matter, you have 20 calendar days from receipt of this letter to request a contested case hearing. This hearing request must be in writing. Send your hearing request to DEQ Office of Compliance and Enforcement – Appeals:

Via mail - 811 S.W. 6th Ave., Portland, OR 97204

Via fax - 503-229-5100

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a written hearing request from you within 20 days, the penalty will become due. Alternatively, you can pay the penalty by sending a check or money order to the above address.

The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review it and refer to it when discussing this case with DEQ.

DEQ may allow you to resolve part of your penalty through the completion of a Supplemental Environmental Project (SEP). SEPs are environmental improvement projects that you sponsor in lieu of paying your penalty. Enclosed is more detail on how to pursue a SEP. SEP documents are



Portland General Electric Company

AQ/V-NWR-15-173

Page 2

available on the internet at <http://www.deq.state.or.us/programs/enforcement/SEP.htm>, or by calling the number below to request a paper copy.

DEQ's rules are available on the internet at <http://www.deq.state.or.us/regulations/rules.htm>, or by calling the number below to request a paper copy.

If you have any questions, please contact DEQ Environmental Law Specialist Jenny Root, at (503) 229-5874. You may call toll-free within Oregon at 1-800-452-4011, extension 5874.

Sincerely,



Leah K. Feldon, Manager
Office of Compliance and Enforcement

Enclosures

cc: Patty Jacobs, Northwest Region office, DEQ
Elysia Treanor, Environmental Services Department, Portland General Electric Company
121 SW Salmon Street, Portland, OR 97204

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 PORTLAND GENERAL ELECTRIC) ASSESSMENT AND ORDER
5 COMPANY,)
an Oregon corporation,) NO. AQ/V-NWR-15-173
6 Respondent.)

6 I. AUTHORITY

7 This Notice of Civil Penalty Assessment and Order is issued pursuant to Oregon Revised
8 Statutes (ORS) 468.100 and 468.126 through 468.140, ORS Chapters 183 and 468A, and Oregon
9 Administrative Rules (OAR) Chapter 340, Divisions 011, 012, 200, 218 and 224.

10 II. FINDINGS OF FACT

11 1. Respondent owns and operates an electric generation power plant at 81566
12 Kallunki Road, Clatskanie, Oregon (the Facility).

13 2. On January 21, 2009, the Department of Environmental Quality (DEQ) issued
14 Oregon Title V Operating Permit No. 05-2520 (Permit) to Respondent. The Permit was in effect
15 at all material times.

16 3. The Permit authorizes Respondent to discharge air contaminants from the Facility
17 in conformance with the requirements, limitations and conditions set forth in the Permit.

18 4. Condition 45 of the Permit prohibits Respondent from causing or allowing
19 nitrogen oxide (NO_x) emissions from its natural gas-fired turbine (EU PWEU1) that exceed 2.5
20 parts per million by volume, dry (ppmvd) on a three-hour rolling average. This is a Best
21 Available Control Technology (BACT) limit pursuant to OAR 340-224-0070(2).

22 5. On July 9, 2015, Respondent notified DEQ of an excess emission event at the
23 Facility. According to the excess emission logs for that day, the three-hour rolling average for
24 NO_x emissions from EU PWEU1 during the 9:00 am hour were 2.8 ppmvd.

25 III. CONCLUSION

26 On July 9, 2015, Respondent violated Condition 45 of the Permit, ORS 468A.045(2), and
27 OAR 340-224-0070(2), adopted pursuant to ORS 468A.025, by causing or allowing NO_x

1 emissions from EU PWEU1 to exceed the 2.5 ppmvd three-hour rolling average, as described in
2 Section II, Paragraph 5 above. This is a Class I violation, according to OAR 340-012-0054(1)(g).
3 DEQ hereby assesses a \$7,200 civil penalty for this violation.

4 IV. ORDER TO PAY CIVIL PENALTY

5 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is
6 hereby ORDERED TO:

7 Pay a total civil penalty of \$7,200. The determination of the civil penalty is attached as
8 Exhibit No. 1 and is incorporated as part of this Notice.

9 If you do not file a request for hearing as set forth in Section V below, your check or money
10 order must be made payable to "**State Treasurer, State of Oregon**" and sent to the
11 **DEQ, Business Office, 811 S.W. Sixth Avenue, Portland, Oregon 97204**. Once you pay the
12 penalty, the Findings of Fact, Conclusions and Order become final.

13 V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

14 You have a right to a contested case hearing on this Notice, if you request one in writing.
15 You must ensure that DEQ receives the request for hearing **within 20 calendar days** from the
16 date you receive this Notice. If you have any affirmative defenses or wish to dispute any
17 allegations of fact in this Notice or attached exhibits, you must include them in your request for
18 hearing, as factual matters not denied will be considered admitted, and failure to raise a defense
19 will be a waiver of the defense. (See OAR 340-011-0530 for further information about requests
20 for hearing.) You must mail the request for hearing to: **DEQ, Office of Compliance and**
21 **Enforcement - Appeals, 811 SW Sixth Avenue, Portland, Oregon 97204**, or fax it to **503-229-**
22 **5100**. An administrative law judge employed by the Office of Administrative Hearings will
23 conduct the hearing, according to ORS Chapter 183, OAR Chapter 340, Division 011 and OAR
24 137-003-0501 to 0700. You have a right to be represented by an attorney at the hearing, or you
25 may represent yourself unless you are a corporation, agency or association.

26 Active duty service-members have a right to stay proceedings under the federal
27 Servicemembers Civil Relief Act. For more information, please call the Oregon State Bar at

1 1(800) 452-8260 or the Oregon Military Department at 1(800) 452-7500. Additional information
2 can be found online at the United States Armed Forces Legal Assistance (AFLA) Legal Services
3 Locator website, <http://legalassistance.law.af.mil/content/locator.php>.

4 If you fail to file a request for hearing in writing within 20 calendar days of receipt of the
5 Notice, the Notice will become a final order by default without further action by DEQ, as per
6 OAR 340-011-0535(1). If you do request a hearing but later withdraw your request, fail to attend
7 the hearing, or notify DEQ that you will not be attending the hearing, DEQ will issue a final
8 order by default pursuant to OAR 340-011-0535(3). DEQ designates the relevant portions of its
9 files, including information submitted by you, as the record for purposes of proving a prima facie
10 case.

11
12
13 Date

11/24/15


14 Leah K. Feldon, Manager
15 Office of Compliance and Enforcement
16
17
18
19
20
21
22
23
24
25
26
27

EXHIBIT NO. 1

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

VIOLATION: Causing or allowing NO_x emissions from EU PWEU1 to exceed 2.5 ppmvd on a three-hour rolling average, in violation of Condition 45 of Respondent's Oregon Title V Operating Permit, ORS 468A.045(2) and OAR 340-224-0070(2).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0054(1)(g).

MAGNITUDE: The magnitude of the violation is moderate, pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 for this violation and the information reasonably available to DEQ does not indicate a minor or major magnitude.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is:
$$BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$$

"BP" is the base penalty, which is \$6,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(A) because Respondent operates the facility under an Oregon Title V Operating Permit.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(17), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 2 according to OAR 340-012-0145(2)(a)(C), because Respondent had one Class I prior significant action in case no. AQ/V-NWR-13-125 issued November 12, 2013.

"H" is Respondent's history of correcting prior significant actions and receives an initial value of -2 according to OAR 340-012-0145(3)(a), because Respondent corrected all violations cited as prior significant actions. However, according to OAR 340-012-0145(3)(d), this value is increased to -1 because the sum of the "P" and "H" factors may not be less than 1 unless Respondent took extraordinary efforts to correct or minimize the effects of all prior significant actions. Respondent took reasonable, but not extraordinary efforts to correct or minimize the effects of all prior significant actions.

"O" is whether the violation was repeated or ongoing and receives a value of 0 according to OAR 340-012-0145(4)(a), because there was only one occurrence of the violation.

- "M" is the mental state of Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c), because Respondent's conduct was negligent. Respondent failed to take reasonable care to ensure that its continuous emission monitoring system and ammonia injection system were working in their proper operating or maintenance modes while maintenance upgrades were being performed on the systems to avoid the foreseeable risk that NO_x emissions would exceed the levels allowed by the Permit.
- "C" is Respondent's efforts to correct the violation and receives a value of -3 according to OAR 340-012-0145(6)(c), because Respondent took reasonable affirmative efforts to minimize the effects of the violation by switching the ammonia injection over to manual operation to increase the ammonia injection rate that controls NO_x emissions. Additionally, Respondent established new protocol for maintenance procedures and sent employees to outside vendor training on their systems to prevent future violations.
- "EB" is the approximate economic benefit that Respondent gained by not complying with the law. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$0 as any economic benefit obtained would likely be de minimis.

PENALTY CALCULATION:

$$\begin{aligned}
 \text{Penalty} &= \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB} \\
 &= \$6,000 + [(0.1 \times \$6,000) \times (2 - 1 + 0 + 4 + -3)] + \$0 \\
 &= \$6,000 + (\$600 \times 2) + \$0 \\
 &= \$6,000 + \$1,200 + \$0 \\
 &= \$7,200
 \end{aligned}$$