



**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Air Pollution Control
Davy Crockett Tower
500 James Robertson Parkway, 7th Floor
Nashville, TN 37243**

David H. Stanifer
1735 Main Street
Tazewell, Tennessee 37879-3413

Certified Article Number

9414 7266 9904 2240 2602 01

SENDER'S RECORD

RE: Powell Valley Electric Cooperative
Facility Id. 34-0014
Case No. APC25-0154

Dear Mr. Stanifer:

Enclosed, please find an Order and Assessment of Civil Penalty issued by Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, Department of Environment and Conservation. Please read it carefully and pay special attention to the Notice of Rights section.

If you have any questions regarding this Order and Assessment of Civil Penalty, please contact Kevin McLain at air.pollution.control@tn.gov. For all other questions, please contact the Division of Air Pollution Control at (615) 532-0554 or air.pollution.control@tn.gov.

Sincerely,

Kevin McLain
Section Manager, Enforcement
Division of Air Pollution Control

vom

Enclosure

**STATE OF TENNESSEE
AIR POLLUTION CONTROL BOARD**

IN THE MATTER OF:	)	DIVISION OF AIR POLLUTION
	)	CONTROL
	)	
POWELL VALLEY ELECTRIC	)	
COOPERATIVE,	)	
	)	
	)	
	)	
RESPONDENT.	)	CASE NO. APC25-0154

**TECHNICAL SECRETARY'S ORDER AND
ASSESSMENT OF CIVIL PENALTY**

Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, states:

PARTIES

I.

Michelle Walker Owenby is the Technical Secretary of the Air Pollution Control Board ("Board") and Director of the Division of Air Pollution Control ("Division"), Department of Environment and Conservation ("Department").

II.

Powell Valley Electric Cooperative ("Respondent") is a foreign nonprofit corporation formed in Virginia and authorized to do business in Tennessee. The Respondent's facility address is 8806 Kyles Ford Highway, Kyles Ford, Tennessee 37765. The Respondent's registered agent for service of process is David H. Stanifer, 1735 Main Street, Tazewell, Tennessee 37879-3413.

AUTHORITY

III.

The Technical Secretary may assess a civil penalty of up to \$25,000 per day for each day of violation of the Tennessee Air Quality Act, Tenn. Code Ann. §§ 68-201-101 to -121 ("Act"), or Tennessee Air Pollution Control Regulations, Tenn. Comp. R. & Regs. 1200-03-01 to -36; 0400-30-01 to -39, ("Rules"). Tenn. Code Ann. § 68-201-116. The Technical Secretary may issue an order for correction to the responsible person when provisions of the Act or Rules are violated, and such person may be liable for resulting damages to the State. *Id.*

IV.

The Respondent is a “person,” Tenn. Code Ann. § 68-201-102(7), and has violated the Act and Rules.

V.

“Air contaminant” means particulate matter, dust, fumes, gas, mist, smoke, vapor, or any combinations thereof. Tenn. Code Ann. § 68-201-102(1).

VI.

“Air contaminant source” means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Tenn. Code Ann. § 68-201-102(2). The Respondent operates an air contaminant source.

FACTS

VII.

On February 25, 2019, the Technical Secretary issued Major Source operating permit (“Title V”) permit number 573138, (facility 34-0014), to the Respondent for eleven (11) 2,628 Horsepower Diesel-Fired Generator Engines that provide back-up utility power to the Tennessee Valley Authority during periods of high demand. Title V permit number 573138 expired on February 24, 2024.

VIII.

Condition E4-11. of Title V permit number 573138 states, in pertinent part:

The permittee must comply with the following requirements for the demand response stationary compression ignition RICE:

(a) Operating Limitations

- (1) Maintain the catalyst so that the pressure drop across the catalyst does not change by more than **two (2) inches** of water from the pressure drop across the catalyst that is measured during the **latest** performance test;
- (2) Maintain the temperature of the stationary RICE exhaust so that the catalyst inlet temperature is greater than or equal to 450°F and less than or equal to 1350°F. Pursuant to 40 CFR 63.8(f), the

permittee can petition the Technical Secretary for a different temperature range.

IX.

Condition E4-18. of Title V permit number 573138 states, in pertinent part:

The permittee must minimize the engine's time spent at idle during start-up and minimize the engine's start-up time to a period needed for appropriate and safe loading of the engine, not to exceed thirty (30) minutes, after which time the emission standards applicable to all times other than start-up in **Condition E4-11** of this permit apply.

X.

Condition E4-21. of Title V permit number 573138 states, in pertinent part:

The permittee must demonstrate continuous compliance with each emission limitation, operating limitation, and other requirements in **Condition E4-11** of this permit according to methods described in (a) through (e) of this condition.

(a) Conducting performance tests according to **Condition E4-14**, for CO to demonstrate that the required CO percent reduction is achieved or that the emissions remain at or below the CO concentration limit; and

(b) Collecting the catalyst inlet temperature data according to 40 CFR§63.6625(b); and

(c) Reducing these data to four (4) hour rolling averages. If the engine operates for less than four (4) hours, then the four (4) hour average would need to include data from the previous time the engine is operated, or the next time the engine is operated. (For example, if the engine only operates three (3) hours, the permittee shall not compute the four (4) hour average from just those three (3) hours of the data; the permittee shall compute the four (4) hour average from those three (3) hours PLUS the last hour average from the previous time the engine operated or the next hour average if the engine never operated before.)¹ ; and

(d) Maintaining the four (4) hour rolling averages within the operating limitations for the catalyst inlet temperature; and

(e) Measuring the pressure drop across the catalyst once per month and demonstrating that the pressure drop across the catalyst is within the operating limitation established during the performance test. If a RICE does not operate during a given calendar month, the permittee does not have to start-up the RICE solely for the purpose of recording the pressure drop. The permittee shall record the pressure drop immediately upon the next start-up of the RICE. The compliance report required in 40 CFR§63.6650 of 40 CFR part 63, subpart ZZZZ (**Conditions**

E4-27 through E4-31) shall identify the operational status of the RICE to substantiate the basis of any calendar month for which the pressure drop was not measured.¹

Compliance Method: A log of the inlet temperature and pressure drop across the catalyst for **each** engine must be maintained at the facility or the Powell Valley Electric Cooperative office in New Tazewell, Tennessee, in a form that readily provides the information required in the following table (see example below), and kept available for inspection by the Technical Secretary or a Division representative. All data, including all required calculations, must be entered into the log no later than seven (7) days from the end of the day for which the data is required. This log must be retained for a period of not less than five (5) years

XI.

On February 28, 2025, Division personnel conducted a compliance inspection at the Respondent's facility. on March 11, 2025, Division personnel conducted a follow-up visit to review compliance records at the Respondent's main office in New Tazewell, Tennessee. Based on this inspection, the following violations were discovered.

- During the March 11, 2025, site visit, Division personnel asked to review records for January through February 2025 that demonstrated the results of the pressure drop measurements across the catalyst for each generator. The Respondent provided these records by e-mail on March 11, 2025, with records updated for formatting issues submitted by e-mail on May 16, 2025. According to these records and the Generator Hours of Operation log, January 22, February 20, and 21, 2025, were the only days these sources operated during the period. Since this parameter is required to be measured monthly, the inspector reviewed all the readings captured once start-up was achieved (>30 minutes) during January and February 2025 and compared it to the value established during the most recent performance tests (October 18-20, 2016, and September 10 and 16, 2022). While reviewing these records, Division personnel discovered that the pressure drop across the catalyst for six of the 11 generators deviated by more than two inches of water from the value established during the most recent performance test. The deviations listed below are violations of E4-11. of Title V permit number 573138.

Generator Number	Catalyst Differential Pressure - Source Test	Catalyst Differential Pressure Reading - Nearest Initial Source Test	Date and Time of Nearest Catalyst Differential Reading	± Difference
Generator #5	10.24	27.74	1/22/2025 – 10:17	+ 17.5
Generator #6	11.07	13.31	1/22/2025 – 8:00	+ 2.24
Generator #6	11.07	16.87	2/21/2025 – 7:45	+5.8
Generator #7	10.06	20.98	1/22/2025 – 5:57	+ 10.92
Generator #7	10.06	22.91	2/21/2025 – 7:01	+12.85
Generator #8	9.67	15.13	2/20/2025 – 7:59	+5.46
Generator #10	14.06	20.19	1/22/2025 – 6:37	+ 6.13
Generator #11	10.95	20.98	1/22/2025 – 5:57	+10.03
Generator #11	10.95	2.33	2/20/2025 – 7:01	-8.62

Generator #9 could not be evaluated for compliance with the pressure drop limit because the provided data included negative numbers. Therefore, the Division considers the pressure drop monitoring system for this unit to be down between January 22 and February 21, 2025.

- The records provided by the Respondent did not provide the “Pressure Drop Difference from Established Limit” and “Temperature Reading 4-Hour Rolling Average” as required by condition E4-21 of Title V permit number 573138. All data, including all required calculations, must be entered into the log no later than seven (7) days from the end of the day for which the data is required. These records were requested and received March 11, 2025, which was 19 days after the most recent day of operation (February 22, 2025).

XII.

On June 27, 2025, the Division issued a Notice of Violation (“NOV”) to the Respondent for the violations discussed in Paragraph **XI**. Also, by failing to comply with conditions E4-11. and E4-21. of Title V permit number 573138, as required by **APC24-0052**, the Respondent is

operating without a permit. As corrective action, the NOV required that the Respondent submit a proposed recordkeeping format that includes all the information required by the example log in condition E4-21 no later than July 18, 2025. The Division recognized that source testing was scheduled for the week of June 2-6, 2025, at which time the Respondent would determine new established pressure drops for Generators 5-10. Issues with the accuracy of the pressure drop monitoring system for Generator 9 should also be addressed at that time. On June 27, 2025, the Respondent acknowledged receipt of the NOV via e-mail. On July 18, 2025, the Respondent submitted the requested information to the Division via e-mail.

XIII.

By failing to comply with conditions E4-11. and E4-21. of Title V permit number 573138, the Respondent violated Division Rule 1200-03-09-.02(6), which states, in pertinent part:

Operation of each air contaminant source shall be in accordance with the provisions and stipulations set forth in the operating permit, all provisions of these regulations, and all provisions of the Tennessee Air Quality Act.

XIV.

By operating an air contaminant source not specifically exempted by Division Rule 1200-03-09-.04 without first applying for and receiving the necessary operating permit, the Respondent violated Division Rule 1200-03-09-.02(2), which states, in pertinent part:

No person shall operate an air contaminant source in Tennessee without first obtaining from the Technical Secretary an operating permit or, if applicable, submitting a notice of intent and obtaining a notice of coverage or authorization, except as specifically exempted in Rule 1200-03-09-.04.

ORDER AND ASSESSMENT OF CIVIL PENALTY

XV.

1. The Respondent is assessed a \$10,500 civil penalty for the violation of Act and Rules. This amount shall be paid as follows:

(a) \$7,500 of the assessed \$10,500 civil penalty shall be delivered to the Department on or before the thirty-first day after receipt of this Order and Assessment of Civil Penalty to the Department at the following address:

**Treasurer, State of Tennessee
Division of Fiscal Services - Consolidated Fees Section
Tennessee Department of Environment and Conservation
Davy Crockett Tower, 6th Floor
500 James Robertson Parkway
Nashville, Tennessee 37243**

(b) If the Respondent complies with subsection 2 of Paragraph XV., then \$3,000 of the total assessed civil penalty shall be waived. However, if the Respondent fails to comply with subsection 2, the Respondent shall pay the \$3,000 within 31 days of noncompliance, to the Department at the address above.

2. The Respondent shall adhere to all conditions in Permit 573138. Provided that the Respondent adheres to all conditions, compliance with the terms of this permit through this Order and Assessment shall serve as an alternative to a temporary operating permit until such time as the Respondent receives a Title V permit.

The case number, **APC25-0154**, should be clearly written on all correspondence.

RESERVATION OF RIGHTS

In issuing this Order and Assessment of Civil Penalty, the Department does not implicitly or expressly waive any provision of the Act or Rules promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent. The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for future enforcement action.

NOTICE OF RIGHTS

The Respondent may appeal this Order and Assessment. Tenn. Code Ann. §§ 68-201-108(a) and 68-201-116(b). To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Technical Secretary within 30 days of the date the Respondent received this Order and Assessment or this Order and Assessment becomes final. Any petition for review must be directed to TDEC.Appeals@tn.gov. The petition may also be mailed or delivered to Commissioner of the Department of Environment and Conservation, c/o Jenny L. Howard,

General Counsel, Department of Environment and Conservation, Davy Crockett Tower, 500 James Robertson Pkwy, 5th Floor, Nashville, Tennessee 37243.

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Judge as a contested case hearing. Tenn. Code Ann. § 68-201-108(a); Tenn. Code Ann. § 4-5-301 to -326; Tenn. Comp. R. & Regs. 1360-04-01. Such hearings are legal proceedings in the nature of a trial. Individual respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial respondents (*e.g.*, corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

At the conclusion of any initial hearing, the Administrative Judge has the authority to affirm, modify, or deny this Order and Assessment of Civil Penalty, including the authority to increase or decrease the penalty. Tenn. Code Ann. § 68-201-116. The Administrative Judge, on behalf of the Board, has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing, and the hourly fees incurred due to the presence of the Administrative Judge and a court reporter.

Technical questions and other correspondence involving compliance issues should be sent to:

Kevin McLain, Division of Air Pollution Control
Department of Environment and Conservation
Davy Crockett Tower
500 James Robertson Pkwy, 7th Floor
Nashville, Tennessee 37243

Attorneys should contact the undersigned counsel of record. The case number, **APC25-0154**, should be written on all correspondence regarding this matter.

Issued by the Technical Secretary, Air Pollution Control Board, Department of Environment and Conservation, on Oct 21, 2025



Michelle W Owenby (Oct 21, 2025 10:20:02 CDT)

Michelle Walker Owenby
Technical Secretary
Air Pollution Control Board

Reviewed by:



William Freeman Miller
BPR #028826
Senior Associate Counsel
Department of Environment & Conservation
500 James Robertson Parkway, 5th Floor
Nashville, Tennessee 37243
(615) 532-0136
William.F.Miller@tn.gov

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FROM

WALZ

FORM #45663 VERSION: E0824

Label #1

David H. Stanifer
1735 Main Street
Tazewell, TN 37879-3413

Label #2

David H. Stanifer
1735 Main Street
Tazewell, TN 37879-3413

Label #3

TN Dept. of Environment & Conservation
Division of Air Pollution Control
Davy Crockett Tower
500 James Robertson Pkwy, 7th Floor
Nashville, TN 37243

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Certified Mail Fee	\$
Return Receipt (Hardcopy)	\$ 4.35
Return Receipt (Electronic)	\$ 3.55
Certified Mail Restricted Delivery	\$ 0.00
Postage	\$ 0.00
Total Postage and Fees	\$ 0.63

Postmark
Here

Sent to: 8.53
David H. Stanifer
1735 Main Street
Tazewell, TN 37879-3413

Reference Information

APC25-0154 / vom

PS Form 3800, Facsimile, July 2015

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Label #5 (OPTIONAL)

TN Dept. of Environment & Conservation
Division of Air Pollution Control
Davy Crockett Tower
500 James Robertson Pkwy, 7th Floor
Nashville, TN 37243

Label #6 - Return Receipt Barcode (Sender's Record)

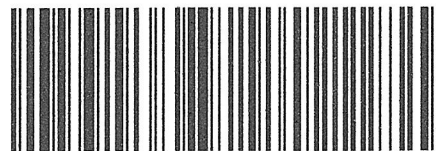


9590 9266 9904 2240 2602 04

Label #7 - Certified Mail Article Number

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL®



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RETURN RECEIPT REQUESTED

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Return Receipt (Form 3811) Barcode



9590 9266 9904 2240 2602 04

1. Article Addressed to:
David H. Stanifer
1735 Main Street
Tazewell, TN 37879-3413

2. Certified Mail (Form 3800) Article Number
9414 7266 9904 2240 2602 01

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent
☒ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type:

☒ Certified Mail

Reference Information

APC25-0154 / vom

PS Form 3811, Facsimile, July 2015

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