



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE
(302) 739-9000

**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**

Pursuant to 7 *Del. C.* § 6005

Order No. 2024-A-0053

***SERVED VIA CERTIFIED MAIL
RETURN RECEIPT***

Issued To:

Energy Center Dover, LLC
Attn: Ernst Just
Plant Manager
1280 W. North Street
Dover, DE, 19904

Registered Agent:

Corporation Service Company
251 Little Falls Drive
Wilmington, DE, 19808

This Assessment and Secretary's Order serves to notify Energy Center Dover, LLC ("Respondent") that the Secretary of the Department of Natural Resources and Environmental Control ("Department") has found Respondent in violation of its permit. Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment and Secretary's Order pursuant to 7 *Del. C.* §6005(b)(3).

BACKGROUND

Respondent operates a facility located at 1280 W. North Street in Dover, Delaware ("facility") where, as a co-generation facility, it supplies steam to certain manufacturing facilities in Dover. In addition, it supplies electricity to the grid via the Pennsylvania-New Jersey-

Maryland (“PJM”) Interconnection, the regional transmission organization that centrally dispatches generation and coordinates the movement of wholesale electricity in all or part of 13 states, including the entire Delmarva peninsula. Because Respondent’s operations have the potential to emit (“PTE”) certain criteria pollutants, such as nitrogen oxides (“NO_x”), at levels in excess of the major source thresholds for Kent County, Delaware, Respondent was and has been subject to 7 DE Admin. Code 1130, also known as the Title V State Operating Permit Program. Respondent’s operations have been governed by a Title V Permit since 1999.

In 2000, Respondent added two 50 megawatt electric (“MWe”) simple cycle combustion turbines, CT-1 and CT-2, to its operations. In 2011, Respondent applied for proposed changes to its facility, including converting one of the simple cycle combustion turbines, CT-1, to a combined cycle 64 MWe combustion turbine fired only on natural gas (hereafter referred to as “Emission Unit CT-1/C-2”). Emission Unit CT-2 remained a 50 MWe simple cycle combustion turbine that primarily operates on natural gas but can also use low sulfur distillate fuel oil as an emergency/back-up option. The 2011 changes resulted in the applicability of EPA’s Prevention of Significant Deterioration (“PSD”) Regulation pursuant to 7 DE Admin. Code 1125 “Requirements for Preconstruction Review” because of the PTE quantity of CO₂ equivalent emissions (“CO_{2e}”), which is considered to represent a greenhouse gas. As part of that applicability, Respondent conducted a Best Available Control Technology (“BACT”) analysis. The result of the BACT analysis was the inclusion of a permit limit for CO_{2e} emissions, of 1,085 lb CO_{2e}/MWh, on a rolling 12-month average, for Emission Unit CT-1/C-2. This limit was based on operation of Emission Unit CT-1/C-2 at an average load of 80% of the maximum continuous rating which corresponded to a gross plant heat rate, based on a higher heating value of 9,115 Btu/kWh. The permit condition includes a formula that adjusts the CO_{2e} emission limit for thermal energy exports (i.e. steam exports) by applying the ratio of gross electric generation to equivalent gross energy production. It provides another formula for how the facility shall calculate the CO_{2e} emissions based on the total heat input for the period, emission factor for natural gas combustion, total electric generation for the period, the steam exported during the period and the conversion factor for steam Mlb to MWh steam. Respondent monitors the emissions NO_x using continuous emissions monitors (“CEMs”).

At the time of the violations addressed by this Order, Respondent was operating under Title V Permit: **AQM-001/00127 (Renewal 4)(Revision 1)**, issued February 1, 2020 (“Title V Permit (Ren. 4)(Rev. 1)”), and Title V Permit: **AQM-001/00127 (Renewal 4)(Revision 2)**, issued November 2, 2022 (“Title V Permit (Ren. 4)(Rev. 2)”), (collectively, “Title V Permit”). Respondent’s Title V Permit includes a rolling 12-month NO_x emission limit of 15 tons for Emission Unit CT-2, based on the CEMs, as well as a rolling 12-month average limit for CO_{2e} of 1,085 pounds per gross megawatt hour (“MWh”) for Emission Unit CT-1/C-2.

Violation #1

The Department conducted a federal fiscal year 2022 full compliance evaluation (“FFY22 FCE”) at Respondent’s facility on August 18, 2022, that included a review of records from January 2020 through August 2022. While reviewing these records, the Department discovered that for the rolling 12-month period ending July 31, 2022, Respondent’s NO_x emissions were 15.8 tons, which was in excess of its permitted limit. In a September 2, 2022, email, Respondent submitted the initial report for this violation where it also indicated the violation had continued into the next rolling 12-month period ending August 31, 2022, with NO_x emissions of 17.1 tons.

In a letter dated September 9, 2022, received by the Department on September 30, 2022, Respondent provided the written report required by its permit which included additional details concerning the exceedances and corrective actions undertaken to prevent recurrence. Respondent stated in the letter that the hot weather experienced across the region during the summer, coupled with high natural gas prices and significant capacity retirements (removal of electrical power generating units from the electrical grid/market availability) in recent years, contributed to unforeseen volatility in wholesale electric markets. By virtue of its physical location and operating characteristics, Emission Unit CT-2 offered PJM a valuable resource with which to respond to these market demands. Respondent believed that the loss of, or limited access to, this resource would have placed an unnecessary burden on PJM’s mission to provide reliable and cost-effective power to customers in the region. Respondent acknowledged that a monitoring plan, going beyond the monthly/quarterly review requirement of its Title V Permit,

could have allowed them to forewarn PJM that Emission Unit CT-2 may not be available for parts of July and/or August. Respondent stated that corrective actions taken in response to the exceedances included removing Emission Unit CT-2 from the “day ahead and real time market” and placing it in emergency status in the PJM market on September 2, 2022. Typically, Respondent receives the request to provide power the night before which provides ample time to start the turbines. Based on the operating records, Emission Unit CT-2 continued operation through September 1, 2022. An additional corrective action was updating the data acquisition and handling system to include real time monitoring, including an alarm for the rolling 12-month period NO_x tonnage, on the operators’ dashboard for both combustion turbines. The enhanced monitoring approach will provide Respondent with an hourly update to the 12-month rolling NO_x calculation, thus providing the opportunity to better plan for future operation without risking an exceedance of the permit limit. Due to the Respondent’s failure to provide a status update, the Department inquired about the compliance status in an email dated July 26, 2023. Respondent replied that same day stating that the Emission Unit CT-2 was restored to market availability, with the additional monitoring in place, on October 11, 2022, when the rolling 12-month NO_x emissions fell below the 15-ton permit limit. Respondent further stated that Emission Unit CT-2 did not operate due to a PJM emergency between September 2, 2022, and October 10, 2022.

A Notice of Violation (“NOV”) dated August 14, 2023, was issued to Respondent on August 17, 2023, for the violations of the rolling 12-month NO_x emission limit for Emission Unit CT-2 for the periods ending July 31, 2022, and August 31, 2022. The NOV required Respondent submit a permit amendment request to the Department within 60 days of receipt of the NOV, to incorporate the enhanced NO_x emissions monitoring plan into its Title V Permit for Emission Unit CT-2 as part of the monitoring requirements under Condition 3 - Table 1(b)(2)(vi). This was received in an August 24, 2023, letter, received by the Department on August 28, 2023. As the Title V Permit is due for renewal, the Department plans on addressing this amendment during the renewal process.

Violation #2

In an email dated October 19, 2023, Respondent emailed an electronic copy of a notification of exceedance it had faxed to the Department on October 18, 2023, regarding Emission Unit CT-1/C-2. The faxed report, dated October 11, 2023, stated that Emission Unit CT-1/C-2 exceeded the rolling 12-month average permit limit for CO₂e emissions for the periods ending August 31, 2023, and September 30, 2023. The total emissions on a rolling 12-month average were 1,008 lb CO₂e/MWh for the period ending August 31, 2023 (with a limit of 994.76 lb CO₂e/MWh) and 1,017 lb CO₂e/MWh for the period ending September 30, 2023, (with a limit of 997.07 lb CO₂e/MWh).

Pursuant to its Title V Permit, Respondent submitted the 3rd Quarter 2023 excess emission summary, dated October 24, 2023, on October 27, 2023, the same day the Department met with Respondent virtually to discuss the exceedances. During this meeting, Respondent indicated possible causes, including a decision to run the unit at a lower base load which allowed the unit to be more readily available to respond to grid conditions.

A detailed report on the CO₂e emissions exceedance, dated November 13, 2023, was received on November 15, 2023, where Respondent included several other possible causes for the exceedances such as, gas quality changes, including heating value; as yet to be identified parameters of the delivered pipeline natural gas; or engine degradation. Immediate steps taken were to increase the minimum base load offered resulting in improving the heat rate. A more efficient mode of operation for the unit was calculated to a heat rate of approximately 8,900 BTU/kWh, which was better than the previous calculation of 9,117 BTU/kWh. Respondent's calculations predicted an anticipated return to compliance by the end of December 2023. In addition, to address the other possible causes, a sample of the pipeline natural gas was collected and sent for analysis. The Respondent also stated that it would conduct an already scheduled inspection of the unit's engine for November 13 through November 28, 2023, which could determine if engine degradation was a factor. Lastly, Respondent committed to training operations staff on the importance of real-time monitoring of the unit's operating heat rate to ensure the unit is operated in the most efficient mode possible.

Despite a predicted return to compliance by the rolling 12-month period ending December 31, 2023, the return to compliance did not occur until the rolling 12-month period ending March 31, 2024. Due to the failure to return to compliance by the predicted date, the Respondent began actively updating the Department monthly on the status of the anticipated return to compliance with the rolling 12-month emission limit beginning in January 2024. Respondent informed the Department of its return to compliance on April 1, 2024.

A Notice of Violation (“NOV”) dated June 21, 2024, was issued to Respondent on June 25, 2024, for the violations of the rolling 12-month CO₂e emission limit for Emission Unit CT-1/C-2 for the periods ending August 31, 2023, through February 29, 2024. It required that Respondent submit to the Department within 30 days of receipt of the NOV, the results of the natural gas quality analysis, the engine inspection report, and for any identified issues, the actions required to return the engine to compliant operation; as well as records documenting the training of operations staff.

In a letter dated July 18, 2024, received by the Department on July 24, 2024, Respondent submitted all the action items required by the NOV. The natural gas quality analysis and the engine inspection resulted in no identified issues that contributed to the exceedance. Respondent provided documentation that the required training had been conducted. Respondent determined that the root cause of the CO₂e emission exceedance was the change in Emission Unit CT-1/C-2 operations by lowering the base load levels. As a result, the unit’s dispatch model was revised to prevent operation at lower base load levels. Additional monitoring measures taken by Respondent included monitoring of heat rate during unit operation and more frequent reviews of the CO₂e emissions.

FINDINGS OF FACT

1. Respondent operates a facility located at 1280 W. North Street in Dover, Delaware (“facility”) where, as a co-generation facility, it supplies steam to certain

manufacturing facilities in Dover and supplies electricity to the grid via the PJM Interconnection.

2. Among the equipment at Respondent's facility is Emission Unit CT-1/C-2, a combined cycle 64 MWe combustion turbine and Emission Unit CT-2, a 50 Mwe simple cycle combustion turbine. Operation of the equipment at Respondent's facility results in the emission of pollutants, among them, NO_x and CO, that are monitored continuously via CEMS.
3. Equipment at Respondent's facility has the potential to emit NO_x in quantities that exceed the major source threshold for Kent County, Delaware and subjects Respondent to Delaware's Title V State Operating Permit Program. Respondent has operated under a Title V Permit since 1999.
4. Respondent made changes to its operations in 2011, the conversion of Unit CT-1/C-2 (combustion turbine) from a simple cycle to combined cycle operation. This resulted in CO_{2e} emissions, considered to represent a greenhouse gas, exceeding 75,000 tons per year thereby subjecting it to EPA's Prevention of Significant Deterioration ("PSD") Regulation pursuant to 7 DE Admin. Code 1125 "Requirements for Preconstruction Review". This required Respondent to conduct a Best Available Control Technology ("BACT") analysis.
5. The BACT analysis resulted in the inclusion of a rolling 12-month emission limit for CO_{2e}, including calculation methods, in its Title V Permit.
6. At the time of the violations addressed by this Order, Respondent was operating under Title V Permit: **AQM-001/00127 (Renewal 4)(Revision 1)**, issued February 1, 2020 and Title V Permit: **AQM-001/00127 (Renewal 4)(Revision 2)**, issued November 2, 2022, (collectively, "Title V Permit"), that included a rolling 12-month NO_x emission limit of 15 tons for Emission Unit CT-2, based on the CEMs as well as

- a rolling 12-month average limit for CO₂e of 1,085 pounds per gross megawatt hour (“MWh”) for Emission Unit CT-1/C-2.
7. The Department conducted a FFY22 FCE on August 18, 2022, and during the records review, discovered the rolling 12-month NO_x limit for Emission Unit CT-2 for the period of August 1, 2021, through July 31, 2022, was 15.8 tons, which was in excess of the Title V Permit limit.
 8. In a September 2, 2022, email, Respondent made the initial reporting to the Department of this exceedance as well as an additional exceedance of the rolling 12-month NO_x limit for Emission Unit CT-2 for the period ending August 31, 2022.
 9. Respondent submitted a required written report received by the Department on September 30, 2022, that provided additional details on the exceedances as well as the corrective actions it had taken in response to the violation. These included putting Emission Unit CT-2 in emergency only status in the PJM system as of September 2, 2022, and updating the data acquisition and handling system to include real time monitoring, including an alarm for the rolling 12-month period NO_x tonnage, on the operators’ dashboard for both combustion turbines. The enhanced monitoring approach will provide the facility with an hourly update to the 12-month rolling NO_x calculation, thus providing the opportunity to better plan for future operation without risking an exceedance of the permit limit.
 10. In a July 26, 2023, email, following the Department’s inquiry on an updated compliance status, Respondent indicated that Emission Unit CT-2 was restored to available status on October 11, 2022, and stated that Emission Unit CT-2 did not operate while it was in emergency status from September 2, 2022, through October 10, 2022.

11. A Notice of Violation dated August 14, 2023, was issued to Respondent on August 17, 2023, for the violation of the rolling 12-month NO_x emission limit for Emission Unit CT-2 for the periods ending July 31, 2022, and August 31, 2022.
12. On October 19, 2023, Respondent notified the Department in an email, including a previously faxed notification as an attachment, that Emission Unit CT-1/C-2 had exceeded the rolling 12-month emission limit for CO₂e for the periods ending August 31, 2023, and September 30, 2023.
13. Respondent identified several possible causes for the exceedance, such as changes in natural gas quality; normal engine degradation with age; or a change in method of operation of the unit to make it more readily available to respond to grid conditions, by lowering the base load. Respondent planned to sample the natural gas and have it analyzed and continue with an already scheduled inspection of the engine. However, upon identifying the exceedance, Respondent did address one of those possible causes immediately by increasing the minimum base load when operating the unit which increased the heat rate and resulted in lowering CO₂e emissions.
14. Though Respondent's calculations predicted a return to compliance with the CO₂e emission limit by the rolling 12-month period ending December 31, 2023, the return to compliance didn't occur until the rolling 12-month period ending March 31, 2024.
15. A Notice of Violation dated June 21, 2024, was issued to Respondent on June 25, 2024, for the CO₂e emission exceedance violations and required action items including submitting the results of its investigation into the root cause of violation and providing documentation that staff had been trained on the proper operation of the unit.
16. In a letter dated July 18, 2024, and received by the Department on July 24, 2024, Respondent indicated that the results of its investigation into the exceedances identified the root cause as the change in operation of the unit. It provided

documentation of staff training and indicated that the unit dispatch model had been revised to prevent lowering of the load levels.

PERMIT REQUIREMENTS

1. In Condition 3 – Table 1(b)(2)(ii)(A) of Title V Permit (Ren. 4)(Rev. 1), it states:
“NO_x emissions from Emission Unit CT-2 shall not exceed 15 tons in any rolling twelve (12) month period based on the CEMS.”
2. In Condition 3 – Table 1(a)(1)(ii)(I)(1) of Title V Permit (Ren. 4)(Rev. 2), it states:
“CO_{2e} emissions from the generating unit shall not exceed 1,085 pounds per gross megawatt hour (MWh) equivalent basis on a twelve (12) month rolling average.”

CONCLUSION

Based on the above, the Department has concluded that Respondent committed the following violations:

1. Respondent is found to be in violation of the rolling 12-month NO_x emission limit of 15 tons for Emission Unit CT-2 set forth in Condition 3 – Table 1(b)(2)(ii)(A) of Title V Permit (Ren. 4)(Rev. 1) for the rolling 12-month periods ending July 31, 2022, and August 31, 2022.
2. Respondent is found to be in violation of the rolling 12-month CO_{2e} emission limit of Condition 3 – Table 1(a)(1)(ii)(I)(1) of Title V Permit (Ren. 4)(Rev. 2) for the seven rolling 12-month periods ending August 31, 2023, through February 29, 2024.

ASSESSMENT OF PENALTY

Pursuant to 7 Del. C. §6005(b)(3), the Secretary may impose an administrative penalty of not more than \$10,000 for each day of violation detailed in this Order. In assessing the administrative penalty, 7 Del. C. §6005(b)(3) instructs the Secretary to consider the following

factors: (1) the nature, circumstances, extent, and gravity of the violation, or violations; (2) the ability of the violator to pay; (3) any prior history of such violations; (4) the degree of culpability; (5) the economic benefit or savings (if any) resulting from each violation; and (6) such other matters as justice may require. A brief discussion of these factors is set out below.

Having considered these factors, the Secretary is assessing an administrative penalty of \$76,520.00 for the violations identified in this Assessment and Order.

1. The Nature, Circumstances, Extent and Gravity of the Violation, or Violations:

The nature, circumstances, extent, and gravity of the violations are significant. Respondent violated an emission limit that emanated from a previously issued Secretary's Order No. 2002-A-0051, dated September 17, 2002. The Department determined that the emission limit was appropriate to resolve the alleged violations identified by the previous Order. Respondent is required to monitor NO_x emissions on an hourly and daily period with the use of a certified CEMS. Respondent is required to calculate, record and monitor NO_x emissions on a monthly and rolling 12-month period for compliance with the limit set forth in its Title V Permit. Had Respondent been actively monitoring this information, it would have both identified the potential for, and ultimately, the actual violation of the NO_x emission limit, but it was the Department who identified the violation. The Respondent is a major source of NO_x. Delaware continues to be in non-attainment for the ground level ozone National Ambient Air Quality Standard. Exceedances of the permitted NO_x emission limit adversely impacts Delaware's continued efforts to attain the standard. For the CO_{2e} emission exceedances, a choice by Respondent to alter the operation of the unit to make it more readily available to grid demands resulted in inefficient operation of the unit and increased CO_{2e} emissions that took seven rolling 12-month periods to return to compliance.

2. Respondent's Ability to Pay:

The record contains no information that the Respondent does not have the ability to pay the administrative penalty assessed.

3. Prior History of Violations:

Prior to these violations, as stated above, Respondent was issued Secretary's Order No. 2002-A-0051, dated September 17, 2002, for operating two combustion gas turbines without an operating permit or a certified CEMS. In addition, a NOV was issued to Respondent on January 25, 2007, for initiating construction of a dry ash handling system without first obtaining a permit. The current violations associated with this order are not repeated or similar violations. The current violations occurred 15 years following the last violation. Due to Respondent's compliance history, no additional penalty for a history of violations was assessed.

4. Degree of Culpability:

The degree of culpability is significant because though Respondent calculated and recorded the required monthly and rolling 12-month NO_x emissions per its Title V Permit requirements, it failed to monitor and identify when it exceeded the permitted limit. For the CO₂e emission exceedances, Respondent's decision to alter the operation of Emission Unit CT-1/C-2 in an attempt to make it more readily available for grid demands, resulted in the unit not being operated in its most efficient mode. The penalty assessed included a factor for the degree in which willfulness or negligence played a part in the violation. Thus, the Secretary considers the penalty amount assessed appropriate in the view of Respondent's culpability for these violations.

5. Economic Benefit or Savings Resulting from the Violation(s):

Respondent economically benefited from the operation of the Emission Unit CT-2 while in violation of the rolling 12-month NO_x emission limit. However, due to the complex nature of the energy market, the Department cannot accurately quantify the economic benefit realized by the facility. An economic benefit from the violation was not quantified and a corresponding factor was not included in the penalty assessment.

6. Such Other Matters as Justice May Require:

Lastly, considering such other matters as justice may require, the Secretary has determined that the penalty assessed is proportional to the violations and calculated so as to deter Respondent and those similarly situated from engaging in future violations.

SECRETARY'S ORDER ASSESSING ADMINISTRATIVE PENALTY

Pursuant to 7 Del. C. §6005(b)(3), this is written notice to Respondent that on the basis of its findings, the Department is assessing Respondent an administrative penalty of \$76,520.00 for the violations identified in this Secretary's Order.

Respondent shall submit a check to the payable to the "State of Delaware" in the amount of \$76,520.00 within thirty (30) days of receipt of this Secretary's Order to: Leslie Reese, Department of Natural Resources and Environmental Control, Office of the Secretary, 89 Kings Highway, Dover, Delaware 19901.

PUBLIC HEARING AND APPEAL RIGHTS

This Secretary's Order affects Respondent's legal rights and is effective and final upon receipt by Respondent. Pursuant to 7 Del. C. §6008, any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board within 20 days of the receipt of the Secretary's Order. In the alternative, Respondent may, pursuant to 7 Del. C. §6005(b)(3), request a public hearing on the Secretary's Order, within 30 days of receipt of the Order. A public hearing pursuant to 7 Del. C. §6005(b)(3) would be conducted pursuant to 7 Del. C. §6006, and the Secretary's Order following the hearing would be subject to appeal, pursuant to 7 Del. C. §6008, by any person substantially affected.

Respondent is further advised that the above assessed administrative penalty shall be due and owing within 30 days of Respondent's receipt of this Assessment and Order. In the event of nonpayment of the administrative penalty assessed above, and after Respondent has exhausted all legal appeals, if any, a civil action may be brought by the Secretary in Superior Court for collection of the administrative penalty, including interest, attorneys' fees and costs, and the validity, amount and appropriateness of such administrative penalty and/or costs shall not be subject to review pursuant to 7 *Del. C.* §6005(b)(3).

To request a public hearing pursuant to 7 *Del. C.* §6005(b)(3), please submit your request, in writing, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
89 Kings Highway
Dover, DE 19901
Phone: (302) 739-9000

To submit an appeal to the Environmental Appeals Board pursuant to 7 *Del. C.* §6008, you must file your written statement of appeal and submit a check, made payable to: "Environmental Appeals Board," for the \$50.00 filing fee, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
Attn: Assistant to the Environmental Appeals Board
89 Kings Highway
Dover, DE 19901
Phone: (302) 739-9000

For additional information on filing an appeal with the Environmental Appeals Board and what information you must include in your written statement of appeal, please refer to the Environmental Appeals Board Regulations, codified at 7 DE Admin. Code 105.

The Department, to the extent necessary, reserves the right to take additional enforcement actions regarding these and other violations by Respondent, including but not limited to one or

more of the following: an action under 7 *Del. C.* §6005(b)(1) seeking penalties for past violations, an action under 7 *Del. C.* §6005(b)(2) seeking penalties for continuing violations, an action in the Court of Chancery pursuant to 7 *Del. C.* §6005(b)(2) seeking a temporary restraining order or an injunction, and the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 *Del. C.* §§6005(b)(3) & (c)(1). Nothing in this document shall be deemed to estop, or in any way preclude, any additional enforcement action for these and any other violations, including administrative and civil penalties for each day of violation, or an action for the recovery of Department costs expended in abating these violations.

COST RECOVERY

Pursuant to 7 *Del. C.* §6005(c), Respondent is liable for all expenses incurred by the Department in abating the violations detailed in this Secretary's Order. "Such expenses shall include, but not be limited to, the costs of investigation, legal fees and assistance, public hearings, materials, equipment, human resources, contractual assistance and appropriate salary and overtime pay for all state employees involved in the effort notwithstanding merit system laws, regulations or rules to the contrary." (7 *Del. C.* §6005(c)(1)).

Respondent is liable for \$8,111.65 in costs, which costs the Department has incurred to date in abating the violations detailed in this Secretary's Order. The Department has attached to this Secretary's Order a detailed billing of expenses detailing these costs. Respondent shall remit a check payable to the "State of Delaware" in the amount of \$8,111.65 within thirty (30) days of receipt of this Secretary's Order, to: Leslie Reese, Department of Natural Resources and Environmental Control, Office of the Secretary, 89 Kings Highway, Dover, Delaware 19901.

In the event that Respondent appeals this Secretary's Order pursuant to 7 *Del. C.* §6008 or requests a public hearing pursuant to 7 *Del. C.* §6005(b)(3), or in the event Respondent fails to comply with this Secretary's Order, the Department will rescind the detailed billing attached to this Secretary's Order. The Department will issue Respondent a new detailed billing and Cost

Recovery Order following exhaustion of Respondent's appeal rights that will include all additional recoverable costs incurred by the Department. Respondent is further advised that Respondent may challenge the Department's final detailed billing in accordance with 7 Del. C. §6005(c)(2).

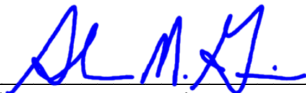
PRE-PAYMENT

Respondent may prepay the administrative penalty of \$76,520.00 and the Department's costs in the amount of \$8,111.65, in the manner described in the attached "Waiver of Statutory Right to a Hearing." By doing so, Respondent waives its right to a hearing and the opportunity to appeal or contest this Secretary's Order and the Department's Cost Recovery.

If you have any questions, please contact, or have your attorney contact, Valerie S. Edge, Deputy Attorney General, at (302) 739-4636.

12/16/24

Date


Shawn M. Garvin, Secretary
Department of Natural Resources
and Environmental Control

cc: Valerie S. Edge, Deputy Attorney General
Angela Marconi, P.E., Director

WAIVER OF STATUTORY RIGHT TO A HEARING

Energy Center Dover, LLC hereby waives its right to a hearing and its opportunity to appeal or contest this Assessment and Order and agrees to the following:

1. **Energy Center Dover, LLC** will pay the administrative penalty in the amount of \$76,520.00 by sending a check payable to the “State of Delaware” within 30 days of receipt of this Assessment and Order. The check shall be directed to Leslie Reese, Department of Natural Resources and Environmental Control, Office of the Secretary, 89 Kings Highway, Dover, Delaware 19901; and
2. **Energy Center Dover, LLC** will pay the Department’s Costs in the amount of \$8,111.65 by sending a check payable to the State of Delaware within 30 days of receipt of this Assessment and Order. The check shall be directed to Leslie Reese, Department of Natural Resources and Environmental Control, Office of the Secretary, 89 Kings Highway, Dover, Delaware 19901; and

Energy Center Dover, LLC

Date: _____

By: _____

Title: _____