



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



THE STATE OF CONNECTICUT
VS.
THE CONNECTICUT LIGHT AND
POWER COMPANY

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ORDER NO. 1494

CONSENT ORDER

A. At the request and with the agreement of The Connecticut Light and Power Company ("Respondent"), the Commissioner finds the following:

1. Respondent is a Connecticut corporation that owns and operates 20 pieces of fuel-burning equipment ("peaking units") identified in Exhibit 1 attached hereto and incorporated by reference into this Consent Order. These peaking units include eighteen combustion turbines and two diesel generators.
2. On June 28, 1996, the Commissioner issued eleven Notices of Violation ("NOVs") to Respondent. The NOVs stated that as of May 31, 1995, the peaking units did not meet the applicable nitrogen oxides ("NOx") emission limits specified in Section 22a-174-22(e) of the Regulations of Connecticut State Agencies ("RCSA").
3. Pursuant to the Department of Environmental Protection's *Credit Trading for Sources With Irregular NOx Emissions*, attached hereto and incorporated by reference into this Consent Order as Exhibit 2, these peaking units have peak daily NOx emissions greater than three times the average daily emissions during the ozone season and are therefore considered sources with irregular NOx emissions.
4. Respondent reported to the Commissioner emissions for the days during the 1995 ozone season that its peaking units had the highest excess NOx emissions in accordance with Exhibit 2. Such report was based upon the following:
 - (i) maximum firing rate;
 - (ii) 24-hour operation;
 - (iii) Full Load Emission Rate ("FLER"); and

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(iv) the standard of 75 parts per million by volume on a dry basis for combustion turbines, and eight grams per brake horsepower hour for diesel generators, pursuant to section 22a-174-22 of the RCSA.

In addition, a 5% design margin on the Reasonably Available Control Technology ("RACT") rate has been included. Six hundred and fifty (650) tons of emission reduction credits ("ERCs") will be acquired and permanently retired to offset excess NOx emissions for the period of June 1, 1995 to April 30, 1996. (See Exhibit 3, attached hereto and incorporated by reference into this Consent Order.)

5. Respondent represents that it has created approvable ERCs at its Devon, Montville and Norwalk Harbor Stations during the 1995 ozone season ("1995 ERCs"). Respondent will provide and permanently retire an additional 650 tons of ozone season ERCs (some of which the Commissioner may authorize from 1995 ERCs), beyond those referenced in paragraph A.4. Respondent has submitted documentation of the 1995 ERC creations, as further described in paragraph B.3., to the Commissioner on September 3, 1996 and September 16, 1996.
6. Respondent has agreed to perform two Supplemental Environmental Projects ("SEPs") in accordance with the provisions of paragraph B.4 of this Consent Order. The SEPs are for a nitrogen deposition study and/or a fine particulate study. The Respondent's monetary obligations pursuant to the SEPs will be \$487,500 (equivalent to 650 ERCs x \$750/ozone season ERC).
7. The 1995 ERCs listed in paragraph A.5. will not be authorized for use pursuant to this Consent Order unless and until the Commissioner determines (in accordance with EPA's 1986 emission trading policy and 1994 economic incentive program rules) that the proposed 1995 ERCs conform to the following requirements:

Real meaning they result in a reduction of actual emissions released into the air. The emission reductions must be properly measured, recorded and reported.

Quantifiable meaning they are based on Continuous Emission Monitoring Data as applied in an appropriate reliable and replicable protocol, providing the rate and total mass amount of reduction.

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Surplus meaning they are not required by any Connecticut statute or regulation mandated by a current State Implementation Plan, and are not currently relied upon in any applicable attainment plan, any reasonable further progress plan or milestone demonstration.

Permanent meaning an appropriate tracking system is in place to monitor use of 1995 ERCs.

Enforceable meaning the 1995 ERCs are approved for this specific use by the Commissioner.

8. On June 24, 1996, Section 22a-174-37 of the RCSA was adopted. This regulation establishes, among other things, an emergency period applicable to the Respondent's peaking units.
- B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-171, 22a-176, and 22a-177 of the Connecticut General Statutes, orders Respondent as follows:
- I. Until May 1, 1999, Respondent shall obtain ERCs as specified below. Respondent shall document and record the amount of all fuel used by each of the peaking units each day and the number of ERCs used for the ozone season and non-ozone season, and shall maintain and provide such records in accordance with the following and section 22a-174-4 of the RCSA:
 - a. On or before the twentieth day after issuance of this Consent Order, Respondent shall obtain and permanently retire 650 tons of ERCs, to offset the Respondent's excess NOx emissions for the period June 1, 1995 to April 30, 1996.
 - b. On or before October 30, 1996 (for the 1996 ozone season), Respondent shall obtain and permanently retire ERCs pursuant to the following calculation:

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$$\text{ERCs (tons)} = [(\text{FLER in lbs/MMBtu}) - 0.95 \times \text{RACT rate in lbs/MMBtu}] \times (\text{actual fuel use in MMBtu}) \div 2000 \text{ lbs/ton}^*$$

- c. Prior to the beginning of the 1997 and 1998 ozone seasons (and in accordance with Exhibit 2), for use during the 1997 and 1998 ozone seasons, Respondent shall have in its possession 1,551 tons of ERCs.* The above 1551 tons or underlying emission rates, units, and hours of operation set forth in Exhibit 1 may be modified only after the consent of the Commissioner by written modification of this order.
- d. For October 1996, November 1996 and December 1996, the 1997 and 1998 non-ozone seasons, and the 1999 non-ozone season (until May 1, 1999), Respondent shall obtain ERCs pursuant to the following calculation prior to each month that ERCs are used:
- 1) $\text{ERCs (tons)} = [(\text{FLER in lbs/MMBtu}) - 0.95 \times \text{RACT rate in lbs/MMBtu}] \times (\text{anticipated fuel use in MMBtu}) \div 2000 \text{ lbs/ton}$
- Within thirty (30) days of October 31, 1996, November 30, 1996 and December 31, 1996 and within thirty (30) days of the 1997, 1998, and the 1999 non-ozone season (until May 1, 1999), Respondent shall calculate the actual ERCs used on a monthly basis during said months and non-ozone seasons pursuant to the following calculation:
- 2) $\text{ERCs (tons)} = [(\text{FLER in lbs/MMBtu}) - 0.95 \times \text{RACT rate in lbs/MMBtu}] \times (\text{actual fuel use in MMBtu}) \div 2000 \text{ lbs/ton}^*$
- e. No later than March 1, 1997, March 1, 1998, March 1, 1999 and March 1, 2000, Respondent shall include with its annual emissions inventory report to the Commissioner, the fuel consumed and ERCs used for the previous calendar year (by ozone and non-ozone seasons).
- f. Respondent shall retain records and supporting documentation as described in this section for a minimum of five years, commencing on the date such records were created.

*If ERCs are not in Respondent's possession prior to use, the number of ERCs required shall double.

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- g. Respondent shall maintain documentation to attest to the fact that ERCs used during the ozone season were generated during the ozone season. Generator certification of this fact shall be sufficient.
- h. Respondent shall provide the records specified above in paragraph B.1 to the Commissioner within thirty (30) days of receipt of a written request from the Commissioner.
2. Upon issuance of this Consent Order and continuing until May 1, 1999, Respondent shall ensure compliance (during operation of each of the peaking units) with the following FLERs, averaged on a twenty-four-hour basis:

<u>Site</u>	<u>FLER (lbs/MMBtu)</u>
Branford	0.80
Cos Cob 10	0.90
Cos Cob 11	0.90
Cos Cob 12	0.90
Devon 10	0.80
Franklin Drive	0.61
Middletown 10	0.80
Montville 10	2.83
Montville 11	2.69
Norwalk Harbor 10	0.47
South Meadow 11A	0.90
South Meadow 11B	0.90
South Meadow 12A	0.90
South Meadow 12B	0.90
South Meadow 13A	0.78
South Meadow 13B	0.75
South Meadow 14A	0.90
South Meadow 14B	0.90
Torrington Terminal	0.75
Tunnel 10	0.80

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3. On September 3, 1996 and September 16, 1996, Respondent submitted documents to the Commissioner, for his review and acceptance, representing creation of 265 tons of 1995 ERCs from its Devon, Montville and Norwalk Harbor Stations... during the 1995 ozone season. Within 20 days of issuance of this Consent Order Respondent shall provide and permanently retire an additional 385 tons of ozone season ERCs (265+385=650 tons). Respondent shall forego any future claim to ERCs created at Devon, Montville and Norwalk Harbor Stations during June 1, 1995 to April 30, 1996. Ten (10) percent of the 1995 ERCs shall be retired and permanently removed to assure a benefit to the environment. If the Commissioner does not accept for use under the Consent Order any, or a portion of the 265 tons of 1995 ERCs, Respondent shall provide and retire the balance needed within twenty (20) days of notification from the Commissioner, such that the total of 1995 ERCs plus approved ozone season ERCs is equivalent to 265 tons.

4. As referenced in paragraph A.6 of this Consent Order, Respondent shall undertake two SEPs on or before ninety (90) days after issuance of this Consent Order, in the form of a contribution of four hundred eighty seven thousand five hundred dollars (\$487,500), adjusted for in-kind contributions as described below, to the University of Connecticut, Environmental Research Institute ("ERI") for a nitrogen deposition study, and a fine-particulate study. If the Commissioner provides written approval, a portion of the Respondent's obligation under these SEPs may be fulfilled by in-kind services. If Respondent fails to perform such SEPs then a \$487,500 civil penalty shall be immediately due and payable in accordance with the provisions of paragraph B.5 of this Consent Order.
 - a. The net present after-tax value of each SEP shall be equivalent to the sums identified in this paragraph or Respondent shall submit certified documentation that no tax credits shall be obtained as a result of the SEPs performed under this paragraph. In addition, the Respondent shall not seek reimbursement or any rate recovery from the Department of Public Utility Control for any of the costs incurred in performing the SEPs required in this Section, or for 650 ERCs obtained pursuant to Subsection B.3.

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- b. If and when Respondent disseminates publicity regarding its funding of the SEPs, Respondent shall include a statement that such funding is in settlement of an enforcement action brought by the Commissioner.
 - c. Within fourteen (14) days of completing each SEP, Respondent shall submit written documentation to the Commissioner that the requirements of the SEP have been fulfilled.
5. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to Mr. Carmine DiBattista, Bureau Chief, Air Management, Department of Environmental Protection, 79 Elm Street, Hartford, CT 06106, and shall be by certified or bank check payable to the Connecticut Department of Environmental Protection. The check shall state on its face, Air management civil penalty, Consent Order No. 1494.
6. No later than May 1, 1999, Respondent shall comply with the emission limits of Section 22a-174-22(e) of the RCSA, unless a written extension of this trading agreement and order is given by the Commissioner.
7. Full compliance. Respondent shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed as approved.
8. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this Consent Order in a complete and approvable form. If the Commissioner notifies the Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty (30) days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.

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9. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner of Environmental Protection or an agent of the Commissioner, "Ozone season" means May 1 to September 30 of each calendar year, "Emission Reduction Credits" means approved emissions reduction credits the use of which the Commissioner has authorized in writing in accordance with section 22a-174-22 of the RCSA, "1995 ERCs" means emission reductions, created during 1995 and proposed for use under this Consent Order, "Excess emissions" means those emissions above the applicable emission limitation in section 22a-174-22(e) of the RCSA.
10. Dates. The date of submission to the Commissioner of any document required by this Consent Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Consent Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three (3) days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this Consent Order, the word "day" as used in this Consent Order means calendar day. Any document or action which is required by this Consent Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or Connecticut or federal holiday.
11. Notification of Noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required hereunder, Respondent shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided, or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, Respondent shall state in writing the reasons for noncompliance or delay, and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

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12. Certification of Documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by the chief executive officer of Respondent or a duly authorized representative of such officer, as those terms are defined in Section 22a-430-3 (b) (2) of the RCSA, and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate, and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense, in accordance with section 22a-6 of the Connecticut General Statutes, pursuant to Section 53a-157 of the Connecticut General Statutes, and in accordance with any other applicable statute."

13. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this Consent Order may subject Respondent to an injunction and penalties under Chapters 439 and 446c of the Connecticut General Statutes.
14. False Statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense under Section 22a-175 of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157 of the Connecticut General Statutes.
15. Notice of Transfer: liability of Respondent and others. Until May 1, 1999, and in accordance with Public Act 95-218, Respondent shall notify the Commissioner in writing no later than thirty (30) days prior to transferring any license held by Respondent to any other party and no later than fifteen (15) days after transferring all or any portion of the operations, the facilities or the businesses which are the subject of this Consent Order, or obtaining a new mailing or location address. Respondent's obligations under this Consent Order shall not be affected by the

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passage of title to any property to any other person or municipality. Any future owner of the facilities may be subject to the issuance of an order from the Commissioner.

16. Commissioner's Powers. Nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and impose penalties for violations of law which are willful or criminally negligent or for which penalties have not been specifically provided for in this Consent Order, including, but not limited to, violations of any permit issued by the Commissioner.
17. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
18. No assurance by Commissioner. No provision of this Consent Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this Consent order will result in compliance or prevent or abate pollution.
19. Access to records and facility. Any representative of the Department of Environmental Protection may enter the facilities and inspect and copy records within normal business hours without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
20. No effect on rights of other persons. This Consent Order shall neither create nor affect any rights of persons who or municipalities which are not parties to this Consent Order.
21. Notice to Commissioner of changes. Within fifteen (15) days of the date on which Respondent becomes aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.

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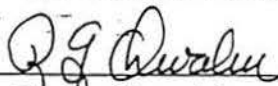
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22. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Ms. Wendy Jacobs
Department of Environmental Protection
Bureau of Air Management
79 Elm Street
Hartford, Connecticut 06106


Respondent consents to the issuance of this Consent Order without further notice. The undersigned certifies that he/she is fully authorized to enter into this Consent Order and to legally bind Respondent to the terms and conditions of the Consent Order.

The Connecticut Light and Power Company

Signature: 
Type Name: R. O. Chevalier
Type Title: Vice President
Date: 10/15/96

Issued as a final consent order of the Commissioner of Environmental Protection on

15 02, 1996.



Sidney J. Holbrook
Commissioner

TOWNS/CITIES OF Branford, Greenwich, Torrington,
Milford, Middletown, Montville, Hartford, Preston, Norwalk
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