



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

December 7, 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7007 2560 0002 7737 0274

Deborah A. Boyle, Vice-President  
Environment, Health, Safety & Training  
Oncor Electric Delivery Company LLC  
1616 Woodall Rodgers Freeway  
Dallas, TX 75201

Re: EPA Docket Number: TSCA-06-2012-6127

Dear Ms. Boyle:

Enclosed please find your copy of the fully executed Complaint and Consent Agreement and Final Order (Complaint and CAFO) that embodies the settlement achieved between the U.S. Environmental Protection Agency (EPA), Region 6, and Oncor Electric Delivery Company LLC (Oncor) on the above-referenced matter. The original Complaint and CAFO was filed with the Regional Hearing Clerk.

Pursuant to the terms of the CAFO, Oncor agreed to pay a civil penalty in the amount of Eleven Thousand Eight Hundred and Thirty-Two Dollars (\$11,832) as set forth in the Complaint and CAFO.

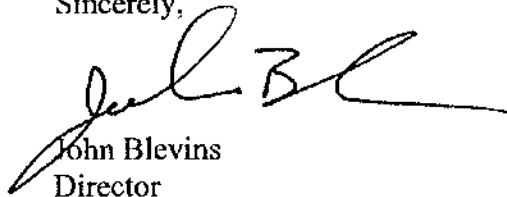
Documents relating to the Complaint and CAFO are enclosed for your information. These documents are:

1. the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits; Final Rule, 40 C.F.R. Part 22;
2. the Polychlorinated Biphenyls (PCB) Penalty Policy, April 9, 1990;
3. the Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings, Securities and Exchange Commission (SEC) Regulation S-K, Item 103-Legal Proceedings (17 CFR 229.103); and
4. the U.S. EPA Small Business Resources Information Sheet, EPA 300-F-99-004 September 1999.

Oncor Electric Delivery Company LLC  
Docket No. TSCA-06-2012-6127  
Complaint and CAFO

Thank you for your cooperation in resolving this matter. If you have further questions, please feel free to contact Ms. Lou Roberts at (214) 665-7579 or Mr. Michael Barra at (214) 665-2143.

Sincerely,

A handwritten signature in black ink, appearing to read "John Blevins", written over the printed name.

John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

Enclosures

cc: Richard A. Hyde, P.E., Deputy Director  
Office of Compliance and Enforcement  
Texas Commission on Environmental Quality

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

FILED  
2011 DEC 15 AM 11:18  
REGIONAL HEARING CLERK  
EPA REGION VI

IN THE MATTER OF:	§	DOCKET NO. TSCA-06-2012-6127
	§	
ONCOR ELECTRIC	§	COMPLAINT
DELIVERY COMPANY LLC	§	AND
DALLAS, TEXAS	§	CONSENT AGREEMENT
	§	AND
TXD981152226	§	FINAL ORDER
	§	
RESPONDENT	§	
	§	

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I. STATEMENT OF AUTHORITY

This proceeding for the assessment of civil penalties is initiated by the U.S. Environmental Protection Agency (EPA) pursuant to Section 16 of the Toxic Substances Control Act, as amended (TSCA), 15 U.S.C. § 2615 against Oncor Electric Delivery Company LLC (Oncor), Dallas, Texas (hereinafter Respondent). Section 16 of TSCA authorizes the Administrator of EPA to issue a Complaint whenever the Administrator has information that any person has violated or is violating any requirement of Section 15 of TSCA.

The Complainant in this action is the Director, Compliance Assurance and Enforcement Division, EPA Region 6, who is the person to whom authority has been delegated to issue such Complaints in the states of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

## II. PRELIMINARY STATEMENT

1. Complainant and Respondent agree that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (CAFO) without further litigation is the most appropriate means of resolving this matter.
2. Respondent admits the jurisdictional allegations of this Complaint and CAFO; however, Respondent neither admits nor denies the specific Findings of Fact and Conclusions of Law contained in this Complaint and CAFO. The Complaint states a claim upon which relief can be granted.
3. For purposes of settlement, Respondent expressly waives its rights to request a hearing on any issue of law or fact set forth herein and waives all defenses which have been raised or could have been raised to the claims set out in this Complaint and CAFO.
4. This Complaint and CAFO resolves the violation alleged herein.
5. For purposes of settlement, Respondent consents to the issuance of the Complaint and CAFO hereinafter recited and consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this Complaint and CAFO.
6. Respondent is now certifying compliance with each of the relevant provisions of the TSCA PCB regulations codified at 40 C.F.R. Part 761.
7. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.
8. By signature on this Complaint and CAFO, Respondent waives any right to an appeal of this proceeding.

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Respondent, Oncor Electric Delivery Company LLC (Oncor), Dallas, Dallas County, Texas is a corporation incorporated in and under the laws of the State of Delaware and authorized to conduct business in Texas.
10. Respondent is a "person" as that term is defined in 40 C.F.R. § 761.3, and as such is subject to 40 C.F.R. Part 761.
11. Respondent is an electric utility engaged in electricity transmission and distribution operations providing electricity and related services to approximately 3 million customers in Texas.
12. Respondent owns and operates a place of business at 2471 S. Dallas Avenue, Lancaster, Dallas County, Texas, identified as its System Operating Services Facility (SOSF) which includes waste management operations (i.e., waste storage yard, electrical equipment salvage/recycle, and laboratory services).
13. On October 1, 2010, Respondent's Laboratory Information Management System (LIMS) could not find certain PCB data. A repair request was submitted to Respondent's Information Technology (IT) department.
14. On October 18, 2010, Respondent's IT department notified the SOSF laboratory personnel that the advanced search feature problem was corrected.
15. On October 19, 2010, Respondent's SOSF laboratory personnel were notified by email that the PCB parts per million (ppm) field was not populated. Laboratory personnel reviewed all entered PCB results for October 19, 2010, and discovered that none of the results were posted. The PCB results for October 19, 2010, were then posted.

16. On October 20, 2010, Respondent's SOSF laboratory personnel discovered more problems to include the serial numbers of analyzed units did not match the PCB results posted for October 19, 2010.

17. On November 12, 2010, Respondent received notification from Solomon Corporation, Solomon, Kansas (Solomon) that a transformer sampled by them for PCBs did not match the PCB result posted by Oncor in its LIMS. Respondent posted results of 19 ppm PCBs and Solomon's result was 247 ppm PCBs. The transformer was identified as a GE transformer serial number E36311761P containing seven gallons of mineral oil.

18. On November 12, 2010, Respondent's SOSF laboratory personnel ceased all testing and reviewed all PCB results for the month of October. It was determined that one PCB work sheet had been omitted and was not reviewed during the previous review on October 19, 2010.

19. On November 12, 2010, Respondent reviewed the records on the GE transformer serial number E36311761P and determined the oil was pumped on October 25, 2010, into a tank containing less than 50 ppm PCBs.

20. Respondent determined that used oil to include the transformer oil from GE transformer serial number E36311761P had been sold on November 3, 2010, November 8, 2010, and November 15, 2010, as less than 50 ppm PCBs to Environmental Management, Inc., Kansas City, Kansas (EMI) to be detoxed and sold to be burned as fuel.

21. On November 16, 2010, Respondent notified EPA Region 6 by telephone of the improper disposal of PCBs.

22. On December 3, 2010, Respondent did disclose voluntarily via the electronic reporting process the details of the improper disposal of PCB-Contaminated oil, in accordance with the EPA's "Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations: Notice" (65 Fed. Reg. 19618, April 11, 2000) (hereinafter referred to as the Audit Policy).

23. Pursuant to 40 C.F.R. § 761.3, "PCB" and "PCBs" are any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contains such substance.

24. Pursuant to 40 C.F.R. § 761.3, "Generator of PCB waste" means any person whose act or process produces PCBs that are regulated for disposal under subpart D of this part, or whose act first causes PCBs or PCB Items to become subject to the disposal requirements of subpart D of this part, or who has physical control over the PCBs when a decision is made that the use of the PCBs has been terminated and therefore is subject to the disposal requirements of subpart D of this part. Unless another provision of this part specifically requires a site-specific meaning, "generator of PCB waste" includes all of the sites of PCB waste generation owned or operated by the person who generates PCB waste.

25. Respondent is a "Generator of PCB waste" as that term is defined in 40 C.F.R. § 761.3.

26. "PCB-Contaminated" is defined in 40 C.F.R. § 761.3 as a non-liquid material containing PCBs at concentrations  $\geq 50$  ppm but  $< 500$  ppm; a liquid material containing PCBs at concentrations  $\geq 50$  ppm but  $< 500$  ppm or where insufficient liquid material is available for analysis, a non-porous surface having a surface concentration

> 10 ug/100 cm<sup>2</sup> but < 100 ug/100 cm<sup>2</sup>, measured by a standard wipe test as defined in § 761.123.

27. The PCB-Contaminated oil identified in paragraph 17 above is PCB-Contaminated as that term is defined in 40 C.F.R. § 761.3.

28. "PCB waste(s)" is defined in 40 C.F.R. § 761.3 as those PCBs and PCB Items that are subject to the disposal requirements of subpart D of 40 C.F.R. Part 761.

29. Respondent's PCB-Contaminated oil as identified in paragraphs 17 and 27 above is PCB waste as that term is defined in 40 C.F.R. § 761.3.

30. "Disposal" is defined in 40 C.F.R. § 761.3 as intentionally or accidentally to discard, throw away, or otherwise complete or terminate the useful life of PCBs and PCB Items. Disposal includes spills, leaks, and other uncontrolled discharge of PCBs as well as actions related to containing, transporting, destroying, degrading, decontaminating, or confining PCBs and PCB Items.

31. 40 C.F.R. § 761.1(b)(5) states, "No person may avoid any provision specifying a PCB concentration by diluting the PCBs, unless otherwise specifically provided."

32. 40 C.F.R. § 761.50(b)(1) states, "Any person removing PCB liquids from use must dispose of them in accordance with § 761.60(a), or decontaminate them in accordance with § 761.79.

33. 40 C.F.R. § 761.60(a) states, "PCB liquids at concentrations  $\geq$  50 ppm must be disposed of in an incinerator which complies with § 761.70..."

34. 40 C.F.R. § 761.50(b)(1) and § 761.60(a) are rules promulgated pursuant to Section 6 of TSCA, 15 U.S.C. § 2605.



35. Failure or refusal to comply with any rule promulgated, or order issued, under Section 6 of TSCA, 15 U.S.C. § 2605, constitutes an unlawful act under Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C).

36. Therefore, Respondent has violated Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C), by failing to properly dispose of its PCB-Contaminated oil as required by 40 C.F.R. §§ 761.50(b)(1) and 761.60(a), rules promulgated pursuant to Section 6 of TSCA, 15 U.S.C. § 2605.

37. The EPA has reviewed the matter specified above and has reviewed the documentation provided by Respondent in which Respondent asserts its compliance with the Audit Policy. The EPA finds that Respondent qualifies for 75 percent mitigation for the gravity portion of the penalty. The EPA will assess a penalty for the disclosed violation and collect the economic benefit gained as a result of Respondent's noncompliance.

#### IV. PARTIES BOUND

38. The provisions of this Complaint and CAFO shall apply to and be binding upon the parties to this action, its officers, directors, agents, servants, authorized representatives, employees, successors, and assigns. The undersigned representative of each party to this Complaint and CAFO certifies that he or she is fully authorized by the party whom he or she represents to enter into the terms and conditions of this Complaint and CAFO and to execute and to legally bind that party to it.

## V. TERMS OF SETTLEMENT

39. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and upon consideration of the entire record herein, including the above Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon the nature, circumstances, extent, and gravity of the violation, and with respect to Respondent's ability to pay, effect on ability to continue in business, and history of prior such violations, the degree of culpability, and such other matters as justice may require, it is agreed that Respondent will be assessed a gravity based civil penalty of One Thousand Seven Hundred and Seventy-Five Dollars (\$1,775) [Level One Disposal Violation, Minor Extent (7 gallons – 30% concentration)], and pay an economic benefit component of Eleven Thousand Eight Hundred and Thirty-Two Dollars (\$11,832).

40. The assessed amount has taken into account the particular facts and circumstances of this case with specific consideration of EPA's "Polychlorinated biphenyls (PCB) Penalty Policy" effective April 9, 1990, a copy which is enclosed with this Complaint and CAFO, and EPA's "Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations; Notice" (65 Fed. Reg. 19618, April 11, 2000) (Audit Policy). These policies provide for a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases.

41. Respondent consents to the issuance of this CAFO hereinafter recited and consents for the purposes of settlement to the payment of the civil penalty cited herein.

42. Within thirty (30) days of filing this Complaint and CAFO with the Regional Hearing Clerk, Region 6, Respondent shall submit a cashier's or certified check, payable to the order of the "Treasurer, United States of America," in the amount of Thirteen Thousand Six Hundred and Seven Dollars (\$13,607) to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

with a phone number of (513) 487-2091 or (513) 487-2105.

For overnight mail (non-U.S. Postal Service, e.g., FedEx, Airborne, UPS), the check should be remitted to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101

with a phone number of (314) 418-1028.

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

with a phone number of (412) 234-4381.

PLEASE NOTE: Docket number TSCA-06-2012-6127 shall be clearly typed on the check to ensure proper credit. The check shall also be accompanied by a transmittal letter

and shall reference Respondent's name and address, the case name, and docket number of the administrative complaint and CAFO. Respondent's adherence to this request will ensure proper credit is given to the appropriate Region. Respondent shall also send a simultaneous notice of such payment, including a copy of the cashier's or certified check, and transmittal letter to the following:

Regional Hearing Clerk (6RC-D)  
U.S. EPA Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

and

Ms. Lou Roberts (6EN-HM)  
Multimedia Enforcement Section  
Hazardous Waste Enforcement Branch  
Compliance Assurance & Enforcement Division  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Adherence to this request will ensure proper credit is given when payment is received.

43. Failure to pay the assessed amount, as set forth above, may subject Respondent to a civil action pursuant to Section 16(a) of TSCA. Section 16(a) of TSCA authorizes EPA to collect any unpaid portion of the assessed penalty plus interest.

44. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the date required.

45. If EPA does not receive payment within thirty (30) days of the due date, and the Respondent cannot provide evidence that payment was properly sent, interest will accrue on the amount due from the due date at the current annual rate prescribed and published

by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletin per annum through the date of payment. If payment is overdue, EPA will also impose a late payment handling charge of \$15, with an additional delinquent notice charge of \$15 for each subsequent thirty (30) day period. Finally, EPA will apply a six (6) percent per annum penalty on any principal amount not paid within ninety (90) days of the due date. Other penalties for failure to make a timely payment may also apply.

#### VI. RETENTION OF ENFORCEMENT RIGHTS

46. Other than as provided herein, EPA does not waive any rights or remedies available to EPA for any violations by the Respondent of Federal laws, regulations, statutes or permitting programs.

47. Nothing in the CAFO shall relieve Respondent of the duty to comply with all applicable provisions of TSCA.

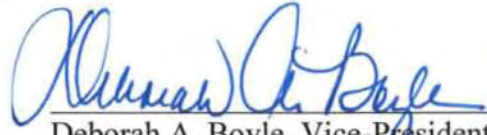
#### VII. COSTS

48. Each party shall bear its own costs and attorney fees.

IT IS SO AGREED:

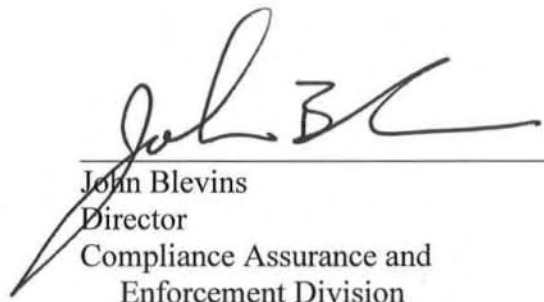
FOR THE RESPONDENT:

Date: 11/8/11

  
\_\_\_\_\_  
Deborah A. Boyle, Vice-President  
Environment, Health, Safety & Training  
Oncor Electric Delivery Company LLC  
Dallas, TX

FOR THE COMPLAINANT:

Date: 12.7.11

  
\_\_\_\_\_  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

## VIII. FINAL ORDER

Pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement in Docket Number TSCA-06-2012-6127 is hereby ratified. The Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Complaint. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. 40 C.F.R. § 22.31(b) provides that this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 12/12/11



Patrick Rankin  
Regional Judicial Officer  
U.S. Environmental Protection  
Agency, Region 6

## CERTIFICATE OF SERVICE

I hereby certify that on the 15<sup>th</sup> day of December 2011, the original of the foregoing Complaint and Consent Agreement and Final Order (Complaint and CAFO) was hand delivered to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the Complaint and CAFO and the PCB Penalty Policy was placed in the United States Mail, certified mail, return receipt requested, addressed to the following:

Deborah A. Boyle, Vice-President  
Environment, Health, Safety & Training  
Oncor Electric Delivery Company LLC  
1616 Woodall Rodgers Freeway  
Dallas, TX 75201

Receipt Number 7007 2560 0002 7737 0274

Lou Roberts

Lou Roberts  
Environmental Protection Specialist