

COMMONWEALTH OF PUERTO RICO
PUERTO RICO ELECTRIC POWER AUTHORITY
SAN JUAN, PUERTO RICO



U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2009 NOV 10 PM 12:34
REGIONAL HEARING
CLERK

PO Box 364267
San Juan, Puerto Rico 00936-4267

www.prepa.com

November 5, 2009

CERTIFIED MAIL

Karen Maples
Regional Hearing Clerk
U. S. Environmental Protection Agency – Region II
290 Broadway, 16th Floor
New York, New York 10007-1866

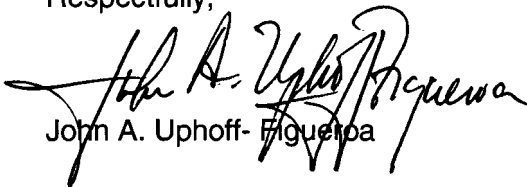
**RE: Puerto Rico Electric Power Authority
San Juan Power Plant
Index No. CAA-02-2009-1221**

Dear Ms. Maples:

Attached you will find the Puerto Rico Electric Power Authority's Answer and Hearing Request (original plus one copy) to the above referenced Complaint.

Should you have any questions or require additional information, please contact me at (787) 521-4195.

Respectfully,


John A. Uphoff-Figueroa

Attachments

cc Francisco E. López García
Angel Luis Rivera Santana

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

In the Matter of:
Puerto Rico Electric Power Authority
San Juan Plant
PO Box 363549
San Juan, PR 00936-3549

Respondent

In a proceeding under
Section 113 (d) of the Clear Air Act
42 U.S.C. § 7413 (d)

U.S. ENVIRONMENTAL
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ANSWER & REQUEST FOR HEARING

Index No. CAA-02-2009-1221

TO THE HONORABLE REGIONAL HEARING CLERK:

Now comes Respondent, the Puerto Rico Electric Power Authority, thru its undersigned attorney, and respectfully states and request as follows:

I. FACTUAL ALLEGATIONS

With regard to the findings of facts contained in the Complaint and Notice of Opportunity to Request a Hearing (Index No. CAA-02-2009-1221):

1. Paragraphs 1 thru 26 are admitted.
2. Paragraphs 27 and 28 are currently denied pending further clarification and knowledge.
3. Paragraphs 29 and 30 are admitted.
4. Paragraphs 31 thru 34 are currently denied pending further clarification and knowledge.
5. Paragraphs 35 and 36 are currently denied pending further knowledge.
6. Paragraphs 37 thru 39 are admitted.

7. Paragraphs 40 in currently denied pending further clarification.
8. Paragraph 41 is admitted.
9. PREPA has furnished a constant flow of information regarding the status of the Performance Stack Tests for the Combined Cycle Unit #6 and the equipment failures and safety hazards that prevented PREPA from completing the Performance Stack Tests. In particular, higher load tests, pursuant to the eventually approved protocol, were unachievable by Respondent due to the events described in PREPA's force majeure claims. Furthermore, if higher load levels or maximum production rates are not achieved at the facility, due to causes beyond PREPA's control or due to safety concerns, PREPA could not start performance tests in compliance with EPA's Revised Final Stack Protocol and applicable regulations.
10. PREPA argues that the Revised Final Stack Protocol is necessary to commence the performance tests. Any calculation of the Preliminary Deterrence Component of the Proposed Penalty should consider when was the protocol approved in order to start appropriate performance tests.
11. If maximum production rate is not reached at a facility, and 180 days after initial start up have elapsed without reaching maximum production rate (due to the numerous causes presented and discussed with EPA), a timely performance test, in compliance with regulatory requirements (40 CFR § 60.8) and protocols is impossible to achieve.

II. REQUEST FOR HEARING

1. PREPA hereby request a hearing pursuant to the Consolidated rules of Practice Governing the Administrative Assessment of Civil Penalties, Insurance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 CFR Part 22.

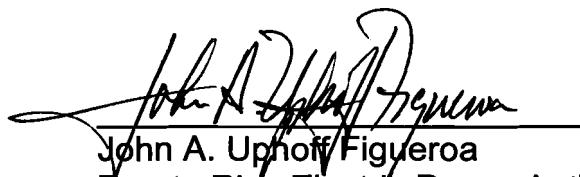
III. INFORMAL SETTLEMENT CONFERENCE

1. PREPA has requested an informal settlement conference with the assigned Assistant Regional Counsel, has encourage by EPA's complaint notification letter. PREPA believes settlement is possible in this matter and request a reasonable thirty day time period, to allow the parties involved to explore settlement prior to formal proceedings.

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RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, this 5th day of November, 2009.

A handwritten signature in black ink, appearing to read "John A. Uphoff/Figueroa", written over a horizontal line.

John A. Uphoff/Figueroa
Puerto Rico Electric Power Authority
PO Box 364267
San Juan, Puerto Rico 00936-4267
Tel. (787) 521-4195
Fax (787) 521-4085

