

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for:

Timothy M. Conway
Name of Case Attorney

7/18/16
Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number TSCA-01-2016-0044

Site-specific Superfund (SF) Acct. Number _____

This is an original debt _____ This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Charles J. Nicol
Eversource Energy
107 Seldow Street
Berlin, CT 06037

Total Dollar Amount of Receivable \$ 47,000.00

Due Date: 8/12/16

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

- 1st \$ _____ on _____
- 2nd \$ _____ on _____
- 3rd \$ _____ on _____
- 4th \$ _____ on _____
- 5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NEW ENGLAND REGION

By Hand

July 13, 2016

Wanda Santiago
Paralegal/Regional Hearing Clerk
U.S. Environmental Protection Agency
Region I
5 Post Office Square
Boston, Massachusetts 02109

RECEIVED

JUL 18 2016

EPA ORC
Office of Regional Hearing Clerk

Re: The Connecticut Light and Power Company dba Eversource Energy, Respondent
Docket No. TSCA-01-2016-0044

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find the original and one copy of the executed Consent Agreement and Final Order in this matter.

Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy M. Conway for".

Timothy M. Conway
Senior Enforcement Counsel

Enclosures

cc: Charles J. Nicol, Esquire

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED

JUL 18 2016

EPA ORC
Office of Regional Hearing Clerk

_____)
IN THE MATTER OF)
The Connecticut Light and Power Company)
dba Eversource Energy)
107 Selden Street)
Berlin, CT 06037)
)
)
Proceeding under Section)
16(a) of the Toxic Substances Control Act)
_____)

Docket No. TSCA 01-2016-0044

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought under Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), and Sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), as codified at 40 C.F.R. Part 22.
2. Complainant is the United States Environmental Protection Agency, Region 1 (the “EPA”). On the EPA’s behalf, Joanna Jerison, Legal Enforcement Manager, Office of Environmental Stewardship, is delegated the authority to settle civil administrative penalty proceedings under Section 16(a) of TSCA.
3. Respondent is The Connecticut Light and Power Company dba Eversource Energy. Respondent is a “person” as defined in 40 C.F.R. § 761.3.
4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this consent agreement (“Consent Agreement” or “Agreement”) and the attached final order (“Final Order” or “Order”) without

adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this Consent Agreement and Final Order.

B. JURISDICTION

5. This Consent Agreement is entered into under Section 16(a) of TSCA 15 U.S.C. § 2615(a), and the Consolidated Rules, 40 C.F.R. Part 22.
6. This Consent Agreement simultaneously commences and concludes the cause of action described herein, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b). The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

C. ALLEGED VIOLATIONS OF LAW

7. Respondent owned and operated a transformer on a concrete pad at 130 Freight Street in Waterbury, Connecticut (the "Facility"). In September 2014, Respondent was notified by the customer at 130 Freight Street that the transformer had been vandalized. On September 24, 2014, Respondent took the transformer out of service by de-energizing it and identifying it for removal. Respondent did not remove the polychlorinated biphenyls ("PCBs") from the transformer at that time.
8. The transformer remained in place until January 19, 2016.
9. On January 19, 2016, Respondent discovered that the transformer had been further vandalized, and that a spill of approximately 50 gallons of PCBs from the transformer had occurred. Sampling results demonstrated that PCB in concentrations of up to 318 parts per million had been released.

10. On January 19, 2016, Respondent removed and disposed of the PCB-contaminated transformer, with approximately 70 cubic yards of material removed.
11. Respondent has produced no information showing that the PCB-contaminated transformer had been checked for leaks every 30 days between September 24, 2014 and January 19, 2016.
12. Pursuant to 40 C.F.R. § 761.50(a)(4), spills and uncontrolled discharges of PCBs at concentrations greater than or equal to 50 ppm constitute disposal of PCBs.
13. Respondent's transformer is considered a "PCB Item" pursuant to 40 C.F.R. § 761.3.
14. A PCB transformer must be disposed of properly pursuant to 40 C.F.R. § 761.60(b)(1), which also requires that PCB liquids in such a transformer must be disposed of in an incinerator. The PCBs spilled or discharged from Respondent's transformer were improperly disposed of pursuant to 40 C.F.R. §§ 761.50(a)(4) and 761.60(b)(1). Accordingly, Respondent violated 40 C.F.R. § 761.60(b).
15. A generator, transporter, commercial storer or disposer of PCB waste must obtain an EPA identification number pursuant to 40 C.F.R. § 761.202(b)(1). Between when Respondent de-energized the transformer on September 24, 2014 and the time the transformer was removed, the PCBs were being stored for disposal. The PCB Item was stored for disposal greater than 30 days without the facility having received an EPA identification number, in violation of 40 C.F.R. § 761.205. Accordingly, Respondent violated 40 C.F.R. §§ 761.202(b)(1) and 761.205.
16. PCB Items stored for disposal greater than 30 days must be in an area that meets the requirements of 40 C.F.R. § 761.65(b). Respondent's Facility area did not have adequate roof and walls, or an adequate floor that has continuous curbing with a

minimum 6 inch high curb. Accordingly, Respondent's Facility did not meet the storage requirements of 40 C.F.R. § 761.65(b).

17. PCB Items determined to be waste must be disposed of within one year of the waste determination date pursuant to 40 C.F.R. § 761.65(a)(1). Respondent's PCB Item was not disposed of within one year of its waste determination date, in violation of 40 C.F.R. § 761.65(a)(1).
18. PCB Items in storage must be checked for leaks at least once every 30 days, pursuant to 40 C.F.R. § 761.65(c)(5) and records of such inspections must be maintained. Respondent did not have records showing that it had checked the transformer for leaks between September 24, 2014 and January 19, 2016, in violation of 40 C.F.R. § 761.65(c)(5). Accordingly, Respondent violated 40 C.F.R. §§ 761.65(c)(5).
19. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, any person who violates provisions of TSCA shall be liable to the United States for civil penalties. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, as amended, statutory civil penalty amounts are adjusted consistent with inflation.

D. TERMS OF CONSENT AGREEMENT

20. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),

Respondent:

- (a) admits that the EPA has jurisdiction over the subject matter alleged in this Agreement;
- (b) neither admits nor denies the specific factual allegations of Section C of this Agreement;
- (c) consents to the assessment of a civil penalty as stated below;

- (d) consents to the issuance of the specified compliance or corrective action order;
- (e) consents to the conditions specified in this Agreement;
- (f) waives any right to contest the alleged violations of law set forth in Section C of this Agreement; and
- (g) waives its rights to appeal the Order accompanying this Agreement.

21. For the purpose of this proceeding, Respondent:

- (a) acknowledges that this Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- (b) waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order;
- (c) consents to personal jurisdiction in any action to enforce this Agreement or Order, or both, in the United States District Court for the District of Connecticut; and
- (d) waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the penalty provisions of the Agreement or Order, or both, and agrees that federal law shall govern in any such civil action.

22. Penalty Payment

- (a) In light of the particular facts and circumstances of this matter, with specific reference to the statutory factors of Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and EPA's 1990, "Polychlorinated Biphenyls (PCB) Penalty Policy," EPA has determined that it is fair and proper to assess a civil penalty for the violations alleged in Section C of this Agreement in the total amount of forty-seven thousand dollars (\$47,000).
- (b) Respondent agrees to pay the civil penalty of \$47,000 ("EPA Penalty") within 30 days of the Effective Date of this Agreement.
- (c) Respondent agrees to make the payment of the EPA Penalty by submitting a bank, cashier's, or certified check, or by wire transfer. A check shall be payable to the order of the "Treasurer, United States of America." The payment shall be remitted as follows:

If by regular U.S. Mail:

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

If by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If submitted by wire transfer:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street

New York, NY 10045

Respondent shall note the case name and docket number of this action on each check/wire transfer and in an accompanying cover letter, and shall simultaneously provide copies of the check/wire transfer and cover letter to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
5 Post Office Square
Suite 100, Mail Code ORA18-1
Boston, MA 02109-3912

and

Timothy M. Conway
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region I
5 Post Office Square
Suite 100, Mail Code OES4-03
Boston, MA 02109

23. If Respondent fails to timely pay any portion of the penalty assessed under this Agreement, the EPA may:
- (a) request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed, plus interest at currently prevailing rates from the date of the Final Order pursuant to Section 16(a)(4) of TSCA, 15 U.S.C. § 2615(a)(4). Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalty on debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest will therefor begin to accrue on a civil or stipulated penalty if it is not paid by the last date required. Interest will be

assessed at the rate of the U.S. Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the cost of debt collection, including processing and handling costs and attorney's fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid, in accordance with 31 C.F.R. § 901.9(d).

- (b) report the debt to a credit reporting agency or use a collection agency pursuant to 40 C.F.R. §§ 13.13 and 13.14;
- (c) collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
- (d) suspend or revoke Respondent's licenses or other privileges granted by EPA; or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

24. Respondent certifies that it has corrected the alleged violations cited in this Agreement and that it is now operating in compliance with the requirements of TSCA and 40 C.F.R. Part 761.

25. The provisions of this Agreement shall apply to and be binding upon Respondent, its officers and directors in their corporate capacities, and its successors and assigns.
26. By signing this Agreement, Respondent acknowledges that this Agreement and Order will be fully releasable and available to the public.
27. By signing this Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this Agreement and has the legal capacity to bind the party he or she represents to this Agreement.
28. Except as qualified by Paragraph 23, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding, and specifically waives any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

E. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER

29. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and Final Order resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Section C of this Agreement. EPA reserves all its other criminal and civil enforcement authorities.
30. Penalties paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.
31. This Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

32. The terms, conditions, and compliance requirements of this Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.
33. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of TSCA and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations except as stated under Paragraph 29 herein, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
34. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

F. EFFECTIVE DATE

35. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondent. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

The foregoing Consent Agreement In the Matter of The Connecticut Light and Power Company dba Eversource Energy, Docket No. TSCA 01-2016-0044, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

7/12/16
DATE


Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency – Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

_____))
IN THE MATTER OF))
The Connecticut Light and Power Company))
dba Eversource Energy))
107 Selden Street))
Berlin, CT 06037))
))
Proceeding under Section))
16(a) of the Toxic Substances Control Act))
_____))

Docket No. TSCA 01-2016-0044

FINAL ORDER

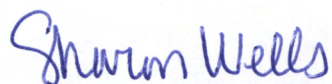
In accordance with 40 C.F.R. § 22.18(b) of the United States Environmental Protection Agency's Consolidated Rules of Practice, the parties to this matter have forwarded the foregoing executed Consent Agreement for final approval. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), authorizes EPA to issue an administrative penalty to enforce the requirements of TSCA. In addition, Section 16(a)(2)(C) of TSCA, 15 U.S.C. § 2615(a)(2)(C), authorizes EPA to compromise the maximum civil penalty of \$37,500 per day per violation. EPA has made such a compromise by applying the penalty factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), to the facts and circumstances of this case, including the circumstances of the violation and the culpability of the violator.

Pursuant to these provisions, EPA has modified the maximum civil penalty and imposed the conditions described in Section D of the Consent Agreement. Respondent has consented to the terms of this Consent Agreement.

Pursuant to 40 C.F.R. § 22.18(b) of EPA's Consolidated Rules of Practice and Section 16(a) of TSCA, 15 U.S.C. § 2615(a), the Consent Agreement is incorporated by reference into

this Final Order and is hereby ratified. The Respondent, Eversource Energy, is ordered to pay the civil penalty amount in the total amount of \$47,000, plus interest, in the manner indicated. The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

SO ORDERED THIS 13th DAY OF July 2016.



Sharon Wells
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing "Consent Agreement" and "Final Order," in the Matter of The Connecticut Light and Power Company dba Eversource Energy, Docket No. TSCA 01-2016-0044, were sent to the following persons on the date noted below:

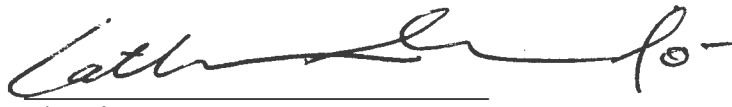
Original and One Copy
(Hand-Delivered):

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region I
5 Post Office Square
Suite 100, ORA18-1
Boston, MA 02109-3912

Copy, including
(First class mail)

Charles J. Nicol
Eversource Energy
107 Selden Street
Berlin, CT 06037

Dated: July 13, 2016



Timothy M. Conway
Senior Enforcement Counsel
U.S. Environmental Protection Agency - Region 1
5 Post Office Square
Suite 100, Mail Code OES04-3
Boston, MA 02109-3912