

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

FILED

Sep 11, 2025

6:27 am

**U.S. EPA REGION 4
HEARING CLERK**

In the Matter of:

Orlando Utilities Commission

EPA ID No.: FLD020972303

Respondent.

Docket No. **TSCA-04-2025-6200(b)**

CONSENT AGREEMENT

I. NATURE OF ACTION

1. This is an administrative penalty assessment proceeding brought under Section 16(a) of the Toxic Substances Control Act (TSCA or the Act), 15 U.S.C. § 2615(a), and Sections 22.13(b) and 22.18 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

II. PARTIES

4. Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 16(a) of TSCA, 15 U.S.C. § 2615(a).
5. Respondent is Orlando Utilities Commission, a statutory municipal utility commission doing business in the State of Florida. This proceeding pertains to Respondent's Indian River Power Plant located at 7800 South U.S. Highway, Titusville, Florida 32780 (Facility).

III. GOVERNING LAW

6. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), the Administrator of the EPA promulgated regulations in 40 C.F.R. Part 761 pertaining to Polychlorinated Biphenyls (PCBs). Failure to comply with any such regulations constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates Section 15 of TSCA, 15 U.S.C. § 2614, may be assessed a civil penalty in accordance with Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and 40 C.F.R. Part 19. Each day a violation continues may constitute a separate violation.
7. The term “facility” is defined in 40 C.F.R. § 761.3 as all contiguous land, and structures, other appurtenances, and improvements on the land, used for the treatment, storage, or disposal of PCB waste. A facility may consist of one or more treatment, storage, or disposal units.
8. The term “PCB” and “PCBs” is defined in 40 C.F.R. § 761.3 as 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.
9. The term “PCB-Contaminated” is defined in 40 C.F.R. § 761.3 as a non-liquid material containing PCBs at concentrations ≥ 50 parts per million (ppm) but < 500 ppm; a liquid material containing PCBs at concentrations ≥ 50 ppm but < 500 ppm or where insufficient liquid material is available for analysis, a non-porous surface having a surface concentration of > 10 micrograms (μg)/100 centimeters² (cm^2) but < 100 $\mu\text{g}/100 \text{ cm}^2$, measured by a standard wipe test as defined in 40 C.F.R. § 761.123.
10. The term “PCB Transformer” is defined in 40 C.F.R. § 761.3 as any transformer that contains ≥ 500 ppm PCBs.
11. The term “PCB-Contaminated Electrical Equipment” is defined in 40 C.F.R. § 761.3 as any electrical equipment including, but not limited to, transformers (including those used in railway locomotives and self-propelled cars), capacitors, circuit breakers, reclosers, voltage regulators, switches (including sectionalizers and motor starters), electromagnets, and cable, that contains PCBs at concentrations of ≥ 50 ppm and < 500 ppm in the contaminating fluid. In the absence of liquids, electrical equipment is PCB-Contaminated if it has PCBs at > 10 $\mu\text{g}/100 \text{ cm}^2$ and < 100 $\mu\text{g}/100 \text{ cm}^2$ as measured by a standard wipe test (as defined in 40 C.F.R. § 761.123) of a non-porous surface.
12. The term “PCB Article” is defined 40 C.F.R. § 761.3 as any manufactured article, other than a PCB Container, that contains PCBs and whose surface(s) has been in direct contact with PCBs. “PCB Article” includes capacitors, transformers, electric motors, pumps, pipes and any other manufactured item: (1) which is formed to a specific shape or design during manufacture; (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use; and (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the PCB Article.

13. The term “PCB Item” is defined in 40 C.F.R. § 761.3 as any PCB Article, PCB Article Container, PCB Container, PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs.
14. The term “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.
15. The term “Annual document log” is defined in 40 C.F.R. § 761.3 as the detailed information maintained at a facility on the PCB waste handling at the facility.
16. The term “Leak” or “leaking” is defined in 40 C.F.R. § 761.3 as any instance in which a PCB Article, PCB Container, or PCB Equipment has any PCBs on any portion of its external surface.
17. The term “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 discharges of PCBs as well as actions related to containing, transporting, destroying, degrading, decontaminating, or confining PCBs or PCB Items.
18. Pursuant to 40 C.F.R. § 761.30(a)(1)(ix), a visual inspection of each PCB Transformer in use or stored for reuse shall be performed at least once every three months. These inspections may take place any time during the three-month period: January-March, April-June, July-September, and October-December, as long as there is a minimum of 30 days between inspections. The visual inspection must include investigation for any leak of dielectric fluid on or around the transformer.
19. Pursuant to 40 C.F.R. § 761.30(a)(1)(xii), records of inspection and maintenance history shall be maintained at least three years after disposing of the transformer and shall be made available for inspection, upon request by the EPA.
20. Pursuant to 40 C.F.R. § 761.180(a), owners or operator of a facility must maintain all annual records and the written Annual document log of the disposition of PCBs and PCB Items. Annual records must also include records of inspections and clean-ups performed in accordance with 40 C.F.R. § 761.65(c)(5).
21. Pursuant to 40 C.F.R. § 761.50(a)(4), spills and other uncontrolled discharges of PCBs at concentrations ≥ 50 ppm constitutes disposal of PCBs.

IV. FINDINGS OF FACTS

22. Respondent is a statutory municipal utility commission that owns and operates several electric power generating facilities in the Orlando area, including the Facility.
23. On December 27, 2006, Reliant Energy, a prior owner of a portion of the Facility, registered three PCB Transformers located at the Facility.
24. The Facility is a gas turbine power plant supplying electricity to the City of Orlando. The power

plant has been in a partial extended shutdown since 2012.

25. On January 17, 2024, an authorized representative of the EPA conducted an inspection at the Facility pursuant to Section 11 of TSCA, 15 U.S.C. § 2610, to evaluate Respondent's compliance with the PCB regulations.
26. During the inspection, the following was observed:
 - a. One (1) General Electric PCB Transformer with serial number C-861044 located at Basement-Unit 1, holding 340 gallons of 719 ppm PCB concentration fluid;
 - b. One (1) General Electric PCB Transformer with serial number C-861045 located at Basement-Unit 1, holding 340 gallons of 750 ppm PCB concentration fluid;
 - c. One (1) General Electric PCB-Contaminated Transformer with serial number E-687737A located at 1st Floor-Unit 2, holding 265 gallons of 491 ppm PCB concentration fluid;
 - d. One (1) General Electric PCB Transformer with serial number E-687737B located at 1st Floor-Unit 2, holding 265 gallons of 546 ppm PCB concentration fluid;
 - e. One General Electric PCB-Contaminated Transformer with serial number G-852738A located at 1st Floor-Unit 3, holding 280 gallons of 280 ppm PCB concentration fluid that was leaking underneath the valve; and
 - f. One PCB-Contaminated Transformer with no name plate located at 1st Floor-Unit 3, holding 280 gallons of 194 ppm PCB concentration fluid that was leaking underneath the valve.
27. Respondent failed to maintain records for one of the quarterly inspections conducted of the on-site PCB Transformers in 2022 and for one of the quarterly inspections conducted in 2023, as required by 40 C.F.R. § 761.30(a)(1)(xii).
28. At the time of the inspections, Respondent did not maintain annual records and written Annual document logs of the disposition of PCBs and PCB Items on-site as required by 40 C.F.R. § 761.180(a).
29. At the time of the inspections, both of the PCB-Contaminated Transformers located at 1st Floor-Unit 3 were leaking PCB fluids from underneath their valves which constitutes the disposal of PCBs pursuant to 40 C.F.R. § 761.50(a)(4).

V. ALLEGED VIOLATIONS

30. The EPA alleges that Respondent failed to maintain records for one of the quarterly inspections of the on-site PCB Transformers in 2022 and one of the quarterly inspections in 2023, in violation of 40 C.F.R. § 761.30(a)(1)(xii) and Section 15 of TSCA, 15 U.S.C. § 2614.
31. The EPA alleges that Respondent failed to maintain all annual records and the written Annual document logs of the disposition of PCBs and PCB Items, in violation of 40 C.F.R. § 761.180(a) and Section 15 of TSCA, 15 U.S.C. § 2614.

32. The EPA alleges that PCBs were leaking from PCB-Contaminated Transformers which constituted the improper disposal of PCBs at the Facility, in violation of 40 C.F.R. § 761.50(a)(4) and Section 15 of TSCA, 15 U.S.C. § 2614.

VI. STIPULATIONS

33. The issuance of this CAFO simultaneously commences and concludes this proceeding pursuant to 40 C.F.R. § 22.13(b).
34. 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 CAFO;
 - b. neither admits nor denies the specific factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
 - c. consents to the assessment of a civil penalty as stated below;
 - d. consents to the conditions specified in this CAFO;
 - e. waives any right to contest the alleged violations set forth in Section V (Alleged Violations) of this CAFO; and
 - f. waives its right to appeal the Final Order accompanying this CAFO.
35. For the purpose of this proceeding, Respondent:
- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
 - b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
 - c. waives any right 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 CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;
 - d. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept or issue this CAFO;
 - e. waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives

any right to challenge the lawfulness of the Final Order accompanying this Consent Agreement;

- f. by executing this CAFO, certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected; and
- g. agrees to comply with the terms of this CAFO.

36. In accordance with 40 C.F.R. § 22.5, the individuals named in the Certificate of Service are authorized to receive service related to this proceeding and the Parties agree to receive service by electronic means.

VII. TERMS OF PAYMENT

37. Respondent is assessed a civil penalty, which was calculated in accordance with the Act, in the amount of **NINETEEN THOUSAND, FOUR-HUNDRED and SIXTY-ONE DOLLARS (\$19,461.00)**, which shall be paid within thirty (30) days of the Effective Date of this CAFO.
38. Respondent shall pay the civil penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the following EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. However, for any payments made after September 30, 2025, and in accordance with the March 25, 2025 Executive Order on [Modernizing Payments To and From America's Bank Account](#), Respondent shall pay using one of the electronic payments methods listed on <https://www.epa.gov/financial/makepayment> and will not pay with a paper check. In addition, Respondent shall identify every payment with Respondent's name and the docket number of this CAFO, Docket No. TSCA-04-2025-6200(b).
39. Respondent shall send proof of payment electronically within twenty-four (24) hours of payment of the civil penalty, to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
R4_Regional_Hearing_Clerk@epa.gov

and

Kris Lippert
TSCA Enforcement Section
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
lippert.kristin@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

40. "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearing house transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with Respondent's name and Docket No. TSCA-04-2025-6200(b).
41. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Accordingly, the EPA may require Respondent to pay the following amounts on any amount overdue:
- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within thirty (30) days of the Effective Date of this CAFO, interest is waived. However, if the civil penalty is not paid in full within thirty (30) days of the Effective Date of this CAFO, interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b), and 40 C.F.R. § 13.11(a).
 - b. Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) days past due, Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. See 40 C.F.R. § 13.11(c).
 - c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average costs incurred. See 31 C.F.R. § 901.9(c) and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.
42. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:
- a. refer the debt to a credit reporting agency or a collection agency (see 40 C.F.R. §§ 13.13 and 13.14);
 - b. 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 (*see* 40 C.F.R. Part 13, Subparts C and H);

- c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds (*see* 40 C.F.R. § 13.17); and/or
- d. refer the debt to the Department of Justice for litigation (*see* 40 C.F.R. § 13.33).

43. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

VIII. EFFECT OF CAFO

- 44. This CAFO constitutes a settlement by the EPA of all claims for federal civil penalties pursuant to Section 16(a) of TSCA, 15 U.S.C. 2615(a), for the specific violations alleged herein.
- 45. In accordance with 40 C.F.R. § 22.18(c), full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall satisfy the requirements of this CAFO; but shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
- 46. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act 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, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.
- 47. 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 hazard as provided under the Act.
- 48. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.
- 49. The provisions of this CAFO shall apply to and be binding upon Respondent and its successors and assigns. Respondent shall direct its officers, directors, employees, agents, trustees, and authorized representatives to comply with the provisions of this CAFO, as appropriate.
- 50. Any change in the legal status of Respondent, or change in ownership, partnership, corporate, or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.
- 51. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or

personally identifiable information.

52. By signing this Consent Agreement, the Complainant, and the undersigned representative of Respondent each certify that one is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party one represents to this CAFO.
53. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
54. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
55. The EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
56. It is the intent of the Parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other party or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.
57. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

IX. EFFECTIVE DATE

58. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Regional Hearing Clerk.

**[Remainder of Page Intentionally Left Blank]
[Complainant and Respondent will Each Sign on Separate Pages]**

The foregoing Consent Agreement, In the Matter of the **Orlando Utilities Commission**, Docket No. **TSCA-04-2025-6200(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Signature  Date 8/20/2025

Printed Name: John Wade Gillingham

Title: Vice President, Electric and Water Production

Address: Orlando Utilities Commission, 100 W Anderson St, Orlando, FL 32801

The foregoing Consent Agreement, In the Matter of the **Orlando Utilities Commission**, Docket No. **TSCA-04-2025-6200(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

Keriema S. Newman
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 4

In the Matter of:

Orlando Utilities Commission

EPA ID No.: FLD020972303

Respondent.

Docket No. **TSCA-04-2025-6200(b)**

FINAL ORDER

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)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified, and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

Respondent is hereby ORDERED to comply with all the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED.

Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, In the Matter of the **Orlando Utilities Commission**, Docket No. **TSCA-04-2025-6200(b)**, were filed and copies of the same were emailed to the Parties as indicated below.

Via email to all Parties at the following email addresses:

To Respondent: Kent Mayo
 Baker Botts L.L.P.
 kent.mayo@bakerbotts.com
 202-639-1122

To EPA: Kris Lippert
 Senior Enforcement Officer
 Lippert.kristin@epa.gov
 404-562-8605

 Ryan Jones
 Attorney
 Jones.ryan.a@epa.gov
 404-562-8130

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
R4_Regional_Hearing_Clerk@epa.gov