



August 9, 2024

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Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, Texas 78711-3087

Via electronic filing

Re: Comments and Public Hearing Request Regarding Draft Renewal Title V Permit No. O74, Authorizing Operating of NRG Texas Power LLC's W.A. Parish Electric Generating Station in Fort Bend County, Texas

I. INTRODUCTION

Air Alliance Houston, Sierra Club, and Environmental Integrity Project (“Commenters”) appreciate this opportunity to comment and **request a public hearing** concerning the Texas Commission on Environmental Quality’s (“TCEQ”) preliminary decision to renew Title V Permit No. O74 authorizing operation of NRG Texas Power LLC’s (“NRG”) W.A. Parish Electric Generating Station (“Parish Power Plant”), located in Fort Bend County, Texas approximately 25 miles southwest of the City of Houston. The Executive Director issued Draft Renewal Permit No. O74 (“Draft Permit”), notice of which was published on July 10, 2024. These comments are timely filed via the TCEQ’s e-comment system on August 9, 2024, within 30-days after the Draft Permit was publicly noticed.

The Parish Power Plant consists of eight high pressure boilers that produce steam for the generation of electricity. According to the Statement of Basis, Units 1-4 primarily fire natural gas, with units 1-3 also authorized for waste oil firing. Statement of Basis at 2. Units 5 and 6 are coal and natural gas-fired boilers. *Id.* Units 7 and 8 are coal and natural gas-fired boilers, with the authorization to burn distillate fuel oil. *Id.* This power plant is a major source of Hazardous Air Pollutants (“HAPs”) and criteria pollutants contributing significantly to ozone formation, sulfur dioxide concentrations, and particulate matter concentrations both in Fort Bend County and in Houston. The health impacts of these emissions are profound. PM2.5 exposure alone from the Parish Power Plant is associated with 177 premature deaths each year, with most of those deaths occurring in Houston. Brian Strasert, Su Chen Teh & Daniel S. Cohan (2019) Air quality and health benefits from potential coal power plant closures in Texas, *Journal of the Air & Waste Management Association*, 69:3, 333-350, DOI: 10.1080/10962247.2018.1537984 at 342-43. Given the potential and actual harms associated with air pollution from the Parish Power Plant, it is imperative that the Draft Permit accurately and completely describes NRG’s federally-enforceable Clean Air Act obligations and includes monitoring, testing, and recordkeeping requirements sufficient to assure compliance with them. As Commenters explain below, the Draft Permit falls well short of this mark and the Executive Director must correct its deficiencies before granting NRG’s application to renew Permit No. O74.

Everyone has a right to breathe clean air.

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II. COMMENTERS

Air Alliance Houston is a Texas 501(c)(3) non-profit advocacy organization working to reduce public health impacts from air pollution and to advance Environmental Justice through applied research, education, and advocacy. Air Alliance Houston takes a strong stance against disproportionate exposure to air pollution by emphasizing an agenda centered on equity and Environmental Justice.

Sierra Club is a national, non-profit organization dedicated to the protection of the environment. Among other goals, Sierra Club works to advance a transition to clean, renewable energy, eliminate or reduce harmful air pollution emissions, and protect public health. Sierra Club has many members harmed by pollution from the Parish Power Plant.

Environmental Integrity Project is a non-profit, non-partisan organization that advocates for effective enforcement of environmental laws. EIP has three goals: (1) to illustrate through objective facts and figures how the failure to enforce and implement environmental laws increases pollution and harms public health; (2) to hold federal and state agencies, as well as individual corporations accountable for failing to enforce or comply with environmental laws; and (3) to help communities obtain protections guaranteed by environmental laws. EIP has staff and programs in Texas.

III. PUBLIC HEARING REQUEST

Commenters' members and employees who live, work, and recreate in Fort Bend and Harris Counties are negatively affected by the emission of air pollutants from the Parish Power Plant and **request a public notice and comment hearing pursuant to 30 Tex. Admin. Code § 122.340.**

IV. ISSUES

A. The Draft Permit is Incomplete because Applicable Requirements Incorporated by Reference into the Draft Permit and Supporting Documents Have Been Improperly Designated “Confidential.”

1. Specific Grounds for Objection, Including Citation to Permit Terms

NRG's major and minor New Source Review (“NSR”) permits for the Parish Power Plant are applicable requirements incorporated into the Draft Permit. Draft Permit at Special Condition No. 11. The NSR permits incorporated by reference into the Draft Permit are listed in its New Source Review Authorization References Table. Draft Permit at 230-231. Applicable NSR permit requirements incorporated into the Draft Permit include enforceable representations in the various permit applications NRG has submitted for issuance, revision, amendment, and renewal of these NSR permits. *Id.* at § 116.116(a)(1). This means that “[t]he permit application, and all the representations in it, is part of the permit when it is issued and as such is enforceable.” *In the Matter of ExxonMobil Corporation Baytown Refinery*, Order on Petition No. VI-2016-14 at 8

(April 2, 2018) (quoting 79 Fed. Reg. 8368, 8385 (February 12, 2014). All Title V permit applicable requirements “are enforceable by the Administrator and citizens under the Act.” 40 C.F.R. § 70.6(b).

All minor NSR permits incorporated by reference into the Draft Permit and all other permit documents related to NRG’s major and minor NSR permits incorporated by the Draft Permit—including applications, correspondence, and TCEQ review documents—have been deemed confidential by the Executive Director making them inaccessible to members of the public. The Draft Permit is deficient because members of the public do not have access to documents establishing applicable requirements incorporated by reference by the Draft Permit and because the Draft Permit fails to include these requirements from confidential documents on its face.

In addition to the major NSR permits attached to the Draft Permit, the Draft Permit lists the following minor Chapter 116 NSR permits that are incorporated by reference:

Confidential Chapter 116 Permits Incorporated by Reference by the Draft Permit¹

Permit No.	Date Issued
4130A	5/20/2016
5126	2/4/2016
7706A	5/20/2016
18851	11/04/2015
39571	6/15/2018
39729	4/27/2018
40542	4/27/2018
43191	4/11/2019
45326	5/13/2020
45575	6/15/2022
45779	5/13/2020
46599	5/18/2020
72347	12/14/2022
97958	8/27/2020
104887	7/28/2021
108189	2/4/2022
152549	7/19/2018

Draft Permit at 230.

¹ Materials marked confidential may also include TCEQ Standard Exemption and Chapter 106 Permit by Rule registrations establishing applicable requirements for the Parish Permit. The TCEQ’s air permits IMS page lists the following effective PBR (and Standard Exemption) Registrations associated with the RN for the Parish Power Plant: 30529, 74046, and 97980. These registrations, however, are not expressly referenced by the Draft Permit. We are unable to review associated documents to determine if these permit numbers establish applicable requirements that must be included in the Draft Permit because these documents are not publicly available. If these effective registrations do establish applicable requirements for the Parish Power Plant, the Draft Permit is deficient because it fails to include and assure compliance with them. 42 U.S.C. § 7661c(a), (c).

2. Applicable Requirements Not Met

Each Title V permit must “include enforceable limitations and standards ... and such other conditions as are necessary to assure compliance with applicable requirements of ... [the Clean Air Act], including the requirements of the applicable implementation plan.” 42 U.S.C. § 7661c(a). Emission limitations and other requirements established by NSR permits incorporated by reference into the Draft Permit are applicable requirements. 30 Tex. Admin. Code § 122.10(2)(H). Additionally, “representations with regard to construction plans and operation procedures in an application for a permit, special permit, or special exemption” are “conditions upon which a permit, special permit, or special exemption are issued.” *Id.* at § 116.116(a)(1).

A title V permit renewal may only be issued if “the requirements ... for public notice, affected state review, notice and comment hearing, and EPA review have been satisfied.” 30 Tex. Admin. Code § 122.201(a)(3). The permit applicant must publish a notice that identifies the location and availability of the complete permit application, the draft permit, the statement of basis, and all other relevant supporting materials in the public files of the agency. *Id.* at § 122.320(b)(6). The TCEQ “shall make available for public inspection the draft permit and the complete application throughout the comment period[.]” *Id.* at § 122.320(g).

3. Inadequacy of Permit Terms

With the exception of the four major New Source Review (“NSR”) permits attached to the Draft Permit (Permit Nos. 2348A/N033/PSDTX901, 2349A/PSDTX902/N034, 5530/N035/PSDTX33M1, and 7704/PSDTX234M2), all of NRG’s NSR permitting files for the Parish Power Plant—including applications, communications, permits, and documents reflecting the TCEQ’s application review—have been deemed confidential and withheld from the public. None of these documents are available through the TCEQ’s e-records website or to those who visit the TCEQ’s central file room directly.

These permits and permit applications establish enforceable requirements that must be included in the Draft Permit, 42 U.S.C. § 7661c(a), (c), and are enforceable by members of the public. 40 C.F.R. § 70.6(b). The public’s inability to access information about these applicable requirements or to examine how NRG must demonstrate compliance with them renders the requirements not-practically-enforceable by members of the public. The public’s inability to access information in NRG’s NSR permit files also makes it impossible to confirm or disconfirm the appropriateness of other provisions in the Draft Permit. For example, the Draft Permit’s Permit Shield exempts Units 3 and 4 from requirements in EPA’s Part 63, Subpart UUUUU requirements for coal-fired power plants because these boilers fire at least 85% natural gas on an annual heat input basis. Draft Permit at 214-15. Members of the public, however, cannot access the minor NSR permits authorizing these boilers or application representations related to these permits to confirm whether this operating limit is real and federally enforceable.

The Executive Director must remedy this situation by including all applicable requirements and associated monitoring provisions on the face of the Draft Permit or by redesignating all such information incorporated by reference into the Draft Permit publicly available. Commenters believe that NRG’s materials have been designated confidential because the Parish Power Plant uses and stores large quantities of anhydrous ammonia and the Executive Director believes that

public access to information about NRG's use and storage of this chemical creates a national security threat. Commenters are uncertain whether the Executive Director's belief is well-justified or whether she is obligated to treat any information in NRG's files as confidential under applicable national security laws. Commenters, however, are confident that any legitimate national security concerns may be respected while still making information regarding applicable requirements at the Parish Power Plant publicly accessible. Commenters believe that very little of the information in the relevant permit files concerns anhydrous ammonia and information unrelated to this chemical should not be withheld from the public. Insofar as the Executive Director also relies on state law provisions allowing her to withhold confidential business information and trade secrets from the public to deem the permit documents establishing applicable requirements for the Parish Power Plant confidential, that reliance is contrary to law. Title V of the Clean Air Act and EPA's regulations prohibit states from designating Title V permit terms and emissions data as confidential business information or trade secret information. 42 U.S.C. § 7661b(e); 40 C.F.R. § 2.301(f). The Executive Director's failure to make this information public renders the Draft Permit incomplete and not practically enforceable. Accordingly, the Draft Permit is deficient. 42 U.S.C. § 7661c(a); 40 C.F.R. § 70.6(b).

4. Public Participation Requirement Not Met

The Executive Director's decision to treat NSR permit materials establishing and describing applicable requirements incorporated by reference into the Draft Permit as confidential has substantially limited the public's ability to comment on the Draft Permit's sufficiency. 30 Tex. Admin. Code § 122.320(b)(6) required NRG to publish a notice describing how the public may obtain the complete permit application, the draft permit, the statement of basis, and all other relevant supporting materials in the public files of the agency. This requirement was not met because crucial supporting materials were not available to the public at any location. The Executive Director's decision to withhold applicable requirements incorporated by reference into the Draft Permit as confidential made it impossible for members of the public to access enforceable permit terms and information about how NSR is to determine compliance with them.² The Executive Director must remedy this situation by making information about applicable requirements in NRG's permit files public and by requiring NRG to publish a new notice of a Draft Permit that explains how members of the public may access information listed at § 122.320(b)(6) that had previously been deemed confidential.

² The Executive Director's decision to mark agency records regarding the Parish Power Plant also has the effect of making it more difficult for members of the public to determine whether NRG is violating applicable requirements that are not themselves designated confidential. For example, the Executive Director's decision to mark all PM2.5 modeling information included in NRG's permit files makes it unreasonably difficult for members of the public to obtain information concerning the Parish Power Plant's contribution to conditions of air pollution prohibited by General Condition No. 13 of the four major NSR permits incorporated by reference by and attached to the Draft Permit.

B. The Draft Permit Fails to Assure Compliance with General Condition No. 13 in NRG's Major NSR Permits.

1. Specific Grounds for Objection, Including Citation to Permit Terms

Draft Permit, Special Condition No. 11 incorporates by reference requirements in permits listed in the Draft Permit's New Source Review Authorization References table as applicable requirements. The Draft Permit's New Source Review Authorization References table lists Permit Nos. 2348A/N033/PSDTX901, 2349A/PSDTX902/N034, 5530/N035/PSDTX33M1, and 7704/PSDTX234M2 as permits incorporated by reference into the Draft Permit. Each of these permits is also appended to the Draft Permit.

General Condition No. 13, which is listed on the permit face for each of these major NSR permits provides that:

Emissions from this facility must not cause or contribute to "air pollution" as defined in Texas Health and Safety Code (THSC) §382.003(3) or violate THSC § 382.085. If the executive director determines that such a condition or violation occurs, the holder shall implement additional abatement measures as necessary to control or prevent the condition or violation.

2. Applicable Requirements Not Met

Each Title V permit must include all applicable requirements and such other conditions as are necessary to assure compliance with those requirements. 42 U.S.C. § 7661c(a). A Title V permit incorporating an applicable requirement that fails to include monitoring, testing, and recordkeeping provisions sufficient to assure compliance with it must establish new provisions sufficient to assure compliance. 40 C.F.R. § 70.6(a)(3)(i)(B). The Executive Director must also explain how information in the record establishes that a draft permit's monitoring, testing, and recordkeeping provisions are sufficient to assure compliance with applicable requirements. 42 U.S.C. § 7661c(a), (c); 40 C.F.R. § 70.7(a)(5); *In the Matter of Williams Four Corners, Sims Mesa Compressor Station*, Order on Petition No. VI-2011-___, at 13-16 (July 29, 2011) (finding that agency failed to explain adequacy of annual testing to assure compliance with hourly NO_x and CO limits).

3. Inadequacy of Permit Terms

According to Draft Permit, Special Condition No. 11 and 30 Tex. Admin. Code § 122.10(2)(H), General Condition No. 13 of Permit Nos. 2348A/N033/PSDTX901, 2349A/PSDTX902/N034, 5530/N035/PSDTX33M1, and 7704/PSDTX234M2 is a federally-enforceable applicable requirement incorporated by reference into the Draft Permit. *See also* 30 Tex. Admin. Code § 116.116(a)(2) (indicating that "any general and special condition attached" to an NSR permits are enforceable conditions of the permit). Thus, the Draft Permit must contain monitoring, testing, and recordkeeping requirements sufficient to assure ongoing compliance with it and include a schedule of compliance requiring NRG to correct ongoing noncompliance with the condition at the time its Title V permit is renewed. 42 U.S.C. § 7661c(a), (c). No provisions in the incorporated major NSR permits or the Draft Permit (or the publicly accessible record for

this permit renewal project) directly explain how NRG is to monitor compliance with the prohibition established by General Condition No. 13.

The Texas Health and Safety Code § 382.003(3), which is referenced by the General Condition, defines “air pollution” as:

[T]he presence in the atmosphere of one or more air contaminants or combination of air contaminants in such concentration and of such duration that: (A) are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property; or (B) interfere with the normal use or enjoyment of animal life, vegetation, or property.

The General Condition also references Texas Health and Safety Code § 382.085, which provides that:

- (a) Except as authorized by a commission rule or order, a person may not cause, suffer, allow, or permit the emission of any air contaminant or the performance of any activity that causes or contributes to, or that will cause or contribute to, air pollution.
- (b) A person may not cause, suffer, allow, or permit the emission of any air contaminant or the performance of any activity in violation of this chapter or of any commission rule or order.

Exceedance of the annual health-based PM_{2.5} National Ambient Air Quality (“NAAQS”) are by definition “air pollution,” because the NAAQS is specifically created to prevent injurious or adverse effects from PM_{2.5} exposure to human health and welfare, including sensitive populations including children, the elderly, and people with asthma, with a margin of error. *Reconsideration of the National Ambient Air Quality Standards for Particulate Matter*, 89 Fed. Reg. 16202 (March 6, 2024). And even though the prohibition on causing or contributing to a condition of air pollution established by the General Condition is sweeping, we know it applies to NAAQS violations because the TCEQ has brought at least one enforcement action for violations of this same General Condition based solely on monitored exceedances of the 1-hour NAAQS caused by Oxbow Calcining’s Jefferson County facility. *Agreed Order, In the Matter of an Enforcement Action Concerning Oxbow Calcining LLC* (“Oxbow Order”), Docket No. 2018-1687-AIR-E at 2 (August 20, 2019).³

While the NAAQS are generally not considered applicable requirements for purposes of Title V, EPA has recognized that states have discretion to mandate compliance with the NAAQS as a Title V applicable requirement through their SIPs and permit terms established pursuant to a SIP. *See e.g., In the Matter of Duke Energy Asheville Steam Electric Plant* (“Asheville Order”), Order on Petition No. IV-2016-06 at 14-17 (June 30, 2017). Sweeping state-created prohibitions on air pollution that a state has not been interpreted to apply to NAAQS violations and which do

³ Available electronically at:

https://www14.tceq.texas.gov/epic/eCID/index.cfm?fuseaction=main.download&doc_id=504374822019232&doc_name=Order%202018%2D1687%2DAIR%2DE%2Epdf&docket_num=2018-1687-AIR-E&requesttimeout=5000

not grant the state authority to require emission reductions outside the SIP revision process are not sufficient to make the NAAQS enforceable against a specific source for purposes of Title V. *In the Matter of EME Homer City Generation LP*, Order on Petition Nos. III-2012-06, III-2012-07, and III-2013-02 at 11-19 (July 30, 2014). However, SIP provisions or permit terms, like General Condition No. 13, that a state has interpreted to prohibit NAAQS violations and that authorize the state to impose pollution abatement requirements outside the SIP revision process may be sufficient to create a federally-enforceable Title V applicable requirement. Asheville Order at 15.

The NSR permit General Condition at issue in this case has been applied to address NAAQS violations and directly requires abatement measures (outside the SIP revision process) to be taken by a source in cases where the Executive Director determines it is causing or contributing to a NAAQS violation. Oxbow Order at 2-3. Specifically, General Condition No. 13 provides that “the holder shall implement additional abatement measures as necessary to control or prevent the condition [of air pollution] or violation [of Tex. Health & Safety Code § 382.085.” The Oxbow Order enforces this condition by requiring Oxbow to cease operation of its cold stacks, which were responsible for the NAAQS violation. *Id.* at 3-4. Thus, in light of the clear meaning of its text and the TCEQ’s interpretation of that text, General Condition No. 13 of Permit Nos. 2348A/N033/PSDTX901, 2349A/PSDTX902/N034, 5530/N035/PSDTX33M1, and 7704/PSDTX234M2 establishes an applicable requirement for purposes of Title V. *See also* 30 Tex. Admin. Code § 122.10(2)(H) (defining “applicable requirement” to include “any term or condition of any preconstruction permit.”).

The Draft Permit is deficient because it fails to establish any specific monitoring, testing, or recordkeeping requirements sufficient to assure compliance with General Condition No. 13 and because the Executive Director has not explained how information in the record establishes that the Draft Permit includes provisions sufficient to assure compliance with General Condition No. 13. 42 U.S.C. § 7661c(a), (c); 40 C.F.R. § 70.7(a)(5); *In the Matter of Williams Four Corners, Sims Mesa Compressor Station*, Order on Petition No. VI-2011-___, at 13-16 (July 29, 2011) (finding that agency failed to explain adequacy of annual testing to assure compliance with hourly NOx and CO limits).

The Draft Permit’s failure to include such monitoring requirements is a significant deficiency, given that the TCEQ has determined that seven monitors in Harris County have design values exceeding the 9.0 µg/m³ annual PM_{2.5} NAAQS. Public Information Meeting: Proposed Particulate Matter Standard Revision, TCEQ Slideshow at 9-10, dated June 26, 2024.⁴ One of these monitors is the monitor at Clinton Drive. *Id.* CAMx modeling has shown that the Parish Power Plant is significantly contributing to PM_{2.5} readings at this monitor. Brian Strasert, Su Chen Teh & Daniel S. Cohan (2019) Air quality and health benefits from potential coal power plant closures in Texas, *Journal of the Air & Waste Management Association*, 69:3, 333-350, DOI: 10.1080/10962247.2018.1537984 at Figure 9. Commenters were unable to review air quality modeling NRG has submitted in support of permit applications for the Parish Power Plant because the TCEQ’s Records Online website does not make available *any* documents relating to NSR permitting at the Parish Power Plant. Such modeling may provide additional support for the proposition that the Parish Power Plant is causing and/or contributing to violations of the annual

⁴ Available electronically at: https://www.tceq.texas.gov/downloads/air-quality/sip/pm/designations/naaqs-pm25-2012/pm-naaqs-revision-outreach_houston_2024.pdf

PM2.5 NAAQS, in violation of General Condition No. 13 of NRG's major NSR permits. To the extent that confidential materials or other evidence in the Executive Director's possession establishes that the Parish Power Plant is causing and/or contributing to a condition of air pollution in this way, the Draft Permit is also deficient for failing to establish a schedule for NRG to address this noncompliance. 42 U.S.C. § 7661c(a) (requiring Title V permits to include a schedule of compliance addressing ongoing noncompliance with applicable requirements at the time a permit is issued).

C. The Draft Permit Fails to Include Clear Conditions Governing Compliance with Updates to the Mercury and Air Toxics Standard.

1. Specific Grounds for Objection, Including Citation to Permit Terms

The Draft Permit's Applicable Requirements Summary lists particulate matter control and monitoring requirements in EPA's Mercury and Air Toxics Standards ("MATS"), found at 40 C.F.R. Part 63, Subpart UUUUU, as applicable requirements for boilers 5-8 at the Parish Power Plant. Draft Permit at 72-73, 102-03, 128-29. The textual description of particulate matter MATS requirements for these units lists a filterable particulate matter limit of 0.03 lb/MMBtu. *Id.* While this limit accurately describes NRG's current obligation under 40 C.F.R. § 63, Table 2.1.a, the Draft Permit does not clearly incorporate the lower filterable particulate matter limit of 0.01 lb/MMBtu that becomes applicable on July 6, 2027. Moreover, the Draft Permit does not incorporate 40 C.F.R. § 53.10000(c)(1)(iv) requiring use of a particulate matter continuous emissions monitoring ("CEMS") monitoring system to determine ongoing compliance with the 0.01 lb/MMBtu filterable particulate matter emissions limit.

Draft Permit, Special Condition No. 1.E provides that emission units subject to Part 63, Subpart UUUUU requirements are subject to 30 Tex. Admin. Code § 113.1300, which incorporates Subpart UUUUU by reference. This rule, however, incorporates Subpart UUUUU as amended through September 9, 2020. This version of EPA's rules does not include EPA's 2024 amendment to Subpart UUUUU to establish a new lower limit on filterable particulate matter emissions and to require power plant operators to use CEMS to determine ongoing compliance with the new limit.

2. Applicable Requirements Not Met

Each Title V permit must include applicable requirements in EPA regulations that have been finalized at the time the Title V permit is issued, even if requirements in such regulations have future effective dates. 40 C.F.R. § 70.2 *In the Matter of EME Homer City Generation* at 30-31, Order on Petition Nos. III-2012-06, III-2012-07, and III-2013-23 (July 30, 2014) (Applicable requirements include requirements that will become effective during the term of the title V permit). The Executive Director must also explain how information in the record establishes that a draft permit's monitoring, testing, and recordkeeping provisions are sufficient to assure compliance with applicable requirements. 42 U.S.C. § 7661c(a), (c); 40 C.F.R. § 70.7(a)(5); *In the Matter of Williams Four Corners, Sims Mesa Compressor Station*, Order on Petition No. VI-2011-____, at 13-16 (July 29, 2011) (finding that agency failed to explain adequacy of annual testing to assure compliance with hourly NOx and CO limits).

3. Inadequacy of Permit Terms

A Title V operating permit is the mechanism by which regulators consolidate and clarify all Clean Air Act requirements for a particular source. Accordingly, a Title V permit must contain sufficient information to allow a reader to compare the permit to the compliance reports for a facility and determine if there are any violations. Specifically, it must contain more than mere citations to applicable requirements; it must provide the substance of each requirement and serve as an “easy way to establish whether a source is in compliance with regulations under the Act.” *Operating Permit Program*, 57 Fed. Reg. 32,250, 32,251 (July 21, 1992).

Here, the Draft Permit fails to satisfy that requirement with respect to EPA’s final revisions to the MATS for coal-burning electric generating units. *See* 89 Fed. Reg. 38,508. First, the Draft Permit does not appear to incorporate any additional restrictions on the operation of W.A. Parish’s coal-burning units 5-8 or explain why the MATS revisions do not apply or do not require any changes. Specifically, in its final revisions to the MATS Rule EPA lowered the non-mercury hazardous air pollutant metal surrogate fine filterable particulate matter emission standard for all existing coal-fired EGUs from 0.030 lb/MMBtu to 0.010 lb/MMBtu. While the Draft Permit does refer to the relevant regulatory provision, 40 C.F.R. § 63, Table 2.1.a, the Statement of Basis does not mention the revised MATS rule or identify any specific compliance options that W.A. Parish intends to utilize in order to meet the new standard.

Second, the Draft Permit and Statement of Basis do not appear to include the revised MATS rule requirements for continuous emission monitoring systems (“CEMS”) as a mechanism for demonstrating compliance with the rule’s filterable particulate matter emissions for W.A. Parish Units 5-8. Specifically, the final MATS revision makes clear that “all” coal-burning EGUs must use CEMS to demonstrate compliance with the revised fine filterable particulate matter standard, and finalized the “removal” of the current stack-testing compliance method for low emitting EGUs from the rule. 89 Fed. Reg. 38,510. The Draft Permit, however, indicates that Units 5-8, which are coal-burning EGUs, may continue to use the now-outdated EGU methodologies for demonstrating compliance with the MATS Rule.

Third, it is unclear whether rule citations to EPA’s Subpart UUUUU regulations in the Draft Permit’s Applicable Requirements Summary incorporate the current version of those rules, as revised by EPA’s 2024 action our outdate rules adopted in 2020. This is so because Draft Permit, Special Condition No. 1.E incorporates an outdated version of EPA’s UUUUU rules.

The Executive Director must revise the Draft Permit to comply with the MATS rule’s updated compliance requirements. Specifically, the Executive Director must revise the Draft Permit to identify 40 C.F.R. § 53.10000(c)(1)(iv) (requiring use of a particulate matter continuous emissions monitoring (“CEMS”) monitoring system to determine ongoing compliance with the 0.01 lb/MMBtu filterable particulate matter emissions limit) as an applicable requirement for boilers 5-8 after July 6, 2027. 40 C.F.R. § 70.2 *In the Matter of EME Homer City Generation* at 30-31, Order on Petition Nos. III-2012-06, III-2012-07, and III-2013-23 (July 30, 2014) (Applicable requirements include requirements that will become effective during the term of the title V permit). The Executive Director should also update the Statement of Basis to explain how new requirements in EPA’s MATS rule will apply to the Parish Power Plant during the Title V permit term after renewal.

In sum, the Draft Permit must include applicable requirements in the revised MATS rule and information to help members of the public understand how and when those new requirements will apply to units at the Parish Power Plant. As noticed for public comment, the Draft Permit does not incorporate the revised MATS requirements explicitly; instead, the Draft Permit merely references an outdated version of 40 C.F.R. Part 63, Subpart UUUUU. This is insufficient. Given its lack of detail regarding MATS compliance and monitoring, the Draft Permit should be revised to include the specific, enforceable limits and requirements necessary to ensure compliance with the current version of the MATS rule.

D. The Draft Permit Fails to Establish Monitoring, Testing, and Recordkeeping Requirements Sufficient to Assure Compliance with 30 Tex. Admin. Code § 111.111 Opacity Limitations.

1. Specific Grounds for Objection, Including Citation to Permit Terms

Texas's SIP-approved regulation at 30 Tex. Admin. Code § 111.111 establishes the following limits on opacity of emissions that apply to stationary vents at the Parish Power Plant:⁵

Regulation	Parish EPNs	Limit (six-minute period)
§ 111.111(a)(1)(A)	ENG-168HP, ENG-435HP	30%
§ 111.111(a)(1)(B)	ENG-250HP, ENG-44HP, ENG-504HP, ENG-650HP, ENG-765HP, GRP-1-4VENTS, GRP-5VENTS, GRP-6VENTS, GRP-7VENTS, GRP-8VENTS	20%
111.111(a)(1)(C)	GRP-B1-2S, WAP3A, WAP3B, WAP4, WAPAB, WAPACT5, WAPACT6, WAPACT7, WAPACT8, WAPAU1-4, WAPGT1, WAPMCT7, WAPMCT8	15%

The Draft Permit establishes Periodic Monitoring requirements explaining how NRG is to determine compliance with the applicable six-minute opacity limit for each of these EPNs. For units subject to the 30% opacity limit and some units subject to the 20% opacity limits at § 111.111(a)(1)(A) and (B), these Periodic Monitoring provisions require NRG to conduct observation testing via Test Method 9 once per calendar quarter to determine compliance with the standard. Draft Permit at 181, 183-187. For other units subject to the § 111.111(a)(1)(B) 20% opacity limit, the Draft Permit's Periodic Monitoring provisions only require NRG to conduct observation testing once per year. *Id.* at 188, 190, 191, 193, 194. For some units subject to the § 111.111(a)(1)(C) 15% opacity limit, the Draft Permit requires observation testing once a year or at any time an alternative fuel is used for 24 consecutive hours or more. *Id.* at 196, 201-204, 210. For other units subject to the 15% opacity limit, the Draft Permit only requires observation testing once a year. *Id.* 205, 206, 207, 208, 209, 211, 212.

⁵ The opacity limits at 30 Tex. Admin. Code § 111.111(a)(1) are part of the Texas SIP. 40 C.F.R. § 52.2270(c) (incorporating § 111.111(a)(1) into the SIP).

2. Applicable Requirements Not Met

Each Title V permit must include all applicable requirements and such conditions as are necessary to assure compliance with those requirements. 42 U.S.C. § 7661c(a), (c). A Title V permit incorporating an applicable requirement that fails to include monitoring, testing, and recordkeeping provisions sufficient to assure compliance with it must establish new provisions sufficient to assure compliance. 40 C.F.R. § 70.6(a)(3)(i)(B). The Executive Director must also explain how information in the record establishes that a draft permit’s monitoring, testing, and recordkeeping provisions are sufficient to assure compliance with applicable requirements. 42 U.S.C. § 7661c(a), (c); 40 C.F.R. § 70.7(a)(5); *In the Matter of Williams Four Corners, Sims Mesa Compressor Station*, Order on Petition No. VI-2011-___, at 13-16 (July 29, 2011) (finding that agency failed to explain adequacy of annual testing to assure compliance with hourly NOx and CO limits).

3. Inadequacy of Permit Terms

The Draft Permit is deficient because its Periodic Monitoring provisions for the above-listed EPNs fail to assure ongoing compliance with the applicable § 111.111(a)(1) opacity limits, which apply on a six-minute basis. 42 U.S.C. § 7661c(a), (c). Specifically, the Periodic Monitoring provisions established to assure compliance with § 111.111 emission limits as they apply to the above-listed units fail to “yield reliable data *from the relevant time period* that are representative of the source’s compliance with the permit[.]” 40 C.F.R. § 70.6(a)(3)(i)(B) (emphasis added). Observation testing conducted quarterly, or annually, or when alternative fuels are burned for more than 24 consecutive hours is not a reliable basis for determining ongoing compliance with a limit that applies over a much shorter six-minute averaging period. Such monitoring is not sensitive to operating variables—including the use of alternative fuels for periods of longer than 6 minutes but shorter than 24 hours—that cause changes in the opacity of emissions from the Parish Power Plant. Commenters have been unable to consider information in NRG’s permit applications that may identify such variables because the Executive Director has deemed all such information confidential. The Executive Director, moreover, has not provided a rationale for her determination that the Draft Permit’s Periodic Monitoring provisions for the § 111.111(a)(1) opacity limits are sufficient to assure ongoing compliance with those limits.⁶ The rationale for selected monitoring requirements must be clear and documented in the permit record. 40 C.F.R. § 70.7(a)(5); *In the Matter of Williams Four Corners, Sims Mesa Compressor Station*, Order on Petition No. VI-2011-___, at 13-16 (July 29, 2011) (finding that agency failed to explain adequacy of annual testing to assure compliance with hourly NOx and CO limits). Accordingly, the Draft Permit is deficient.

⁶ While the Statement of Basis provides the basis for the Executive Director’s decision to exempt certain vents that are not expected to or which do not have the capacity to emit visible emissions from Periodic Monitoring requirements, Statement of Basis at 4-5, that decision—and the Executive Director’s rationale for it—does not apply to the above-listed vents. *Id.* at 5.

E. The Draft Permit Improperly Allows Off-Permit Authorizations of Deviations or Exemptions from Stack Testing Requirements Established by Incorporated NSR Permits.

1. Specific Grounds for Objection, Including Citation to Permit Terms

The Draft Permit incorporates emission limits and conditions in NSR Permit Nos. 2348A/N033/PSDTX901, 2349A/PSDTX902/N034, 5530/N035/PSDTX33M1, and 7704/PSDTX234M2 as applicable requirements. Draft Permit at Special Condition No. 11, 230.

The Draft Permit also identifies stack testing required by those permits to demonstrate compliance with the following emission limits:

Permit No. 2348A/N033/PSDTX901 Emissions Limits Subject to Special Condition No. 8 Stack Testing Requirements

EPN	Pollutant	Lbs/Hour	Tons Per Year
WAP5 (While Coal-Fired)	NOx	2,000	6,570
	SO2	7,884	34,530
	CO	2,168	9,496
	VOC	23.3	102
	PM/PM10	657	2,878
WAP5 (While Coal and Gas-Fired)	NOx	2,000	6,570
	SO2	7,884	34,530
	CO	2,238	9,583
	VOC	26	105
	PM/PM10	663	2,885

Draft Permit at 247.

Permit No. 2349A/PSDTX902/N034 Emission Limits Subject to Special Condition No. 8 Stack Testing Requirements

EPN	Pollutant	Lbs/Hour	Tons Per Year
WAP6 (While Coal-Fired)	NOx	2,000	6,570
	SO2	7,884	34,530
	CO	2,168	9,496
	VOC	23.3	102
	PM/PM10	657	2,878
WAP6 (While Coal and Gas-Fired)	NOx	2,000	6,570
	SO2	7,884	34,530
	CO	2,238	9,583
	VOC	26	105
	PM/PM10	663	2,885

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Draft Permit at 250.

Permit No. 5530/N035/PSDTX33M1 Emission Limits Subject to Special Condition No. 12 Stack Testing Requirements

EPN	Pollutant	Lbs/Hour	Tons Per Year
WAP7 (While Coal-Fired)	NOx	2,000	6,570
	SO2	6,875	30,112
	CO	1,891	8,281
	VOC	20.3	89
	PM/PM10	573	2,509
WAP7 (While Coal and Gas-Fired)	NOx	2,000	6,570
	SO2	6,875	30,112
	CO	1,973	8,383
	VOC	24	93
	PM/PM10	580	2,519

Draft Permit at 253

Permit No. 7704/PSDTX234M2 Emission Limits Subject to Special Condition No. 15 Stack Testing Requirements

EPN	Pollutant	Lbs/Hour	Tons Per Year
WAP8	NOx	2,000	6,658
	SO2	2,063	4,081
	CO	2,010	4,402
	VOC	20.1	53
	PM10	172	639

Draft Permit at 257.

2. Applicable Requirements Not Met

Each Title V permit must include all applicable requirements and such other conditions as are necessary to assure compliance with those requirements. 42 U.S.C. § 7661c(a), (c). State permitting authorities must identify the basis of authority for each requirement in a Title V permit. 40 C.F.R. § 70.6(a)(1)(i). The Executive Director must also explain how information in the record establishes that a draft permit's monitoring, testing, and recordkeeping provisions are sufficient to assure compliance with applicable requirements. 42 U.S.C. § 7661c(a), (c); 40 C.F.R. § 70.7(a)(5); *In the Matter of Williams Four Corners, Sims Mesa Compressor Station*, Order on Petition No. VI-2011-___, at 13-16 (July 29, 2011) (finding that agency failed to explain adequacy of annual testing to assure compliance with hourly NOx and CO limits).

3. Inadequacy of Permit Terms

Each of NRG's major NSR permits incorporated by reference into the Draft Permit provides for stack testing to demonstrate compliance with applicable emission limits. Permit Nos. 2348A/N033/PSDTX901 at Special Condition No. 8; 2349A/PSDTX902/N034 at Special Condition No. 8; 5520/N035/PSDTX33M1 at Special Condition No. 12; 7704/PSDTX234M2 at Special Condition No. 15. Each of these Special Conditions allows the Executive Director to approve off-permit deviations from sampling procedures and to waive testing for any pollutant subject to testing requirements.

The Draft Permit is deficient because the Executive Director has not explained how waiving stack testing requirements for one or more pollutants is consistent with the requirement that Title V permits must specify adequate monitoring for units subject to stack testing requirements. 42 U.S.C. § 7661c(a), (c); 40 C.F.R. § 70.7(a)(5); *In the Matter of Premcor Refining Group Valero Port Arthur Refinery*, Order on Petition No. VI-2018-4 ("Premcor Order") at 21-24 (November 30, 2021); 40 C.F.R. § 70.7(a)(5); *In the Matter of Williams Four Corners, Sims Mesa Compressor Station*, Order on Petition No. VI-2011-___, at 13-16 (July 29, 2011). The Draft Permit is also deficient because it fails to identify the Executive Director's authority to grant such deviations and exemptions, as required by 40 C.F.R. § 70.6(a)(1)(i); Premcor Order at 23.⁷

4. Public Participation Requirement Not Met

This same deficiency likely applies to all or many of the minor NSR permits incorporated by reference into the Draft Permit. Draft Permit at 230 (listing NSR permits it incorporates by reference). Members of the public have not been able to evaluate the stack testing terms of these permits because they have been deemed confidential by the Executive Director. The public's inability to review these permitting documents and enforceable representations in their associated applications has undermined its ability to participate fully in the present renewal action.

F. The Draft Permit Fails to Assure Compliance with Emission Limits in NRG's Major Permits that are not Measured by CEMS.

1. Specific Grounds for Objection, Including Citation to Permit Terms

The Draft Permit incorporates NRG's four major NSR permits by reference. Draft Permit at Special Condition No. 11.

Permit No. 2348A/N033/PSDTX901, Special Condition No. 9 states that:

The steam generating unit is limited to a maximum heat input of 6,570 MMBtu/hr which corresponds to an average electric generation rate of 704 MW while burning coal. Compliance with this condition shall be demonstrated by maintaining records

⁷ The deficiency here alleged likely also applies to other NSR permits incorporated by reference into the Draft Permit but not attached to it. Commenters, however, were unable to review these permits because the TCEQ does not make any of NRG's NSR permits for the Parish Power Plant or any application or review documents for these permits available through its Records Online website.

of the hourly generation rate and fuel burned. Generation rates, on a three-hour average, that are no more than 1 percent greater than the above value (i.e., 7 MW) comply with this condition. Any three-hour average value in excess of 711 MW, while burning coal shall be identified in the quarterly emission report. The steam generating unit is limited to a maximum heat input of 7,400 MMBtu/hr which corresponds to an average electric generation rate of 768 MW while co-firing gas and coal. Compliance with this condition shall be demonstrated by maintaining records of the hourly generation rate and fuel burned. Generation rates, on a three-hour average, at or below this rate comply with this condition. Any three-hour average value in excess of 768 MW, while co-firing gas and coal, shall be identified in the quarterly emission report.

All generation above 711 MW must be fueled by natural gas. Firing of natural gas above 711 MW is limited to an operating schedule of 2,500 hr/yr, maximum load equivalent. Compliance with this condition shall be demonstrated by maintaining records of the hourly generation rate and fuel burned. Any three-hour average in excess of 711 MW and less than 768 MW when coal contributed more than 711 MW worth of heat input, shall be identified in the quarterly emission report.

Demonstration of compliance with this condition shall also demonstrate compliance with the emission limits of the attached table titled “Emission Sources - Maximum Allowable Emission Rates.”

The Draft Permit’s Major NSR Summary Table for Permit No. 2348A/PSDTX901/N033 identifies Special Condition No. 9 as the only applicable monitoring or testing requirement NRG is to use to determine compliance with that permit’s emission limits for H₂SO₄, NH₃, Pb, HF, As, Be, Cd, HCl, Cr, Hg, Mn, Ni, and Se. Draft Permit at 247-48.

Permit No. 2349A/PSDTX902/N034, Special Condition No. 9 provides that:

The steam generating unit is limited to a maximum heat input of 6,570 MMBtu/hr which corresponds to an average electric generation rate of 700 MW while burning coal. Compliance with this condition shall be demonstrated by maintaining records of the hourly generation rate and fuel burned. Generation rates, on a three-hour average, that are no more than 1 percent greater than the above value (i.e., 7 MW) comply with this condition. Any three-hour average value in excess of 707 MW, while burning coal shall be identified in the quarterly emission report.

The steam generating unit is limited to a maximum heat input of 7,400 MMBtu/hr which corresponds to an average electric generation rate of 764 MW while co-firing gas and coal. Compliance with this condition shall be demonstrated by maintaining records of the hourly generation rate and fuel burned. Generation rates, on a three-hour average, at or below this rate comply with this condition. Any three-hour

average value in excess of 764 MW, while co-firing gas and coal shall be identified in the quarterly emission report.

All generation above 707 MW must be fueled by natural gas. Firing of natural gas above 707 MW is limited to an operating schedule of 2,500 hr/yr, maximum load equivalent. Compliance with this condition shall be demonstrated by maintaining records of the hourly generation rate and fuel burned. Any three-hour average in excess of 707 MW and less than 764 MW when coal contributed more than 707 MW worth of heat input, shall be identified in the quarterly emission report.

Demonstration of compliance with this condition shall also demonstrate compliance with the emission limits of the attached table titled “Emission Sources - Maximum Allowable Emission Rates.”

The Draft Permit’s Major NSR Summary Table for Permit No. 2349A/PSDTX902/N034 identifies Special Condition No. 9 as the only applicable monitoring or testing requirement NRG is to use to determine compliance with that permit’s emission limits for H₂SO₄, NH₃, Pb, HF, As, Be, Cd, HCl, Cr, Hg, Mn, Ni, and Se. Draft Permit at 250-51.

Permit No. 5530/N035/PSDTX33M1, Special Condition No. 13 states:

The steam generating unit is limited to a maximum heat input of 5,730 MMBtu/hr which corresponds to an average electric generation rate of 613 MW while burning coal. Compliance with this condition shall be demonstrated by maintaining records of the hourly generation rate and fuel burned. Generation rates, on a three-hour average, that are no more than 1 percent greater than the above value (i.e., 6 MW) comply with this condition. Any three-hour average value in excess of 619 MW, while burning coal shall be identified in the quarterly emission report.

The steam generating unit is limited to a maximum heat input of 6,700 MMBtu/hr which corresponds to an average electric generation rate of 663 MW while co-firing gas and coal. Compliance with this condition shall be demonstrated by maintaining records of the hourly generation rate and fuel burned. Generation rates, on a three-hour average, at or below this rate comply with this condition. Any three-hour average value in excess of 663 MW, while co-firing gas and coal shall be identified in the quarterly emission report.

All generation above 619 MW must be fueled by natural gas. Firing of natural gas above 619 MW is limited to an operating schedule of 2,500 hr/yr, maximum load equivalent. Compliance with this condition shall be demonstrated by maintaining records of the hourly generation rate and fuel burned. Any three-hour average in excess of 619 MW and less than 663 MW when coal contributed more than 619 MW worth of heat input, shall be identified in the quarterly emission report.

Demonstration of compliance with this condition shall also demonstrate compliance with the emission limits of the attached MAERT for pollutants not

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monitored by continuous emissions monitoring systems (CEMS). Notwithstanding, the Executive Director of the TCEQ or his designated representative may also require sampling to directly measure the lb/hr emission rate, in which case the sampled lb/hr emission rate will be used to determine compliance with the applicable emission rate in the MAERT.

The Draft Permit's Major NSR Summary Table for Permit No. 5530/PSDTX33M1/N035 identifies Special Condition No. 13 as the only applicable monitoring or testing requirement NRG is to use to determine compliance with that permit's emission limits for H₂SO₄, NH₃, Pb, HF, As, Be, Cd, HCl, Cr, Hg, Mn, Ni, and Se. Draft Permit at 253-54.

Permit No. 7704/PSDTX234M2, Special Condition No. 3 provides:

WA Parish Unit 8 is limited to a maximum heat input which corresponds to an average electric generation rate of 660 megawatts (MW). Compliance with this condition shall be demonstrated by maintaining records of the hourly generation rate. Generation rates, on a three-hour average, at or below this rate comply with this condition. Any three-hour average value in excess of 660 MW shall be identified in the quarterly emission report. Demonstration of compliance with this condition shall also demonstrate compliance with the WA Parish Unit 8 emission limits on the attached table titled "Emission Sources - Maximum Allowable Emission Rates" for pollutants not monitored by continuous emission monitoring systems. Notwithstanding, the Executive Director of the TCEQ or his designated representative may also require sampling to directly measure the lb/hr emission rate, in which case the sampled lb/hr emission rate will be used to determine compliance with the applicable emission rate in the Maximum Allowable Emission Rate Table (MAERT).

The Draft Permit's Major NSR Summary Table for Permit No. 7704/PSDTX234M2 identifies Special Condition No. 3 as the only applicable monitoring or testing requirement NRG is to use to determine compliance with that permit's emission limits for H₂SO₄, NH₃, Pb, HF, As, Be, Cd, HCl, Cr, Hg, Mn, Ni, and Se. Draft Permit at 256-57.

2. Applicable Requirements Not Met

Each Title V permit must include all applicable requirements and such conditions as are necessary to assure compliance with those requirements. 42 U.S.C. § 7661c(a), (c). A Title V permit incorporating an applicable requirement that fails to include monitoring, testing, and recordkeeping provisions sufficient to assure compliance with it must establish new provisions sufficient to assure compliance. 40 C.F.R. § 70.6(a)(3)(i)(B). The Executive Director must also explain how information in the record establishes that a draft permit's monitoring, testing, and recordkeeping provisions are sufficient to assure compliance with applicable requirements. 42 U.S.C. § 7661c(a), (c); 40 C.F.R. § 70.7(a)(5); *In the Matter of Williams Four Corners, Sims Mesa Compressor Station*, Order on Petition No. VI-2011-___, at 13-16 (July 29, 2011) (finding that agency failed to explain adequacy of annual testing to assure compliance with hourly NO_x and CO limits).

A title V permit renewal may only be issued if “the requirements ... for public notice, affected state review, notice and comment hearing, and EPA review have been satisfied.” 30 Tex. Admin. Code § 122.201(a)(3). The permit applicant must publish a notice that identifies the location and availability of the complete permit application, the draft permit, the statement of basis, and all other relevant supporting materials in the public files of the agency. *Id.* at § 122.320(b)(6). The TCEQ “shall make available for public inspection the draft permit and the complete application throughout the comment period[.]” *Id.* at § 122.320(g)

3. Inadequacy of Permit Terms

The Draft Permit fails to identify any monitoring or testing methods in addition to the capacity limits in the above-copied major NSR special conditions that assure compliance with MAERT emission limits for H₂SO₄, NH₃, Pb, HF, As, Be, Cd, HCl, Cr, Hg, Mn, Ni, and Se for NRG’s Boilers 5-8 established by NRG’s major NSR permits. There is no periodic stack testing requirement to determine emission rates for these pollutants over the boilers’ effective life to identify changes in emission rates as equipment degrades. 42 U.S.C. § 7661c(a), (c). There is no parametric monitoring—aside from compliance with the heat input and generating limits in the above-copied special conditions—to ensure that equipment at the Parish Power Plant is operating correctly and that NRG’s boilers are performing as anticipated or to account for variations in the amount of pollution NRG’s boilers emit across various operating scenarios authorized by the Draft Permit. *Id.* And because all of NRG’s application data has been deemed confidential, members of the public have been unable to review the assumed emission rates to establish the above-copied special conditions for reasonableness and enforceability. Finally, neither the Draft Permit, the Statement of Basis, nor any other publicly-available document in the record for this project provides the Executive Director’s rationale for the sufficiency of the above-copied special conditions to assure ongoing compliance with boiler emission limits for H₂SO₄, NH₃, Pb, HF, As, Be, Cd, HCl, Cr, Hg, Mn, Ni, and Se. 40 C.F.R. § 70.7(a)(5); *In the Matter of Williams Four Corners, Sims Mesa Compressor Station*, Order on Petition No. VI-2011-___, at 13-16 (July 29, 2011) (finding that agency failed to explain adequacy of annual testing to assure compliance with hourly NO_x and CO limits). Accordingly the Draft Permit is deficient.

4. Public Participation Requirement Not Met

As explained above, Commenters were unable to review any of the information used to establish the specific operating limits in the above-copied special conditions during the public comment period. Such information includes enforceable presumptions about boiler emission rates and operation. The Draft Permit’s failure to include these applicable requirements and the permit record’s failure to provide public information about the basis of the above-copied special conditions rendered the record incomplete and violated requirements regarding public access to permit materials and notice requirements in Texas’s federally-approved regulations. *See, e.g.* 30 Tex. Admin. Code § 122.320(b)(6). Accordingly, the Executive Director must require NRG to re-notice the Draft Permit after materials establishing applicable requirements for units at the Parish Power Plant has been publicly accessible. 30 Tex. Admin. Code § 122.201(a)(3).

V. CONCLUSION

For the foregoing reasons, the Draft Permit issued by the TCEQ for the Parish Power Plant is deficient and fails to comply with the Clean Air Act's requirements. The Executive Director must correct the permit's deficiencies and require NRG to publish public notice of a corrected draft permit.

Sincerely,

/s/ Gabriel Clark-Leach
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