

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

7301 23
ORDER NO. _____

MISSISSIPPI POWER COMPANY

RESPONDENT

AGREED ORDER

COME NOW THE Mississippi Commission on Environmental Quality ("Commission"), acting through the staff and Executive Director of the Mississippi Department of Environmental Quality ("MDEQ"), Complainant, and Mississippi Power Company, Respondent, in the above captioned cause and agree as follows:

1.

Respondent operates Plant Jack Watson (hereinafter "the Facility") located at 10406 Lorraine Road, Gulfport, Harrison County, Mississippi 39503, which is the subject of this agreed order. Respondent operates the Facility pursuant to NPDES Permit No. MS0002925 ("the NPDES Permit"). The NPDES Permit was issued on April 21, 2022.

2.

At the time that the NPDES Permit was issued, Respondent planned to retire Unit 4 of the Facility. Due to Unit 4's impending retirement, Respondent proposed that MDEQ waive the 2-year impingement technology performance optimization study ("Impingement Study") that would have otherwise been required to comply with Section 316(b) of the Clean Water Act. MDEQ agreed to waive the Impingement Study, but included as a requirement of the NPDES permit that:

[t]he permittee intends to comply with the impingement mortality standard at the Unit 4 cooling water intake structure (CWIS) through compliance with 40 CFR 125.94 (c)(6). The permittee provided official notification of its intent to retire generating Unit 4 on December

31, 2023. The permittee must provide the impingement technology performance optimization study by December 31, 2023, if generating Unit 4 is not retired by that date.

See NPDES Permit, page 10 of 30, Condition No. T-19.

3.

Respondent informed the MDEQ Executive Director and the MDEQ Director of the Office of Pollution Control during a meeting on November 1, 2023, that Unit 4 at the Facility would not be retired as planned by the end of 2023.

4.

The Facility's cooling water needs are satisfied by a combination of once-through cooling (Unit 4) and cooling towers (Unit 5). The Facility is designed to recycle water withdrawn from the source water body to reduce the overall potential for intake. Through the closure of Units 1, 2, and 3, Respondent has reduced the design intake flow ("DIF") by 285.26 MGD over prior years. Unit 5 uses closed-cycle cooling, and makeup water from the Unit 5 cooling water intake structure ("CWIS") to meet its cooling water requirements. The Facility's retirement of Units 1, 2, and 3 and the addition of a cooling tower for Unit 5 have reduced the once-through actual intake flow ("AIF") to 102.8 MGD. The unit retirements have reduced the cooling water intake required to operate the facility by eighty-six percent (86%) from the baseline flow rate. The reduced flow reduces the impingement potential due to lower intake velocities associated with the lower flow. Entrainment benefits are similarly based on the reduced intake flow over the baseline condition. A reduction of eighty-six percent (86%) in intake flow rate yields an eighty-six percent (86%) reduction in entrainment.

5.

MPC shall comply with the impingement mortality standard for Unit 5 through the continued use of closed-cycle recirculating systems for all cooling water withdrawn from this intake. MPC shall comply with the impingement mortality standard at the Unit 4 CWIS through compliance with 40 CFR §125.94(c)(6) "Systems of Technologies as the BTA for Impingement Mortality".

6.

Respondent has begun efforts to complete the Impingement Study, but because of the timeframe the Impingement Study will require, Respondent will not be in compliance with Condition T-19 of its NPDES Permit beginning on January 1, 2024. Based on initial conversations between Respondent and its contractor selected to perform the Impingement Study, Respondent expects to come back into compliance with NPDES Permit condition T-19 around mid-2026.

7.

During the time period between January 1, 2024, and when Respondent completes the Impingement Study, Respondent will be in violation of condition T-19 of the NPDES Permit.

8.

MDEQ is authorized to assess penalties for violations of any NPDES permit conditions pursuant to Miss. Code §49-17-43.

9.

In lieu of a formal enforcement hearing concerning the anticipated violation of Condition T-19 of NPDES Permit No. MS0002925 discussed above, Complainant and Respondent agree to settle this matter as follows:

A. Respondent agrees to pay and Complainant agrees to accept a civil penalty in the amount of \$26,250.00. Respondent shall pay this penalty to MDEQ within thirty (30) days after this Agreed Order has been executed by the MDEQ Executive Director or his designee. The settlement payment shall be submitted to:

Mississippi Department of Environmental Quality
Attn: Accounts Receivable
P.O. Box 2339
Jackson, MS 39225

B. Within 180 days following issuance of this Agreed Order, Respondent shall submit to MDEQ a study plan to implement the Impingement Study. Once MDEQ has approved Respondent's study plan, Respondent will move forward with implementing the Impingement Study.

C. Within 42 months following issuance of this Agreed Order, Respondent shall submit to MDEQ a completed Impingement Study to satisfy NPDES Permit condition T-19.

10.

The issuance of this Agreed Order shall not affect Respondent's obligation to comply with applicable Federal, State, or local laws or regulations.

11.

Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission in the event Respondent fails to comply with this Agreed Order. The Agreed Order shall be strictly construed to apply to those matters expressly resolved herein.

12.

Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations.

13.

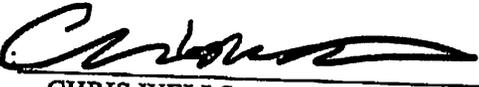
Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Miss. Code § 49-17-31, and that it has made an informed waiver of that right.

14.

Should any provision of this Agreed Order be declared by a court of competent jurisdiction over the Commission on Environmental Quality to be inconsistent with Federal or State law and, therefore, unenforceable, the remaining provisions hereof shall remain in full force and effect.

ORDERED, this the 28th day of December, 2023.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 

CHRIS WELLS,
EXECUTIVE DIRECTOR,
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this 28th day of December, 2023.

MISSISSIPPI POWER COMPANY

BY: 

SHAWN SHURDEN,
VICE PRESIDENT,
MISSISSIPPI POWER COMPANY

STATE OF MS
COUNTY OF Forrest

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Shawn Shurden, who first being duly sworn, did state upon his oath and acknowledge to me that he is the Vice President of Mississippi Power Company and that he is authorized by that Company to sign this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 28th day of Dec., 2023.

April R Freeman
NOTARY PUBLIC

My Commission Expires:

February 9, 2027

