STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-15-0009**
ENTERGY NEW ORLEANS, INC.	*	
	*	**Enforcement Tracking No.**
AI # 32494	*	**AE-CN-07-0025**
	*	**AE-CN-07-0025A**
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Entergy New Orleans, Inc. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a business corporation that owns and/or operates a power generating facility located in New Orleans, Orleans Parish, Louisiana ("the Facility").

II

On March 7, 2007, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-07-0025**, which was based upon the following findings of fact:

"The Respondent owns and/or operates the Michoud Electric Generating Plant, a power generating facility located in 3601 Paris Road in New Orleans, Orleans Parish, Louisiana. The facility currently operates under Title V Permit No. 2140-00014-V0, and PSD Permit No. LA-700, both issued on October 12, 2004.

On or about December 14, 2006, January 30, 2007, and February 23, 2007, the Respondent held meetings with representatives of the Department to self-report potential noncompliance with emission limitations established by Title V Permit No. 2140-00014-V0. During the course of the January 30th meeting, the Respondent verbally requested a permit variance. While the Department's investigation is not yet complete, the following violations were self-reported during the course of the meetings:

> The Respondent reported that it exceeded the NOx maximum lb/hr limit in the facility's Part 70 Operating Permit as follows:

Facility Name	2006 Exceedances	2005 Exceedances	2004 Exceedances
Michoud Unit 2	0	42	7
Michoud Unit 3	50	486	104
Michoud Total*	**50**	**528**	**110**

> Each exceedance of the permitted emission rate as reported by the Respondent in Appendix A and B is a violation of General Condition III of Title V Permit No. 2140-00014-V0, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
>
> *The Respondent continues to investigate whether any of the exceedances listed above represent substituted data.

On or about February 16, 2007, the Assistant Secretary for the Office of Environmental Services, Air Permits Division, verbally declined the issuance of a variance for Title V Permit No. 2140-00014-V0.

The Respondent submitted a letter to the Department dated February 23, 2007. In the letter the Respondent disclosed the times and duration for the above listed violations. The Respondent has also requested interim limits for the Michoud Electric Generating Plant until such time that a Title V Permit modification containing the appropriate emission limitations can be issued by the Department."

On July 9, 2007, the Department issued to Respondent an Amended Consolidated

Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-07-0025A**, which was based upon the following findings of fact:

"The Department hereby amends paragraph II of the Findings of Fact to read as follows:

On or about December 14, 2006, January 30, 2007, and February 23, 2007, the Respondent held meetings with representatives of the Department to self-report potential noncompliance with emission limitations established by Title V Permit No. 2140-00014-V0. During the course of the January 30th meeting, the Respondent verbally requested a permit variance. While the Department's investigation is not yet complete, the following violations were self-reported during the course of the meetings:

> The Respondent reported that it exceeded the NOx maximum lb/hr limit in the facility's Part 70 Operating Permit as follows:

Facility Name	2006 Exceedances	2005 Exceedances	2004 Exceedances
Michoud Unit 2	0	42	7
Michoud Unit 3	50[1]	486[2]	104[3]
Michoud Total*	**50**	**528**	**111**

[1] 15 of the 50 exceedances represents substituted data.
[2] 9 of the 486 exceedances represent substituted data.
[3] 1 of the 104 exceedances represents substituted data.

> Each exceedance of the permitted emission rate as reported by the Respondent in Appendix A and B is a violation of General Condition III of Title V Permit No. 2140-00014-V0, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

The Department incorporates all of the remainder of the original Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-07-0025 and Agency Interest No. 32494 as if reiterated herein."

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FOUR THOUSAND AND NO/100 DOLLARS ($4,000.00), of which Five Hundred Seventy-Two and 98/100 Dollars ($572.98) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s)/permit record(s), the Consolidated Compliance Order & Notice of Potential Penalty and the Amended Consolidated Compliance Order & Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Orleans Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each

payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

ENTERGY NEW ORLEANS, INC.

BY: _____
(Signature)

_____
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: _____
D. Chance McNeely, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
D. Chance McNeely, Assistant Secretary