

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement”) is made as of this 21st day of May, 2020 by and between GenOn Potomac River, LLC (“GenOn”), a Delaware Corporation, headquartered at 1360 Post Oak Blvd., Suite 2000, Houston, TX 77056, and the District of Columbia (“District”), by and through the Office of the Attorney General, to settle and release all matters relating to alleged violations of the Water Pollution Control Act, D.C. Code § 8-103.1 *et seq.*, as further described herein.

RECITALS

WHEREAS, GenOn was formerly known as NRG Potomac River, LLC;

WHEREAS, until December 14, 2018, NRG Potomac River, LLC, was an indirect subsidiary of NRG Energy, Inc.;

WHEREAS, on or about December 14, 2018, NRG Energy, Inc., divested its interest in GenOn Energy, Inc., and GenOn Holdings, Inc., succeeded to the business and interests of GenOn Energy, Inc.;

WHEREAS, NRG Potomac River shortly thereafter was renamed GenOn Potomac River, LLC;

WHEREAS, GenOn is the current owner of the Potomac River Generating Station, a formerly operating coal-fired electric generating facility, located on the banks of the Potomac River in Alexandria, VA (“the Facility”);

WHEREAS, during the period of January 2010 through September 2013 (“Discharge Period”), the Facility was owned by NRG Potomac River, LLC (“NRG”);

WHEREAS, the District alleges that during the Discharge Period, NRG unlawfully discharged pollutants on approximately 90 individual days from unpermitted wastewater outfalls at the PRGS into the Potomac River in violation of D.C. Code § 8-103.02 and § 8-103.06;

WHEREAS, the District further alleges that during the Discharge Period, NRG on approximately 70 separate occasions, failed to notify the District of an unlawful discharge from the PRGS into the Potomac River in violation of D.C. Code § 8-103.08;

WHEREAS, the District further alleges that beginning in January 2010 and continuing through 2015 (“the Order Period”), NRG failed to comply with lawful orders

issued by the District's Department of Energy and Environment in violation of D.C. Code § 8-103.18;

WHEREAS, the District further alleges that NRG made false statements in communications with the District related to the unlawful discharges in violation of 20 DCMR § 502.6;

WHEREAS, the District further alleges that NRG on at least two occasions, knowingly and intentionally engaged in conduct that it knew or should have known caused or contributed to violations of the Water Pollution Control Act in violation of D.C. Code § 8-103.18;

WHEREAS, the District and GenOn have agreed to resolve and settle the District's claims prior to commencement of litigation;

WHEREAS, GenOn denies all of the allegations;

WHEREAS, the District and GenOn wish to memorialize the terms of their agreement and to do so in this document;

WHEREAS, the District and GenOn acknowledge that this Settlement Agreement is entered into voluntarily;

NOW, THEREFORE, for good and valuable consideration, the receipt, adequacy, and sufficiency of which is hereby acknowledged, and intending to be legally bound, the District and GenOn agree as follows:

1. Recitals. The foregoing Recitals are expressly incorporated as part of the Settlement Agreement, and the District and GenOn confirm and represent to one another that said Recitals are true and correct to the best of their knowledge, information, and belief.
2. No Admission of Liability. This Settlement Agreement is entered into solely for the purpose of allowing the Parties to avoid litigation. This Settlement Agreement does not constitute an admission by GenOn of any violation of District law.
3. Terms of Settlement. In consideration for the District's release of claims in Paragraph 4 herein, GenOn agrees, within 30 days of the effective date of this Agreement, to do the following:
 - a) Pay a civil penalty in the amount of \$2,400,000 payable by wire transfer to:

Bank:	Citibank 399 Park Avenue New York, NY 10043
ABA:	021000089
Reference:	Office of the Attorney General for the District of Columbia
Account Name:	Third Party Receipts Account
Account Number:	30918939

- b) Provide funding to improve and remediate the water quality of the Potomac River in accordance with the District's Department of Environment and Energy's ("DOEE") Supplemental Environmental Project Policy, in the amount of \$50,000 payable by check, money order, or wire transfer to the Northeast Environmental Enforcement Project to assist in enforcement training of DOEE staff; payment shall be made directly to the following:

Northeast Environmental Enforcement Project
4517 Hyatts Rd.,
Delaware, OH 43015

- c) Provide funding to improve and remediate the water quality of the Potomac River in accordance with DOEE's Supplemental Environmental Project Policy in the amount of \$50,000 payable by check, money order, or wire transfer to the Interstate Commission on the Potomac River Basin Drinking Water Source Protection Partnership to assist in expanding the Potomac River Spill early warning system and spill modeling capabilities; payment shall be made directly to the following:

Potomac Drinking Water Source Protection Partnership
30 W. Gude Drive, Suite 450
Rockville, MD 20850

- d) Provide documentation to the District of the payments made in accordance with subparagraphs b) and c) above to the following:

David S. Hoffmann
Assistant Attorney General
Social Justice Section
Office of the Attorney General
for the District of Columbia

Natalie Baughman
Assistant General Counsel
Office of the General Counsel
Department of Energy &
Environment

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Washington, D.C. 20001
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5th Floor
Washington, D.C. 20002
Natalie.baughman@dc.gov

The District and GenOn agree that payment of the above amounts in accordance with the terms herein constitutes full and complete satisfaction of the District's claims as articulated above. The District and GenOn acknowledge and agree that neither Party will seek any award of attorney's fees or costs from the other Party. GenOn agrees to cooperate with the District in obtaining any modification to the language of this paragraph needed to facilitate the administration of the payments under this paragraph.

4. Release of Civil Claims. Upon payment of the settlement amounts specified in Paragraph 3, the District agrees to resolve and release against GenOn, its current and former officers, employees, directors, agents, and parent, subsidiary and predecessor companies all civil claims as set forth herein or which are otherwise known or could have been known, including all claims that the District could have asserted under the District's Water Pollution Control Act, D.C. Code § 8-103.1 *et seq.*, related to unlawful discharges from the outfalls at the Facility occurring during the Order Period and any administrative orders related thereto. Nothing in this agreement shall be construed to relieve GenOn of its obligation to comply with all State and Federal laws, regulations or rules, nor shall any of the provisions of this Agreement be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, or rules. Nothing in this Agreement shall limit the District's ability to enforce its laws, rules, or regulations against GenOn or any other entity for conduct other than that otherwise resolved and released.
5. Entire Agreement. This Settlement Agreement comprises the entire agreement between the Parties and supersedes any and all prior oral and written agreements between them. This Settlement Agreement may not be altered, amended, or modified except by a further writing signed by the Parties.
6. Choice of Law. The validity and construction of this Settlement Agreement shall be governed by the laws of the District of Columbia, without regard to the principles of conflicts of laws. Any action to enforce this Settlement Agreement shall be brought only in the District of Columbia Superior Court.

7. Illegal Clauses. If any clause, provision or section of this Agreement shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Agreement and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.
 8. Authority to Settle. Each Party represents and warrants that the person signing this Settlement Agreement has authority to bind the Party and enter into the Settlement Agreement.
 9. Counterparts. This Settlement Agreement may be executed in two or more identical counterparts, all of which constitute one and the same Settlement Agreement. Facsimile or other electronically transmitted signatures on this Settlement Agreement shall be deemed to have the same force and effect as original signatures.
 10. Effective Date of Settlement Agreement. The effective date of this Settlement Agreement shall be the last recorded date of the individuals executing this Agreement.
- IN WITNESS WHEREOF, and intending to be legally bound, the Parties hereto have caused this Settlement Agreement to be executed as of the date(s) set forth below.

On Behalf of the District of Columbia:

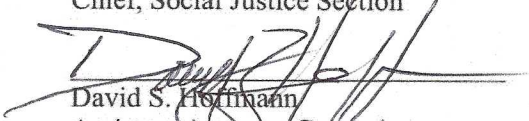
KARL A. RACINE
Attorney General for the District of Columbia

Kathleen Konopka
Deputy Attorney General
Public Advocacy Division



Jennifer L. Berger
Chief, Social Justice Section

Date: 5-26-20



David S. Hoffmann
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Washington, D.C. 20001
(202) 442-9889
David.hoffmann@dc.gov

Date: May 26, 2020

On behalf of GenOn Potomac River, LLC:



Daniel D. McDevitt
Vice President
GenOn Potomac River, LLC
1360 Post Oak Boulevard, Suite 2000
Houston, Texas 77056

Date: May 21, 2020