

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by KWAME RAOUL, Attorney General)
 of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 NOKIA of AMERICA CORPORATION,)
 a Delaware corporation, f/k/a)
 Alcatel-Lucent USA Inc.,)
)
 Respondent.)

PCB No. _____
 (Enforcement – Air)

NOTICE OF FILING

To: Cindi B. Smith, Esq.
 Head of Legal & Compliance – IT, Quality and Real Estate
 Nokia of America Corporation
 600 – 700 Mountain Avenue
 Murray Hill, New Jersey 07974
 Email: cindi.smith@nokia.com

PLEASE TAKE NOTICE that on the 11th day of June, 2020, I filed with the Clerk of the Illinois Pollution Control Board a Complaint, Motion to Request Relief from Hearing Requirement with Respondent, Nokia of America Corporation, and Stipulation and Proposal for Settlement, copies of which are attached hereto and are hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS
 KWAME RAOUL
 Attorney General of the State of Illinois

By: /s/ Karen W. Howard
 KAREN W. HOWARD
 Assistant Attorney General
 Environmental Bureau North
 69 W. Washington Street, Suite 1800
 Chicago, IL 60602
 (312) 814-5361
 Primary: khoward@atg.state.il.us
 Secondary: mccaccio@atg.state.il.us

CERTIFICATE OF SERVICE

I, KAREN W. HOWARD, an Assistant Attorney General, do certify that I caused to be mailed this 11th day of June, 2020, the foregoing Complaint, Motion for Request Relief from Hearing, Stipulation and Proposal for Settlement, and Notice of Filing with Respondent, Nokia of America Corporation, by electronic mail with receipt notification requested to the person listed on the Notice of Filing on June 11th, 2020.

/s/ Karen W. Howard
KAREN W. HOWARD
Assistant Attorney General
Environmental Bureau
69 W. Washington Street, Suite 1800
Chicago, IL 60602
(312) 814-5361

3. At all times relevant to this Complaint, Nokia of America Corporation was and is a Delaware corporation duly authorized to transact business in the State of Illinois. Alcatel-Lucent USA Inc. changed its name to Nokia of America Corporation effective January 1, 2018.

4. From at least January 1, 2018, or on a date or dates better known to Respondent, to the date of filing this Complaint, Respondent owned and operated an office and research and development facility related to telecommunications equipment and services located at 2000 Lucent Lane, Naperville, DuPage County, Illinois ("Facility").

5. Respondent owns and operates emission sources at the Facility, including emission units and/or air pollution control equipment consisting of the following: eight natural gas boilers and four diesel-powered emergency generators ("Emission Units").

6. During the calendar year 2018 and during other dates better known to Respondent, Respondent's Emission Units were and/or are capable of emitting particulate matter ("PM"), volatile organic materials ("VOM"), carbon monoxide ("CO"), sulfur dioxide ("SO₂"), and nitrogen oxides ("NO_x") to the atmosphere.

7. On August 12, 2015, Illinois EPA issued Alcatel-Lucent a Lifetime Operating Permit ("Air Permit") for operations at the Facility. The Air Permit authorized the operation of emissions units and/or air pollution control equipment consisting of the following: eight natural gas boilers and four diesel-powered emergency generators.

8. Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

9. Section 3.315 of the Act, 415 ILCS 5/3.315 (2018), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

10. Respondent is a “person” as that term is defined in Section 3.315 the Act, 415 ILCS 5/3.315 (2018).

11. Section 3.165 of the Act, 415 ILCS 5/3.165 (2018), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

12. PM, VOM, CO, SO₂ and NO_x are “contaminants” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).

13. Section 201.302(a) of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

The owner or operator of any emission unit or air pollution control equipment meeting the applicability criteria contained in 35 Ill. Adm. Code 254.102 shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports when necessary to accomplish the purposes of the Act and this Chapter.

(SPACE INTENDED TO BE BLANK)

14. Section 254.102(b) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.102(b), provides as follows:

Subpart C of this Part applies to the owner or operator of any source of regulated air pollutants required to have an operating permit in accordance with 35 Ill. Adm. Code 201 that is not subject to subsection (a) of this Section.

15. Respondent is required to have an operating permit in accordance with 35 Ill. Adm. Code Part 201, and therefore meets the applicability criteria contained in Section 254.102(b) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.102(b).

16. Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), provides as follows:

Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).

17. Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a), provides as follows:

All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

18. Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370, provides the following definition:

“Owner or operator” means any person who owns, operates, leases, controls, or supervises a source, an emission unit or air pollution control equipment.”

19. Respondent is an “owner or operator” as that term is defined by Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370.

20. Section 211.1950 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.1950, provides the following definition:

“Emission unit” means any part or activity at a stationary source that emits or has the potential to emit any air pollutant.”

21. Section 211.6370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, provides the following definition:

“Stationary source” means any building, structure, facility or installation that emits or may emit any air pollutant.

22. Section 211.370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.370, provides the following definition:

“Air pollutant” means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the atmosphere. Such term includes any precursors to the formation of any air pollutant, to the extent that the relevant statute or rule has identified such precursor or precursors for particular purpose for which the term “air pollutant” is used.

23. The Facility is a “stationary source” comprised of “emission units” that emit “air pollutants” as those terms are defined in Sections 211.6370, 211.1950, and 211.370, respectively, of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, 211.1950, and 211.370.

24. From at least January 1., 2018, or on a date or dates better known to Respondent, Respondent, as the owner or operator of emissions units, is required pursuant to Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Sections 254.132(a) and 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137(a), to submit Annual Emissions Reports (“AERs”) to the Illinois EPA each year by May 1 for the preceding calendar year.

25. On August 22, 2019, the Illinois EPA received Respondent’s Facility AER for calendar year 2018, approximately 114 days late.

26. By failing to timely submit a complete and accurate AER for the Facility for calendar year 2018, Respondent violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Sections 254.132(a) and 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137(a). Respondent thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, NOKIA OF AMERICA CORPORATION f/k/a Alcatel-Lucent USA Inc., as follows:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Sections 254.132(a) and 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137(a);

3. Ordering the Respondent to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Sections 254.132(a) and 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137(a);

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and
6. Granting other such relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS
by Kwame Raoul, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: /s/ Elizabeth Wallace
ELIZABETH WALLACE, Chief
Environmental Bureau

Of Counsel:
Karen W. Howard
Assistant Attorney General
Environmental Bureau
69 W. Washington Street, 18th Floor
Chicago, Illinois 60602
(312) 814-5361
Primary: khoward@atg.state.il.us
Secondary: mcacaccio@atg.state.il.us

3. The Respondent agrees to accept service of the Complaint via electronic mail.
4. The parties have reached agreement on all outstanding issues in this matter.
5. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.
6. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2018).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General
State of Illinois

BY: /s/ Karen W. Howard
Karen W. Howard
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-5361
khoward@atg.state.il.us
Secondary e-mail address: mcacaccio@atg.state.il.us

DATE: June 11, 2020

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
by KWAME RAOUL, Attorney General)
of the State of Illinois,)
)
Complainant,)
)
v.)
)
NOKIA of AMERICA CORPORATION,)
a Delaware corporation, f/k/a)
Alcatel-Lucent USA Inc.,)
)
Respondent.)

PCB No. _____
(Enforcement – Air)

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and NOKIA of AMERICA CORPORATION, a Delaware corporation, formerly known as Alcatel-Lucent USA Inc., (“Respondent”), (collectively “Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1, *et seq.* (2018), Board regulations, and Illinois EPA regulations alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. On June __, 2020, a Complaint was filed on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2018), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2018).

3. At all times relevant to this Complaint, Respondent was and is a Delaware corporation in good standing that is authorized to transact business in the State of Illinois.

4. At all times relevant to this Complaint, Respondent owned and operated an office and research and development facility relating to telecommunications equipment and services located at 2000 Lucent Lane, Naperville, DuPage County, Illinois (“Facility”).

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act, Board regulations, and Illinois EPA regulations:

Failure to Timely Submit a Complete and Accurate Annual Emissions Report for Calendar Year 2018 in Violation of Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), Sections 254.132(a) and 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137(a), and Section 9(a) of the Act, 415 ILCS 5/9(a) (2018).

C. Admission of Violations

The Respondent admits to the violations alleged in the Complaint filed in this matter and referenced within Section I.B herein.

D. Compliance Activities to Date

On or about August 22, 2019, Respondent submitted an Annual Emissions Report for calendar year 2018.

On or about April 28, 2020, Respondent submitted an Annual Emissions Report for calendar year 2019.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act, Board regulations, and Illinois EPA regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2018).

III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2018), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;

4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. The Illinois EPA's information gathering responsibilities were hindered by the Respondent's violations thereby threatening human health and the environment.
2. There is social and economic benefit to the Facility.
3. Operation of the Facility was and is suitable for the area in which it is located.
4. The timely submission of Annual Emissions Reports is technically practicable and economically reasonable.
5. Respondent subsequently complied with the Act and the Board regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2018), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated

violations of this Act by the respondent;

6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a “supplemental environmental project,” which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. The Respondent failed to timely submit an Annual Emissions Report for calendar year 2018 for its Facility. The violation began on or around May 1, 2019, and was resolved on or around August 22, 2019.
2. Respondent was diligent in attempting to come back into compliance with the Act, and Board regulations, once the Illinois EPA notified it of its noncompliance.
3. The civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Five Thousand Dollars (\$5,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act, Board regulations, and Illinois EPA regulations.
5. To Complainant’s knowledge, Respondent has no previously adjudicated violations of the Act.
6. Self-disclosure is not at issue in this matter.
7. The settlement of this matter does not include a supplemental environmental project.

8. A Compliance Commitment Agreement was not issued in this matter.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Five Thousand Dollars (\$5,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

1. All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Karen W. Howard
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. Respondent shall timely file all future Annual Emission Reports.

2. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon the Respondent's Facility which is the subject of this Stipulation, at all reasonable times with prior notice and an escort for the purposes of conducting inspections and evaluating compliance status.

3. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act, Board regulations, and Illinois EPA regulations.

4. The Respondent shall cease and desist from future violations of the Act, Board regulations, and Illinois EPA regulations that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$5,000.00 penalty, and its commitment to cease and desist as contained in Section V.D.4 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent

from any further liability or penalties for the violations of the Act, Board regulations, and Illinois EPA regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on June __, 2020. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

F. Enforcement of Stipulation

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

G. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it. This Stipulation may be executed by the Parties in one

or more counterparts, all of which together shall constitute one and the same instrument.

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

KWAME RAOUL
Attorney General
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: *Elizabeth Wallace*
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: *Charles W. Gunnarson*
CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: 6/8/20

DATE: 6/8/2020

NOKIA of AMERICA CORPORATION,
f/k/a Alcatel-Lucent USA Inc.,
RESPONDENT

By: *Cynthia B. Smith, Esq.*
CYNTHIA B. SMITH, ESQ.

Its: Head of Legal and Compliance – Real
Estate

DATE: June 2, 2020