

ILLINOIS POLLUTION CONTROL BOARD

January 9, 2014

WRB REFINING, LLC (Sulfur Removal from)
Coker LPG) (Parcel No. 19-1-08-35-00-000-)
001),)
)
)
Petitioner,)
)
)
v.) PCB 14-65
) (Tax Certification - Air)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
)
Respondent.)

ORDER OF THE BOARD (D. Glosser):

On December 6, 2013, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify a certain facility of WRB Refining, LLC (WRB) as a “pollution control facility” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2012); 35 Ill. Adm. Code 125. The facility is associated with WRB’s Wood River petroleum refinery located at 900 South Central Avenue in Roxana, Madison County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that WRB’s Sulfur Removal from the Coker liquefied petroleum gas (LPG) project is a pollution control facility.

LEGAL FRAMEWORK

Under the Property Tax Code, “[i]t is the policy of this State that pollution control facilities should be valued, at 33 1/3% of the fair cash value of their economic productivity to their owners.” 35 ILCS 200/11-5 (2012); *see also* 35 Ill. Adm. Code 125.200(a)(2). “For tax purposes, pollution control facilities shall be certified as such by the Pollution Control Board and shall be assessed by the Department [of Revenue].” 35 ILCS 200/11-20 (2012); *see also* 35 Ill. Adm. Code 125.200(a). Under the statute, the Board determines if the facilities are pollution control facilities; however, the Board is not authorized to assess a value of those facilities.

Under Section 125.202 of the Board’s procedural rules, a person may submit an application for tax certification to the Agency. *See* 35 Ill. Adm. Code 125.202. If the Agency receives a tax certification application, the Agency must file with the Board a recommendation on the application, unless the applicant withdraws the application. *See* 35 Ill. Adm. Code 125.204(a). Among other things, the Agency’s filing must recommend that the Board issue or deny tax certification. *See* 35 Ill. Adm. Code 125.204(a)(4). If the Board finds “that the claimed facility or relevant portion thereof is a pollution control facility . . . , the Pollution Control Board . . . shall enter a finding and issue a certificate to that effect.” 35 ILCS 200/11-25 (2012); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from WRB on or about October 14, 2010.¹ Rec. at ¶ 1. The Agency further states that it received an amended application from WRB on or about February 8, 2013. *Id.* On December 6, 2013, the Agency filed a recommendation on the applications with the Board, attaching WRB's initial application (Rec. Exh. A) and amended application (Rec. Exh. B).² The Agency's recommendation identifies the facility at issue:

The subject matter of this request consists of a project implemented to remove sulfur from the refinery's Coker liquefied petroleum gas ("LPG") stream, which includes a variety of sulfur-related compounds, such as hydrogen sulfide, mercaptan sulfur and carbonyl sulfide. As described in the original and revised application materials, the LPG occurs "naturally" in crude oil, consisting of "propane, propylene, butane, isobutene, and butylenes," and is produced at various processes at the refinery, including the LPG product stream from the new Coker Unit. The LPG product stream from the Coker Unit is used for blending with gasoline and is subject to extensive federal fuel and consumer product standards. In particular, [the United States Environmental Protection Agency (USEPA)] has adopted regulations under the Clean Air Act governing the content requirements for sulfur in gasoline, including the 0.0-500.0 parts per million by weight standard set forth at 40 CFR § 80.45, as well as "substantially similar" requirements established in specifications by the American Society for Testing and Materials ("ASTM"). Rec. at ¶ 4 (quoting Rec. Exh. B; citations omitted).

The Agency further describes the facility:

In order for the refinery to blend the LPG into gasoline and comply with the aforementioned fuel content requirements, the content of sulfur must be reduced in the Coker LPG stream. The Sulfur Removal from the Coker LPG project that is the subject of this request involved the construction and installation of the Coker LPG Amine Treater, the Merox Unit and other related appurtenances (i.e., "such as amine supply and return piping, and caustic supply and export facilities"), which are described in detail in the original application. The installation of these systems and/or devices enables the refinery to remove sulfur compounds from the LPG product stream that would otherwise be emitted as contaminants at the point of product use, and therefore prevents or reduces air pollution. Rec. at ¶ 5 (quoting Rec. Exh. B; citations to Rec. Exhs. A & B omitted).

The Agency recommends that the Board certify that the Sulfur Removal from the Coker LPG project is a pollution control facility as defined in Section 11-10 of the Property Tax Code

¹ The Agency's recommendation is cited as "Rec. at _."

² The Board notes that at its December 19, 2013 Board meeting, a comment was offered to the Board. That comment has been transcribed and included in the record.

(35 ILCS 200/11-10 (2012)) with the primary purpose “to prevent or reduce air pollution.” Rec. at ¶¶ 8, 9; *see also* Rec. Exh. C (Agency technical memorandum).

TAX CERTIFICATE

Based upon the Agency’s recommendation and WRB’s applications, the Board finds and certifies that WRB’s Sulfur Removal from the Coker LPG project identified in this order is a pollution control facility under the Property Tax Code (35 ILCS 200/11-10 (2012)). The Board makes no finding regarding the assessed value of that facility. Under Section 11-25 of the Property Tax Code, the effective date of this certificate is “the date of application for the certificate or the date of the construction of the facility, which ever is later.” 35 ILCS 200/11-25 (2012); *see also* 35 Ill. Adm. Code 125.216(a). Section 125.216(d) of the Board’s procedural rules states that the Clerk “will provide the applicant and the Agency with a copy of the Board’s order setting forth *the Board’s findings and certificate, if any.*” 35 Ill. Adm. Code 125.216(d) (quoting in italics 35 ILCS 200/11-30 (2012)). The Clerk therefore will provide WRB and the Agency with a copy of this order.

IT IS SO ORDERED.

Section 11-60 of the Property Tax Code provides that any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification or restriction of a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate may appeal the Board’s finding and order to the Circuit Court under the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (2012)). *See* 35 ILCS 200/11-60 (2012).

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 9, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board