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BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

IN THE MATTER OF:

COAL COMBUSTION WASTE
SURFACE IMPOUNDMENTS
AT POWER GENERATING
FACILITIES: PROPOSED NEW
35 ILL. ADM. CODE 841

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R14-10
(Rulemaking – Water)

NOTICE OF FILING

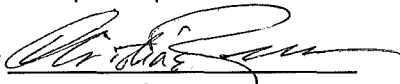
To: John T. Therriault, Clerk
Tim Fox, Hearing Officer
Illinois Pollution Control Board
100 West Randolph
Suite 11-500
Chicago, IL 60601

And Attached Service List

Please take notice that on September 30, 2015, I filed electronically with the Office of the Clerk of the Illinois Pollution Control Board the attached **Response of the City of Springfield to the Environmental Groups' Motion to Reopen** this docket, a copy of which is attached and served upon you. A copy was also served electronically on the hearing officer, Timothy J. Fox, at tim.fox@illinois.gov.

Respectfully submitted,

THE CITY OF SPRINGFIELD,
a municipal corporation

By 
One of its Attorneys

Dated: September 30, 2015
Christine G. Zeman
Regulatory Affairs Director
Office of Public Utilities
800 East Monroe
Springfield, Illinois 62757
(217) 789-2116, Ext. 2628
Email: christine.zeman@cwlp.com

Service List

<u>Party Name</u>	<u>Address</u>	<u>City/State/Zip</u>
<u>Office of the Attorney General</u> Interested Party <ul style="list-style-type: none"> • Stephen Sylvester - Asst. Attny. Genl. 	69 West Washington Street, Suite 1800	Chicago IL 60602
<u>IEPA</u> Petitioner <ul style="list-style-type: none"> • Joanne M. Olson - Assistant Counsel • James Jennings - Assistant Counsel 	1021 North Grand Avenue East P.O. Box 19276	Springfield IL 62794-9276
<u>Much Shelist PC</u> Interested Party <ul style="list-style-type: none"> • David Rieser 	191 North Wacker Drive Suite 1800	Chicago IL 60606
<u>McDermott, Will & Emery</u> Interested Party <ul style="list-style-type: none"> • Mark A. Bilut 	227 West Monroe Street	Chicago IL 60606-5096
<u>Schiff Hardin, LLP</u> Interested Party <ul style="list-style-type: none"> • Amy Antonioli 	6600 Willis Tower 233 South Wacker Drive	Chicago IL 60606-6473
<u>Environmental Law and Policy Center</u> Interested Party <ul style="list-style-type: none"> • Faith E. Bugel • Jessica Dexter • Jennifer L. Cassel • Josh Zaharoff 	35 E. Wacker Drive Suite 1600	Chicago IL 60601
<u>Sierra Club</u> Interested Party <ul style="list-style-type: none"> • Jack Darin 	70 E. Lake Street, Suite 1500	Chicago IL 60601-7447
<u>Ameren Services</u> Interested Party <ul style="list-style-type: none"> • * 	One Ameren Plaza PO Box 66149	St. Louis MO 63166
<u>Illinois Department of Natural Resources</u> Interested Party <ul style="list-style-type: none"> • *Office of General Counsel • 	One Natural Resources Way	Springfield IL 62702-1271

<p><u>Southern Illinois Power Cooperative</u> Interested Party</p> <ul style="list-style-type: none"> • Jason McLaurin 	11543 Lake of Egypt Road	Marion IL 62959-8500
<p><u>Exelon Law Department</u> Interested Party</p> <ul style="list-style-type: none"> • * 	10 South Dearborn, 49th Floor	Chicago IL 60603
<p><u>Prairie Rivers Network</u> Interested Party</p> <ul style="list-style-type: none"> • Traci Barkley 	1902 Fox Drive Suite 6	Champaign IL 61820
<p><u>Nijman Franzetti LLP</u> Interested Party</p> <ul style="list-style-type: none"> • Susan M. Franzetti 	10 South LaSalle Street Suite 3600	Chicago IL 60603
<p><u>IERG</u> Interested Party</p> <ul style="list-style-type: none"> • Alec Messina 	215 E. Adams St.	Springfield IL 62701
<p><u>Dynegy Midwest Generation, Inc.</u> Interested Party</p> <ul style="list-style-type: none"> • Rick Dierix - Senior Director 	1500 Eastport Plaza Dr.	Collinsville IL 62234-6135
<p><u>Ameren</u> Interested Party</p> <ul style="list-style-type: none"> • Michael Smallwood - Consulting Engineer 	1901 Chouteau Avenue	St. Louis MO 63103
<p><u>Environmental Integrity Project</u> Interested Party</p> <ul style="list-style-type: none"> • Abel Russ - Attorney 	1000 Vermont Avenue NW Suite 1100	Washington DC 20005
<p><u>Midwest Generation</u> Interested Party</p> <ul style="list-style-type: none"> • Christopher Foley - Senior Counsel 	500 West Madison Street Suite 2640	Chicago IL 60661
<p><u>Electric Energy, Inc.</u> Interested Party</p> <ul style="list-style-type: none"> • * 	2100 Portland Road P.O. Box 165	Joppa IL 62953
<p><u>Kincaid Generation LLC</u> Interested Party</p>	P.O. Box 260	Kincaid IL 62540

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<u>Prairie Power, Inc.</u> Interested Party • *	P.O. Box 10	Peral IL 62361
<u>Prairie State Generating Company</u> Interested Party • *	4190 County Highway 12	Marissa IL 62257
<u>NRG Energy, Inc.</u> Interested Party • Elizabeth Quirk-Hendry - General Counsel East Region • Keith Schmidt - Director of Environment	211 Carnrgie Center	Princeton NJ 08540
<u>NRG Energy, Inc.</u> Interested Party • Walter Stone - Vice President	8301 Professional Place Suite 230	Landover MD 20785

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**RESPONSE OF THE CITY OF SPRINGFIELD TO THE
ENVIRONMENTAL GROUPS' MOTION TO REOPEN**

Now comes the undersigned on behalf of The City of Springfield, Office of Public Utilities, d/b/a City Water, Light and Power (CWLP) and pursuant to the Order of the Hearing Officer, Tim Fox, dated September 18, 2015, files this response, objecting to the Motion to Reopen, and moves the Illinois Pollution Control Board (Board) to deny said Motion. In support of its Response, CWLP states:

1. CWLP is a municipal utility participant in this rulemaking proceeding to establish new state regulations for coal combustion waste surface impoundments at power generating facilities and electric generating units (EGUs). CWLP also participated in the outreach conducted by the Illinois Environmental Protection Agency (IEPA or Agency) between April 2013 and its filing of this rulemaking proposal on October 23, 2013.
2. Following several days of hearing in 2014, numerous witnesses testified, numerous exhibits were admitted and post-hearing comments were filed on the proposal of the IEPA. Following the filing of Post-Hearing Comments in October 2014, the U.S. EPA finalized regulations for the management of coal combustion residuals (CCR) pursuant to the Resource Conservation and Recovery Act (RCRA). The federal CCR rule with the preamble totals 774 pages; a pre-publication version became available on December 19, 2014, and takes effect October 19, 2015. The federal CCR rule establishes national minimum criteria for the management of CCR landfills, surface impoundments, and lateral expansions, both old and new.
3. Significantly, the federal CCR rule is self-implementing. The state is given a role in its enforcement similar to the Environmental Groups. Yet, the Environmental Groups' amended proposal would mandate Agency involvement that the IEPA should at least have an opportunity to address in a hearing, along with impacted EGUs a process the Motion to Reopen seeks to deny.
4. In part because the federal CCR rule covers the same subject matter as this rulemaking, but is not identical to the Agency proposal, the Board granted the Agency's motion for a brief stay to allow the Agency (and all parties) time to review and evaluate the new federal CCR. For CWLP, this time was also utilized to prepare to comply with the comprehensive federal CCR, only days away now from taking effect.
5. On August 5, 2015, the Agency filed a Motion to Extend Stay, noting the need for additional evaluation. In its motion to extend the stay, the Agency identified appeals of the federal

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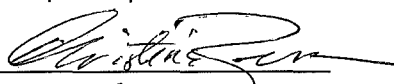
CCR rule that had been filed, as well as congressional bills, all of which could significantly impact the federal CCR rule, once resolved.

6. Review of the docket of the U.S. District Court of Appeals for the D.C. Circuit shows that appeals of the CCR rule are still pending. CWLP notes that Prairie Rivers Network, one of the Environmental Group participants here, was granted leave to intervene by Order dated September 15, 2015, in Case No. 15-1219.
7. The Environmental Group's Motion to Reopen includes a proposal for extensive modification to their last comprehensive proposal filed with the Board, in which they seek no new hearings but only written comment by participants. Such procedure would cause material prejudice to CWLP. Further, in light of the pending appeals, reopening this docket prior to such appeals being resolved would waste valuable administrative resources. As a participant, CWLP's own limited resources would be better used than participating in additional rulemaking that may all be later made obsolete, including in evaluating yet another comprehensive federal rule for EGUs under the Clean Water Act expected any day, the Effluent Limitations Guidelines rule.

So as not to waste valuable and limited administrative resources, CWLP respectfully requests that the Board deny the Motion to Reopen. For similar reasons, CWLP supports the Agency's Motion to Extend Stay.

Respectfully submitted,

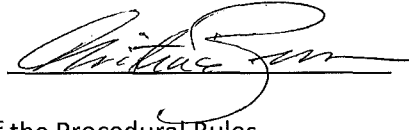
THE CITY OF SPRINGFIELD,
a municipal corporation

By 
One of its Attorneys

Dated: September 30, 2015
Christine G. Zeman
Regulatory Affairs Director
Office of Public Utilities
800 East Monroe
Springfield, Illinois 62757
(217) 789-2116, Ext. 2628
Email: christine.zeman@cwlp.com

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that I have served upon the individuals named on the foregoing Notice of Filing a true and correct copy of the **APPEARANCE OF CHRISTINE G. ZEMAN** by First Class Mail, postage prepaid on September 30, 2015, from Springfield, Illinois.

A handwritten signature in cursive script, appearing to read "Christine G. Zeman", is written over a horizontal line.

This filing uses recycled paper as defined in Subpart B of the Procedural Rules.