

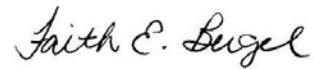
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)	
)	
AMENDMENTS TO 35 ILL. ADM.)	R 23-18(A)
CODE 201, 202, AND 212)	(Rulemaking – Air)
)	
)	

NOTICE OF FILING

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board the attached **SIERRA CLUB'S RESPONSE TO ILLINOIS ATTORNEY GENERAL OFFICE'S MOTION FOR AN ADDITIONAL HEARING**, copies of which are served on you along with this notice.

Respectfully submitted,



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ARDC No: 6255685

Dated: October 27, 2023

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)	
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AMENDMENTS TO 35 ILL. ADM.)	R 23-18(A)
CODE 201, 202, AND 212)	(Rulemaking – Air)
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**SIERRA CLUB’S RESPONSE TO ILLINOIS ATTORNEY GENERAL
OFFICE’S MOTION FOR AN ADDITIONAL HEARING**

Sierra Club, by their undersigned counsel, hereby submits this Response to the Illinois Attorney General Office’s Motion for An Additional Hearing (“Motion”). The Hearing Officer should grant the Illinois Attorney General Office’s Motion for the following reasons:

1. On October 23, 2023, the Illinois Environmental Protection Agency (“IEPA”) filed a motion with the Illinois Pollution Control Board (“PCB” or “Board”) asking the Board to request information from the American Petroleum Institute (“API”), Illinois Environmental Regulatory Group (“IERG”), Rain CII Carbon, LLC (“Rain Carbon”), Dynegy Midwest Generation, LLC, Illinois Power Generating Company, and Kincaid Generation, LLC (collectively, “Dynegy”), Midwest Generation, LLC (“MWG”), and East Dubuque Nitrogen Fertilizers, LLC (“EDNF”) (listed parties collectively, “Proponents”), who altogether have advanced five separate regulatory proposals. R23-18(A), IEPA Comment (Oct. 23, 2023), at 2. IEPA also requested time to review and assess the additional information after it is submitted by the Proponents. *Id.* at 27-28. The Board should solicit the requested information from the Proponents because this information is needed to fully assess the proposals by the Proponents and is also needed to support any State Implementation Plan submittal to the USEPA of any revisions adopted by the Board. *Id.* at 3.
2. On October 26, 2023, the Illinois Attorney General’s Office, on behalf of the People of the State of Illinois (“IAG” or “People”), filed a motion requesting “an additional hearing

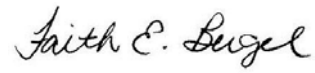
beyond the two scheduled in this rulemaking proceeding, as provided for by 35 Ill. Adm. Code 102.412(b)” to address any additional material filed in response to IEPA's request. Mot. at 1.

3. Failing to hold an additional hearing would result in material prejudice to interested parties, the public, and the People. The Proponents have not yet submitted all of the additional information requested by the IEPA and, therefore, neither the IEPA nor interested parties have had an opportunity to review the information or ask questions of the Proponents based on the information. The purpose of the hearings is to ensure information presented by interested parties is adequately tested by stakeholders and thus provides a valid evidentiary basis for potential action by the PCB. If the IEPA, the People, or interested parties are not able to review and assess the requested but heretofore undisclosed information, the result could be regulations that are inconsistent with federal law and threaten adverse environmental impacts. IEPA Comments at 2-

4. The opportunity for written comments following submission of this additional information is insufficient because such comments do not allow interested parties, members of the public, or the People to ask follow-up questions about the requested information. Any inability to ask follow-up questions about additional information, again, could result in regulations that are inconsistent with federal law and threaten adverse environmental impacts. IEPA Comments at 2-3.

For the reasons stated above, Sierra Club respectfully requests that the Hearing Officer grant the People’s Motion for a third hearing. In the alternative, Sierra Club recommends that the Hearing Officer delay the second hearing until such time when the additional information has been provided and reviewed and participating parties have been able to prepare questions or responsive testimony on the additional information.

Respectfully submitted,

A handwritten signature in cursive script that reads "Faith E. Bugel".

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Attorney for Sierra Club

CERTIFICATE OF SERVICE

The undersigned, Faith E. Bugel, an attorney, certifies that I have served electronically upon the Clerk and by email upon the individuals named on the attached Service List a true and correct copy of the **SIERRA CLUB'S RESPONSE TO ILLINOIS ATTORNEY GENERAL OFFICE'S MOTION FOR AN ADDITIONAL HEARING** before 5 p.m. Central Time on October 27, 2023, to the email addresses of the parties on the attached Service List. The entire filing package, including exhibits, is 5 pages.

Respectfully submitted,

Faith E. Bugel

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