

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
)
COAL COMBUSTION WASTE (CCW)) R14-10
ASH PONDS AND SURFACE) (Rulemaking – Water)
IMPOUNDMENTS AT)
POWER GENERATING FACILITIES:)
PROPOSED NEW 35 ILL.ADM.)
CODE 841)

NOTICE OF FILING

TO: Mr. John T. Therriault	Timothy J. Fox
Assistant Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 W. Randolph Street	100 W. Randolph Street,
Suite 11-500	Suite 11-500
Chicago, Illinois 60601	Chicago, Illinois 60601
(VIA ELECTRONIC MAIL)	(VIA U.S. MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board **PRAIRIE POWER, INC.'S REPLY TO ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S RESPONSE TO ENVIRONMENTAL GROUPS' MOTION TO REOPEN PROCEEDING**, copies of which are herewith served upon you.

Respectfully submitted,

PRAIRIE POWER INC.,

Dated: October 8, 2015

By: /s/ Jennifer M. Martin
Jennifer M. Martin

N. LaDonna Driver
Jennifer M. Martin
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CERTIFICATE OF SERVICE

I, Jennifer M. Martin, the undersigned, hereby certify that I have served the attached **PRAIRIE POWER, INC.'S REPLY TO ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S RESPONSE TO ENVIRONMENTAL GROUPS' MOTION TO REOPEN PROCEEDING** upon:

Mr. John T. Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

via electronic mail on October 8, 2015; and upon:

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Vice President
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by depositing said documents in the United States Mail, postage prepaid, in Springfield,
Illinois, on October 8, 2015.

/s/ Jennifer M. Martin
Jennifer M. Martin

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COAL COMBUSTION WASTE (CCW)) R14-10
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**PRAIRIE POWER, INC.’S REPLY TO ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY’S RESPONSE TO ENVIRONMENTAL GROUPS’
MOTION TO REOPEN PROCEEDING**

NOW COMES Prairie Power, Inc. (“PPI”), by its attorneys, HODGE DWYER & DRIVER, and pursuant to the Hearing Officer Order entered on September 18, 2015, timely files the following Reply to the Illinois Environmental Protection Agency’s Response to Environmental Groups’ Motion to Reopen Proceeding, stating as follows.

1. This matter was commenced by the Illinois Environmental Protection Agency’s (“Agency’s”) filing of a rulemaking proposal on October 28, 2013.
2. The U.S. Environmental Protection Agency (USEPA) published its final Coal Combustion Residuals Rule on April 17, 2015 (“CCR Rule”). The CCR Rule is effective on October 19, 2015.
3. On May 7, 2015, the Pollution Control Board (“Board”) granted the Agency’s Motion to Stay this proceeding, and stayed this proceeding for ninety (90) days to “allow the Agency to review the federal CCR rules and determine whether to revise its proposal.” Order of the Board, dated May 7, 2015.
4. On August 5, 2015, the Agency filed a motion to extend the stay of proceedings indefinitely. Illinois Environmental Protection Agency’s Motion to Extend Stay

(“Motion to Extend Stay”), at 1-5. On August 19, 2015, Sierra Club, Prairie River’s Network, and the Environmental Law & Policy Center (“Environmental Groups”) filed a Response opposing the Motion to Extend Stay, contending that the adoption of the proposed State rules would allow for certainty and efficiency in the closure of coal ash impoundments. Environmental Groups’ Response to Illinois Environmental Protection Agency’s Motion to Extend Stay, filed August 19, 2015, p. 3. The Environmental Groups’ Response also indicated their intent to file a proposal ‘harmonizing the two rule systems for the sake of efficiency.’ *Id.*, pp. 3-4.

5. On September 15, 2015, the Environmental Groups filed an Amended Proposal and Motion to Reopen the Proceeding. Environmental Groups’ Amended Proposal and Motion to Reopen Proceeding, filed September 15, 2015 (“Motion to Reopen”).

6. On October 1, 2015, the Agency filed its Response opposing the Motion to Reopen, noting that certainty regarding the CCR Rule is essential “to avoid adopting a duplicative or confusing rule,” and that the extent of any regulatory gap between the CCR Rule and the proposed state rulemaking “will not be clear until the legal challenges to, and Congressional action impacting, USEPA’s CCR rule conclude.” Agency’s Response to Environmental Groups’ Motion to Reopen Proceeding, ¶ 3. The Agency further noted that the “inconsistencies generated by prematurely advancing this rulemaking would unquestionably prompt additional and avoidable comment periods and hearings to address those inconsistencies once there is certainty regarding the scope and applicability of USEPA’s CCR rule.” *Id.* at ¶ 6.

7. It is clear from the Agency's Response and the responses filed by other interested parties that granting the Environmental Groups' Motion to Reopen and proceeding with consideration of the Amended Proposal will not promote efficiency. Instead, granting the Motion to Reopen and proceeding with this rulemaking will result in piecemeal and fragmented consideration of rulemaking proposals which are likely to be amended in the future, and will significantly increase the cost and difficulty of participating in this proceeding for all parties.

PPI joins the Agency's Response to the Environmental Groups' Motion to Reopen, as well as the Responses to the Environmental Groups' Motion to Reopen filed by Dynegy, Midwest Generation, Prairie State Generating Company, Ameren Missouri and AmerenEnergy Medina Valley Cogen, LLC, City of Springfield, and the Illinois Environmental Regulatory Group, in requesting that the Board deny the Environmental Groups' Motion to Reopen and grant the Agency's Motion to Extend Stay.

Respectfully submitted,

PRAIRIE POWER INC.,

Dated: October 8, 2015

By: /s/ Jennifer M. Martin
Jennifer M. Martin

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