

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
)
AMENDMENTS TO) R2018-20
) (Rulemaking – Air)
35 ILL. ADM. CODE 225.233,)
MULTI-POLLUTANT STANDARDS (MPS))

NOTICE OF FILING

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board the attached **ENVIRONMENTAL GROUPS' PREFILED QUESTIONS FOR RICK DIERICX, MANAGING DIRECTOR-ENVIRONMENTAL COMPLIANCE, DYNEGY**, copies of which are served on you along with this notice.

Respectfully Submitted,



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Dated: January 2, 2018

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
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AMENDMENTS TO) R2018-20
35 ILL. ADM. CODE 225.233,) (Rulemaking – Air)
MULTI-POLLUTANT STANDARDS (MPS))

**ENVIRONMENTAL GROUPS’ PREFILED QUESTIONS FOR RICK DIERICX,
MANAGING DIRECTOR-ENVIRONMENTAL COMPLIANCE, DYNEGY**

1. In your testimony you state “The proposal is also more consistent with the original rule because it would allow all units owned by the same company to be in a single [Multi-Pollutant Standards (“MPS”)] group consisting of a number of units that is consistent with the number of units originally in each MPS group.” *Prefiled Testimony of Rick Diericx* at 8 (Dec. 11, 2017) (“Diericx Testimony”). For sulfur dioxide (“SO₂”) can this be achieved by a single rate-based limit (in lbs/MMBtu) that applies to all of the units at Baldwin, Coffeen, Duck Creek, Edwards, Havana, Hennepin, Joppa, and Newton (“Proposed MPS Group”)?
2. In your testimony you state “Compliance with cap limits is more readily demonstrated and verified than compliance with rate limits as mass emissions are directly measured.” *Id.* at 8-9.
 - a. The rate-based limit under the MPS has been in place for over 10 years, correct?
 - b. Ameren/IPH/Dynegy has been demonstrating compliance with the rate-based limit for over 10 years, correct? If so, what data has Ameren/IPH/Dynegy been using to demonstrate compliance?
 - c. The Illinois Environmental Protection Agency (“IEPA”) has been verifying (whenever it deems necessary) compliance with the rate-based limit for over 10 years, correct?
 - d. Aside from Dynegy acquiring Ameren’s Illinois-based fleet, are there any other challenges to demonstrating compliance with rate-based limits for the entire Illinois fleet under the MPS?
 - i. Those challenges could be addressed by a rate-based emissions limit in lbs/MMBtu for the entire Illinois fleet of formerly-Ameren and Dynegy plants, correct?
 - ii. If not, what are these new challenges and why could they not be addressed

by a rate-based emissions limit in lbs/MMBtu for the entire Illinois fleet of formerly-Ameren and Dynegy plants?

- e. Are there any other instances—either regulatory or non-regulatory—that call for Dynegy to calculate the rate of SO₂ emissions for units in the Proposed MPS Group? If so, what are they?
- 3 . Your testimony states “The proposal reinstates a level of operational flexibility consistent with the original MPS.” *Id.* at 9.
 - a . Did the original MPS include rate-based limits in lb/MMBtu?
 - b . Could the same level of operational flexibility be achieved by rate-based limits (for both nitrogen oxides (“NO_x”) and SO₂ in lbs/MMBtu) that apply to all units in the Proposed MPS Group? Why or why not?
 4. Your testimony states “an increase in sulfur content of as little as 0.05% by weight for six months can increase the coal’s combusted emission rate by 20%.” *Id.* at 10.
 - a. Under what circumstances would you see an increase in sulfur content by .05%?
 - b. What would happen if you changed coal suppliers?
 - c. What would happen if coal came from mines from different regions?
 - d. Could a scrubber prevent a 20% increase in the coal’s combusted emission rate under the above scenario? Why or why not?
 5. Your testimony states “The only way to bring the fleet back into compliance with the rate-based limits is to increase the heat input in the denominator faster than the pounds of SO₂ in the numerator is increasing. Increasing the heat input also means the fleet would emit more PM, NO_x, CO and CO₂ emissions.” *Id.* at 10.
 - a. Would increasing the capacity at scrubbed plants and decreasing capacity at unscrubbed plants enable the fleet to meet compliance under the current rate-based limits?
 - b. Can you provide Coffeen’s, Duck Creek’s, and Havana’s SO₂ emissions rates in 2016 in lb/MMBtu?
 - i. Is it your understanding that even if Coffeen had a 20% increase in SO₂ emissions (as measured in lb/MMBtu) compared to its 2016 emissions rate, its SO₂ emission rate would still be below .10 lb/MMBtu? And it would be far enough below the MPS limit that it could be used to help achieve the fleetwide average?

- ii. Is it your understanding that even if Duck Creek had a 20% increase in SO₂ emissions (as measured in lb/MMBtu) compared to its 2016 emissions rate, its SO₂ emission rate would still be below .10 lb/MMBtu? And it would be far enough below the MPS limit that it could be used to help achieve the fleetwide average?
 - iii. Is it your understanding that even if Havana had a 20% increase in SO₂ emissions (as measured in lb/MMBtu) compared to its 2016 emissions rate, its SO₂ emission rate would still be below .10 lb/MMBtu? And it would be far enough below the MPS limit that it could be used to help achieve the fleetwide average?
- 6. On p. 11 of your testimony you discuss the “environmental protection” that Dynegy claims the MPS revision will afford.
 - a. Assuming electric demand, natural gas prices, and electricity prices remain the same as 2017, does Dynegy predict reductions in actual SO₂ emissions as a result of this proposed change to the MPS? If so, can Dynegy explain how those reductions will occur?
 - b. Assuming demand and prices remain consistent with 2017, would Dynegy expect to increase capacity at any individual plants as a result of this change to the MPS? If so, which ones?
 - c. Assuming demand and prices remain consistent with 2017, would Dynegy expect to increase fleetwide rate-based emissions of SO₂ as a result of this change to the MPS?
 - d. Assuming demand and prices remain consistent with 2017, would Dynegy expect to reduce capacity at any scrubbed plants as a result of this change to the MPS? If so, which ones?
- 7. On p. 11 of your testimony you state that the proposed rewrite to the MPS rules will “*significantly reduce* the amount of emissions Dynegy is allowed to emit.” (emphasis in original).
 - a. Is the reduction you reference just about allowable emissions, and not about actual emissions?
 - b. Have you done any analysis to see if there will be a reduction in actual emissions? If so, can you please share this analysis?
- 8. Your testimony states “the lower allowable emission limits are also expected to further constrain actual annual emissions.” *Id.* at 11-12.
 - a. What do you mean by “constrain actual annual emissions”?

- b. What is the basis for stating that the annual cap for the SO₂ or NO_x for the fleet will constrain actual emissions?
 - c. Does the current MPS constrain the capacity of scrubbed plants?
 - d. According to a Dynegy shareholder presentation, the highest net capacity factor in 2015 and 2016 for any of the plants in the Proposed MPS Group was 66%, which was at the Baldwin plant. Dynegy, *Fourth Quarter and 2016 Full Year Review* at 40 (Feb. 23, 2017).¹ Five of the plants, however, do not achieve net capacity factors of more than 60%. Does the current MPS constrain the capacity of the MPS groups as a whole?
 - e. Does Dynegy expect that unscrubbed plants may be operated at a higher capacity (or capacity factor) after the MPS rate-based limit replaced with a mass-based limit? Why or why not?
9. You state that “As recently as 2014, SO₂ emissions from MPS units were 59,806 tons versus a proposed cap of 55,000 tons.” *Id.* at 15 .
- a. Does that figure for 2014 SO₂ emissions include coal plants that have since retired or are mothballed?
 - b. Since 2014, which units subject to the MPS regulations have been retired or are mothballed?
 - c. If you calculated the emissions in 2014 excluding these retired/mothballed units, emissions were actually 44,382 tons of SO₂, correct?
 - i. This is 20% lower than the proposed cap of 55,000 tons, correct?
10. On p. 10 of your testimony you state “Every time a scrubbed unit experiences a forced outage a similarly sized unscrubbed unit in the group must be brought off-line to ensure compliance with the rate-based limits. Having to bring a fully functional unit off-line precludes Dynegy from economically dispatching units and can create some of the grid stability and reliability issues”.
- a. What do you mean by “economically dispatching units?”
 - b. How often do unscrubbed units need to be taken off-line to balance out the outage of a scrubbed unit?
 - i. When, specifically, has this happened and what units were involved?

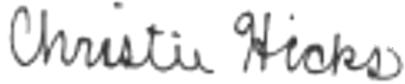
¹ Available at <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9NjYxMjk2fENoaWxkSUQ9MzY4MjA2fFR5cGU9MQ==&t=1>.

- c. What do you mean by “grid stability issue”?
 - d. What do you mean by “grid reliability issue”?
 - e. Has this scenario ever created a “grid stability” or “reliability” issue? If so, for each occurrence please identify:
 - i. When this has happened.
 - ii. Where a grid stability or reliability issue occurred.
 - iii. Which units were involved.
 - iv. What specific grid stability or reliability issue this created.
 - v. For how long a period of time the grid stability or reliability issue occurred.
 - f. Could this concern be addressed by including a provision for short-term relief or a short-term exception from the lb/MMBtu rate for periods of malfunction or forced outages in the MPS?
11. If IEPA’s proposed MPS revisions are implemented, might Dynegy operate any of its units that have scrubbers installed without the scrubbers running?
- a. If so, how does Dynegy justify not running scrubbers that were installed for the express purpose of reducing emissions that adversely affect public health and for which, presumably, Dynegy’s shareholders have already paid?
12. A March 16, 2017 email from Jeff Ferry at Dynegy to Sherrie Elzinga at IEPA stated that “Rick and Jim had a meeting this morning with staff to review modeling and discuss some tech matters.” Email from Jeffrey A. Ferry, Senior Director State Government Affairs, Dynegy Inc., to Sherrie Elzinga, IEPA (Mar. 16, 2017, 12:25pm CST), attached hereto as “Attachment A.”
- a. Who are the “Rick and Jim” being referred to in this email?
 - b. Can you please share this modeling information?
 - c. Did Dynegy discuss this modeling with IEPA? If so, what was discussed?
 - d. Are you aware of whether this modeling affected any elements of IEPA’s MPS proposal? If so, which elements were affected and how?
13. Did Dynegy play a role in determining what the specific SO₂ and NO_x mass-based caps would be? If so:

- a. What was Dynegy's role in making this determination?
 - b. What kind of analysis did Dynegy perform to make this determination? Can you please share your calculations and analysis?
14. Dynegy set the amounts for the transfer allocations for each unit in the proposed MPS group, were one to be sold. *See* Email from Renee Cipriano, Schiff Hardin, to Gina Roccaforte, IEPA (June 9, 2017, 2:44pm CST), attached hereto as "Attachment B." These exact amounts were adopted into the proposal.
- a. How did Dynegy select these numbers?
 - b. Can you please share your analysis and calculations used to select these numbers?
15. IEPA produced a March 22, 2017 document titled "Illinois MPS Proposed Rule Change—Negotiated Terms" in response to a Freedom of Information Act request, attached hereto as "Attachment C."
- a. Who from Dynegy and IEPA were involved in negotiating the terms memorialized in this document?
 - b. Were people from any other organizations involved in negotiating the terms memorialized in this document? If so, what organizations?
 - c. Were earlier drafts of these negotiated terms exchanged with IEPA? If so, can you please share these drafts?
 - d. Can you please share communications with IEPA and other organizations that pertain specifically to negotiating these terms?
16. In your testimony you suggest that the electric generating companies did not see the proposed mercury rule from 2006 until it was filed with the Illinois Pollution Control Board: "The electric generating companies in Illinois saw the plan for the first time when it was filed with the Illinois Pollution Control Board ("Board") by the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency") as a rulemaking proposal. *In the Matter of: Proposed new 35 Ill. Adm. Code 225 Control of Emissions from Large Combustion Sources (Mercury)*, R06-25 (Dec. 21, 2006)." *Prefiled Testimony of Rick Diericx* at 2 (Dec. 11, 2017) ("Diericx Testimony"). However, filings from the original MPS rulemaking state "In January 2006, the Illinois EPA commenced regular meetings with representatives of the affected sources and public interest groups. Meetings were held on January 24, January 31, February 7, February 14, February 21, and February 28. Illinois EPA distributed working drafts of the proposed rule to interested parties on January 24 and February 7." (In *Re Proposed New 35 Ill. Adm. Code 225, Control of Emissions from Large Combustion Sources, PCB R06-25, Statement of Reasons*, p. 28 (Mar. 14, 2006).) Can you please explain why there appears

to be a discrepancy between the contents of this 2006 filing and your above statement?

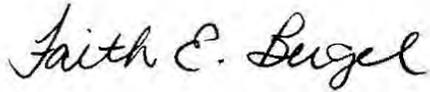
Respectfully submitted,



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Date: January 2, 2018

Attachment A

Email from Jeffrey A. Ferry, Senior Director State Government Affairs, Dynegy Inc., to Sherrie Elzinga, IEPA (Mar. 16, 2017, 12:25pm CST)

Armitage, Julie

From: Elzinga, Sherrie
Sent: Thursday, March 16, 2017 2:29 PM
To: Becker, PJ; Armitage, Julie
Subject: FW: Meeting

-----Original Message-----

From: Ferry, Jeff [mailto:Jeff.Ferry@dynegy.com]
Sent: Thursday, March 16, 2017 12:25 PM
To: Elzinga, Sherrie <Sherrie.Elzinga@Illinois.gov>
Subject: [External] Meeting

Update- Rick and Jim had a meeting this morning with staff to review modeling and discuss some tech matters. Sense was that we are getting close. We will be prepared to answer any questions from agency promptly once we receive. We understand that David B will be out next We-Fri. Can we target Monday or Tuesday of next week for next meeting? If not, we can look at early the following week. Thoughts

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MED

Attachment B

Email from Renee Cipriano, Schiff Hardin, to Gina Roccaforte, IEPA (June 9, 2017, 2:44pm CST)

Roccaforte, Gina

From: Cipriano, Renee <RCipriano@schiffhardin.com>
Sent: Friday, June 09, 2017 2:44 PM
To: Roccaforte, Gina
Subject: [External]
Attachments: Revised Proposal for Transfer Sale Tons.pdf

Hi Gina: As requested, the revised allocations. Thank you. Have a good weekend! Renee

This message and any attachments may contain confidential information protected by the attorney-client or other privilege. If you believe that it has been sent to you in error, please reply to the sender that you received the message in error. Then delete it. Thank you.

MED

IEPA - DIVISION OF RECORDS MANAGEMENT
RELEASABLE

AUG 25 2017

REVIEWER: MED

Revised Proposal to Modify Section 225.233(f)(3) Unit Allocation Amounts in the Event of Transfer or Sale of EGUs

Station	Column A. Station NOx Allocation Amount (TPY) in the Event of Transfer	Column B. Station NOx Allocation Amount (May 1 – Sept 30 Tons) in the Event of Transfer	Column C. Station SO2 Allocation Amount (TPY) in the Event of Transfer
Baldwin	6,000	2,700	6,000
Havana	1,800	810	1,500
Hennepin	1,500	675	6,000
Coffeen	2,000	900	250
Duck Creek	1,400	630	250
Edwards	3,000	1,350	10,000
Joppa	5,200	2,340	18,000
Newton	2,700	1,215	10,000

IEPA - DIVISION OF RECORDS MANAGEMENT
RELEASABLE

AUG 25 2017

REVIEWER: MED

Attachment C

Illinois MPS Proposed Rule Change—Negotiated Terms
(Mar. 22, 2017)

March 22, 2017

Illinois MPS Proposed Rule Change – Negotiated Terms

1. The Illinois EPA will expeditiously seek changes to the Multi-Pollutant Standard (MPS) in a proposed rulemaking before the Illinois Pollution Control Board. Dynegey agrees to promptly provide Illinois EPA with any and all technical/operational information needed to support the proposed rulemaking.
2. The MPS proposal will combine the IPH and DMG MPS groups into a single merged group.
3. The MPS proposal will replace the MPS rate limits with the following permanent tonnage caps that will not be changed as the result of unit retirements:
 - a. Annual SO₂
 - i. 55,000 tons for the merged MPS group, and
 - ii. Of that cap for the merged MPS group, Joppa Power Station may not emit more than 19,860 tons SO₂ annually.
 - b. Annual NO_x
 - i. 25,000 tons for the merged MPS group
 - c. Ozone season (May 1 – September 30) NO_x
 - i. 11,500 tons for the merged MPS group,
 - ii. A requirement to operate existing SCR control systems on operating units in accordance with good operating practices, and
 - iii. An ozone season average limit of 0.10 #NO_x/mmBtu for the group of operating SCR units.
4. Newton Unit 2 will be removed from Newton's CAAPP permit and a requirement to retire the unit may be included in the revised MPS rule.
5. Changes to synchronize the Illinois Mercury Rule with the federal MATS will not be included in this MPS rule change proposal.

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MULTI-POLLUTANT STANDARDS (MPS))

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing **NOTICE OF FILING and ENVIRONMENTAL GROUPS' PREFILED QUESTIONS FOR RICK DIERICX, MANAGING DIRECTOR-ENVIRONMENTAL COMPLIANCE, DYNEGY** on behalf of the Environmental Law & Policy Center in R2018-20 were served upon the attached service list by e-mail on January 2, 2018.



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