

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
AMENDMENTS TO) R18-20
35 ILL. ADM. CODE 225.233) (Rulemaking – Air)
MULTI-POLLUTANT STANDARDS)
(MPS))

NOTICE OF FILING

PLEASE TAKE NOTICE that I have filed with the Illinois Pollution Control Board the Illinois Attorney General's Office's Pre-Filed Answers to the Illinois EPA's Pre-Filed Questions, a copy of which is hereby served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

BY: LISA MADIGAN,
Attorney General of the State of Illinois

BY: /s/ James P. Gignac
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Dated: January 12, 2018

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CERTIFICATE OF SERVICE

I, JAMES P. GIGNAC, an attorney, do certify that on January 12, 2018, I caused the Illinois Attorney General's Office's Pre-Filed Answers to the Illinois EPA's Pre-Filed Questions and the Notice of Filing to be served upon the persons listed in the attached Service List by email for those who have consented to email service and by U.S. Mail for all others.

/s/ James P. Gignac
JAMES P. GIGNAC

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM.) R18-20
) (Rulemaking-Air)
CODE 225.233, MULTI-POLLUTANT)
STANDARDS)

**THE ILLINOIS ATTORNEY GENERAL’S OFFICE’S
PRE-FILED ANSWERS TO THE ILLINOIS EPA’S PRE-FILED QUESTIONS**

The Illinois Attorney General’s Office, on behalf of the People of the State of Illinois (“People”), hereby files its pre-filed answers to the Illinois EPA’s pre-filed questions, as provided by the Hearing Officer Order issued on November 8, 2017. On behalf of the People, James Gignac submits the following answers.

IEPA Question 1: “On page 8 of your testimony, you state in part, ‘Using this tool, the People created a query . . . ’ and ‘Based on the spreadsheet, the People created a series of tables . . . ’ Please identify in each of these instances the person who in fact performed the referenced action.”

ANSWER: James Gignac.

IEPA Question 2: “In your testimony, are you claiming that the Board lacks the authority under the Environmental Protection Act to adopt the Agency’s proposed rule amendments, including its proposed mass-based emission limits?”

ANSWER: The Board generally has statutory authority to adopt rules concerning air pollution, but the rules it adopts must not be arbitrary, capricious, or unreasonable. *See, e.g., Granite City Div. of Nat. Steel Co. v. IPCB*, 155 Ill. 2d 149, 162 (1993); *Celotex Corp. v. IPCB*, 94 Ill. 2d 107, 125 (1983). Rules that fail to “restore, maintain, and enhance the purity of the air of this State” under Title II of the Illinois Environmental Protection Act should be rejected. *See* People’s Testimony at 1-2. In the 2009 proceeding to amend the Multi-Pollutant Standard, for

example, the Board adopted amendments where the amendments were found to offer a “projected environmental benefit” *In the Matter of Amendments to 35 Ill. Adm. Code 225, Control of Emissions from Large Combustion Sources (Mercury Monitoring)*, R09-10 (Apr. 16, 2009) at 29.

IEPA Question 3: “In your testimony, you question Illinois EPA’s use of allowable emissions. Are you aware that the Illinois EPA is required to rely on allowable emissions to demonstrate to the United States Environmental Protection Agency (‘USEPA’) that there is no backsliding under the Clean Air Act?”

ANSWER: I am not aware of any such requirement.

IEPA Question 4: “On pages 14-15 of your testimony, you cite ‘average capacity factor[s] achieved by the coal plant sector in the U.S. in recent years,’ in 2014 and 2007. Those numbers reflect the average capacity factors for the entire coal sector throughout the country, not the average capacity factors for facilities in Illinois or for Dynegy’s facilities in Illinois, correct?”

ANSWER: The figures are for the annual average capacity factor of all coal-fired power plants in the United States.

IEPA Question 5: Have you conducted any analysis demonstrating that the Illinois EPA’s proposed mass emission limits would hinder attainment or maintenance of the Sulfur Dioxide National Ambient Air Quality Standard? If so, please provide the Illinois EPA a copy of your analysis and associated modeling.

ANSWER: No. The People note also that Illinois EPA’s expressed concern in proposing the NO_x and SO₂ limits in the Multi-Pollutant Standards was not attainment with the National Ambient Air Quality Standard (“NAAQS”) for SO₂, but rather it was for PM_{2.5} and ozone. *See* R06-25, Ameren Joint Statement (July 28, 2006) at 2-3; Dynegy Corrected Joint

Statement (Aug. 23, 2006) at 4-5. The Illinois EPA has not provided any evidence in this matter related to statewide attainment of the NAAQS for PM2.5 and ozone.

Dated: January 12, 2018

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
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