

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)	
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)	
)	
AMENDMENTS TO 35 ILL. ADM.)	R2023-018
CODE PARTS 201, 202, AND 212)	(Rulemaking – Air)
)	
)	

NOTICE OF FILING

To: Attached Service List

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Illinois Pollution Control Board **DYNEGY’S PREFILED QUESTIONS FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY** and a **CERTIFICATE OF SERVICE**, which are attached and copies of which are herewith served upon you.

Dated: January 18, 2023

Respectfully submitted,

Dynegy Midwest Generation, LLC, Electric Energy, Inc., Illinois Power Generating Company, Illinois Power Resources Generating, LLC, Kincaid Generation, LLC

/s/ Sarah L. Lode
One of its Attorneys

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PREFILED QUESTIONS FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOW COMES Dynegy Midwest Generation, LLC, Electric Energy Inc., Illinois Power Generating Company, Illinois Power Resources Generating, LLC; and Kincaid Generation, LLC (collectively, “Dynegy”) by their attorneys, ArentFox Schiff LLP, and hereby submit the following questions to the Illinois Environmental Protection Agency (“IEPA”):

1. Do all machines work perfectly all the time?
2. Can equipment that is properly designed and maintained fail?
3. Does IEPA recognize that in some cases emission limitations during periods of startup, malfunction, or breakdown (“SMB”) may not be met?
4. Are sources with air permits that have conditions governing SMB pursuant to Sections 201.149 and Sections 201.261 through 201.265 (referred to herein as the “SMB Conditions”) required to report to IEPA the emissions occurring during SMB events that are governed by those conditions?
 - a. If yes, generally speaking, how are those emissions reported to IEPA?
 - i. Can those emissions exceed the applicable emission limit and still be eligible for the affirmative defense articulated by IEPA in its Statement of Reasons in this proceeding?

5. Is IEPA aware of instances where an applicable emission limit has been exceeded during an SMB event?
6. Is there a cap or limit on the amount of emissions a unit can emit during SMB to be eligible for the SMB affirmative defense articulated by IEPA in its Statement of Reasons in this proceeding?
7. When evaluating air quality in the State of Illinois, does IEPA consider the emissions from SMB events?
8. When evaluating air quality in the State of Illinois, does IEPA consider the emissions from SMB events even if the emissions exceed the applicable emission limit?
9. When evaluating whether the air shed in the State of Illinois has attained a National Ambient Air Quality Standard (“NAAQS”), does IEPA consider emissions from SMB events?
10. When evaluating whether a NAAQS has been met or maintained, does IEPA consider emissions from SMB events?
11. The NAAQS help identify if the air quality in an area is generally considered to be safe in regards to public health, correct?
12. If an area is designated attainment for a NAAQS, that means that the air shed in that area is generally considered safe for that pollutant, right?
 - a. And if an area does not meet the NAAQS, then it is designated non-attainment with the NAAQS, correct?
 - b. In other words, if an area is designated non-attainment, there are concerns with air quality in that area, correct?
13. Are the opacity standards in Sections 212.122 and 212.123 intended to address a NAAQS?

- a. If so, which NAAQS?
14. Are there any areas in Illinois designated non-attainment for a particulate matter NAAQS?
 15. Is IEPA aware that opacity levels have exceeded the limits in Sections 212.122 and 212.123 during periods of SMB at one or more coal-fired power plants in the State?
 16. Has the presence of SMB conditions in air permits adversely affected the State's ability to attain or maintain any current particulate matter NAAQS?
 17. Are there emission standards other than the opacity limits in Sections 212.122 and 212.123 that IEPA relies upon to attain and maintain the particulate matter NAAQS?
 - a. If so, what are they?
 18. Were the opacity standards in Section 212.122 and 212.123 developed in connection with Section 110 of the Clean Air Act ("CAA")?
 19. Does Section 110 of the CAA govern State Implementation Plans ("SIP")?
 20. Does Section 110 of the CAA grant states discretion when designing a SIP?
 21. Are states allowed to utilize a broad range of measures to ensure attainment and maintenance of a NAAQS?
 22. Do the NAAQS create applicable requirements for individual sources?
 23. Is it true that SIPs can satisfy the requirements of CAA section 110(a)(2)(A) by setting emission limits relevant to the subject NAAQS?
 24. Does the United States Environmental Protection Agency ("U.S. EPA") have the authority to issue a partial approval of a SIP submittal?
 25. Has IEPA evaluated whether its proposal would impact the operation of any existing coal-fired electric generating unit in the State?

26. Has IEPA evaluated whether its proposal could adversely impact the electric power system in Illinois?
27. Has IEPA evaluated whether its proposal could adversely impact the Midcontinent Independent System Operator (“MISO”) region?
28. Has IEPA evaluated whether its proposal poses a threat to reliable electric generation in Illinois?
29. Has IEPA evaluated whether its proposal could result in increases in electricity costs?
30. Is IEPA aware of instances where rules have been modified or regulatory steps have been taken to address concerns with operating a unit in an economically viable manner?

Dated: January 18, 2023

Respectfully submitted,

Dynegy Midwest Generation, LLC, Electric
Energy, Inc., Illinois Power Generating Company,
Illinois Power Resources Generating, LLC,
Kincaid Generation, LLC

/s/ Joshua R. More
One of its Attorneys

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CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 18th day of January, 2023:

I have electronically served true and correct copies of Dynege's Appearance of Andrew N. Sawula by electronically filing with the Clerk of the Illinois Pollution Control Board and by e-mail upon each person listed in the attached service list.

My e-mail address is Sarah.Lode@afslaw.com.

The number of pages in the e-mail transmission is 7.

The e-mail transmission took place before 5:00 p.m.

/s/ Sarah L. Lode

Sarah L. Lode

Dated: January 18, 2023

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