

ILLINOIS POLLUTION CONTROL BOARD
February 1, 2024

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 24-40
)	(Enforcement - Air)
ENSONO, LLC, a Delaware limited liability)	
company,)	
)	
Respondent.)	

ORDER OF THE BOARD (by M.D. Mankowski):

On December 8, 2023, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against Ensono, LLC (Ensono). The complaint concerns Ensono’s emergency generators located at its headquarters at 3333 Finley Road and its data center at 1501 Opus Place in Downers Grove, DuPage County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties’ stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2022)), the Attorney General and the State’s Attorneys may bring actions before the Board to enforce Illinois’ environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2022); 35 Ill. Adm. Code 103. In this case, the People allege that Ensono violated the Section 9(a) of the Act (415 ILCS 5/9(a) (2022)), Section 201.302(a) of the Board’s air pollution regulations (35 Ill. Adm. Code 201.302(a)), and Section 254.132(a) of the Illinois Environmental Protection Agency’s air pollution regulations (35 Ill. Adm. Code 254.132(a)) by failing to timely submit complete and accurate Annual Emissions Reports for calendar year 2021 for its headquarters and data center facilities.

On December 8, 2023, the People and Ensono filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2022)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2022)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *DuPage County Daily Herald* on January 8, 2024. The Board did not receive any requests for hearing. The Board grants the parties’ request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2022); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board’s procedural rules sets forth the required contents of stipulations and proposed settlements. *See* 35 Ill. Adm. Code 103.302. These requirements

include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of Ensono's operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2022)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Ensono does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2022)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Ensono agrees to pay a civil penalty of \$20,000 within 30 days after the date of this order. The People and Ensono have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Ensono must pay a civil penalty of \$20,000 no later than Monday, March 4, 2024, which is the first business day following the 30th day after the date of this order. Ensono must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name and case number must appear on the certified check or money order.

3. Ensono must submit payment of the civil penalty to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Ensono must send a copy of the certified check or money order and any transmittal letter to:

Jason Clark, Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
Jason.Clark@ilag.gov

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2022)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2022)).

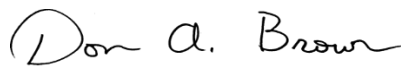
5. Ensono must cease and desist from future violations of the Environmental Protection Act and regulations that were the subject of the complaint.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2022); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Illinois Attorney General's Office Attn: Jason Clark, Assistant Attorney General Environmental Bureau 609 West Washington Street, Suite 1800 Chicago, Illinois 60602 Jason.Clark@ilag.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 East Van Buren Street, Suite 630 Chicago, Illinois 60605 don.brown@illinois.gov
Ensono, Inc Attn: Jennifer Catalan 3333 Finley Road Downers Grove, Illinois 60515 Jennifer.Catalan@ensono.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 1, 2024, by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board