

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	AS 2024-004
PETITION OF DYNEGY)	
FOR AN ADJUSTED STANDARD FROM)	(Adjusted Standard – Air)
35 Ill. Admin. Code Parts 201 and 212)	

NOTICE OF FILING

To:

Don Brown
Carol Webb
Pollution Control Board
100 West Randolph Street
James R. Thompson Center
Suite 11-500
Chicago, Illinois 60601-3218

Dana Vetterhoffer
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

PLEASE TAKE NOTICE that on this day, the 31st Day of October, 2024, I caused to be filed with the Clerk of the Illinois Pollution Control Board **DYNEGY'S STATUS REPORT AND MOTION TO EXTEND STAY OF PROCEEDINGS**, copies of which are herewith served upon you.

Dated: October 31, 2024

Respectfully submitted,

Dynegy Midwest Generation, LLC; Illinois
Power Generating Company; and Kincaid
Generation, LLC

/s/ Samuel A. Rasche
One of its Attorneys

Joshua R. More
Amy Antonioli
Samuel A. Rasche
ARENTFOX SCHIFF LLP
233 South Wacker Drive, Suite 7100
Chicago, Illinois 60606
(312) 258-5500
Joshua.More@afslaw.com
Amy.Antonioli@afslaw.com
Sam.Rasche@afslaw.com

Andrew N. Sawula
ARENTFOX SCHIFF LLP
One Westminster Place, Suite 200
Lake Forest, Illinois 60045
(847) 295-4336
Andrew.Sawula@afslaw.com

Attorneys for Dynegy

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CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 31st day of October, 2024: I have electronically served a true and correct copy of Dynegy's Status Report and Motion to Extend Stay of Proceedings by electronically filing with the Clerk of the Illinois Pollution Control Board and by e-mail upon the following persons:

Don Brown
Carol Webb
Pollution Control Board
100 West Randolph Street
James R. Thompson Center
Suite 11-500
Chicago, Illinois 60601-3218

Dana Vetterhoffer
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

My e-mail address is Sam.Rasche@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/ Samuel A. Rasche

Attorney for Dynegy

Dated: October 31, 2024

Joshua R. More
Amy Antonioli
Samuel A Rasche
ARENTFOX SCHIFF LLP
233 South Wacker Drive, Suite 7100
Chicago, Illinois 60606
(312) 258-5500
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Amy.Antonioli@afslaw.com
Sam.Rasche@afslaw.com

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STATUS REPORT AND MOTION TO EXTEND STAY OF PROCEEDINGS

NOW COMES Dynegy Midwest Generation, LLC, Illinois Power Generating Company, and Kincaid Generation, LLC (collectively, “Dynegy”) by and through its attorneys, ArentFox Schiff LLP, and pursuant to 35 Ill. Adm. Code § 101.502 and 101.514, provides this Status Report and Motion to Extend Stay of Proceedings. Dynegy requests that the Hearing Officer extend the stay in this proceeding until the United States Environmental Protection Agency (“USEPA”) approves the amendments to 35 Ill. Adm. Code Section 212.214 adopted by the Illinois Pollution Control Board (“Board”) in the rulemaking proceeding in Docket No. R 23-18(A) as a revision to the Illinois State Implementation Plan (“SIP”).

1. On September 5, 2023, the Illinois Environmental Protection Agency (“IEPA”) filed a *Motion for Stay of Proceedings, or in the Alternative, Motion for Extension of Time to File Recommendation* while the Board considers Dynegy’s substantively similar rulemaking proposal in R23-18(A). On September 21, 2023, the Board granted IEPA’s motion to stay the proceedings for 90 days, until December 21, 2023. *See, Order of the Board*, AS 24-04 at 2. IEPA filed two subsequent motions to extend the stay of proceedings which were granted by the Hearing Officer on January 4, 2024, and April 25, 2024. On September 25, 2024, the Hearing Officer granted an additional unopposed motion by Dynegy to extend the stay of proceedings until October 31, 2024. *Hearing Officer Order*, AS 24-04 (Sept. 25, 2024).

2. Prior to the most recent extension of stay, the Board issued a final order in the R23-018(A) rulemaking adopting Dynegy’s proposal and directing the Clerk to submit the adopted

rules for publication in the Illinois Register. *Opinion and Order of the Board* at 10, R23-18(A) (Aug. 22, 2024). The adopted rulemaking was published in the *Illinois Register* on September 13, 2024. 48 Ill. Reg. 13539, 13711 (Sept. 13, 2024). The adopted amendments will be submitted to USEPA for approval as revisions to the Illinois SIP. *See IEPA Post-Hearing Comment*, R23-18(A), P.C. #23 at 7 (May 22, 2024). Counsel for IEPA confirmed that, as of the filing of this status report, IEPA has not yet submitted the adopted amendments to USEPA for approval.

Request to Extend Stay

3. Dynegy requests that the Hearing Officer extend the stay in this proceeding for six months. While Dynegy anticipates that USEPA will ultimately approve the rule amendments adopted by the Board in R23-18(A), keeping this proceeding open and stayed would allow Dynegy to retain the ability to pursue its Petition for Adjusted Standard if USEPA ultimately disapproves the rule amendments that are applicable to Dynegy's Baldwin Energy Complex, Kincaid Power Station, and Newton Power Station as a revision to the Illinois SIP.

4. Once USEPA formally approves or disapproves the amendments adopted by the Board in R23-18(A), Dynegy will have clarity on whether the relief sought in this proceeding is necessary. However, the timeline for USEPA's decision making is unknown. Recognizing the Board's preference against indefinite stays, Dynegy requests that the Hearing Officer stay proceedings for six months, at the end of which Dynegy will provide an update on the SIP approval process and request further stay if necessary.

5. The Board recently granted a similar 6-month extension of stay pending USEPA's approval of the Illinois SIP submittal in a similar adjusted standard proceeding. *See*, Hearing Officer Order, AS 24-3 (Sept. 23, 2024).

6. Counsel for Dynegy has consulted with counsel for the Agency but did not receive confirmation of whether the Agency has any objections to this motion as of the time of this filing.

WHEREFORE, for the reasons set forth above, Dynegy respectfully requests that the Hearing Officer grant this Motion to Extend Stay of Proceedings for six months.

Respectfully submitted,

Dynegy Midwest Generation, LLC;
Illinois Power Generating Company;
and Kincaid Generation, LLC

By: /s/ Samuel A. Rasche
One of its Attorneys

Dated: October 31, 2024

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