

**BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF:

PETITION OF SOUTHERN ILLINOIS  
POWER COOPERATIVE FOR AN  
ADJUSTED STANDARD FROM 35 ILL.  
ADM. CODE 845 OR IN THE  
ALTERNATIVE A FINDING OF  
INAPPLICABILITY

AS 2021-006  
(Adjusted Standard)

**NOTICE OF FILING**

To: Don Brown, Clerk of the Board  
Illinois Pollution Control Board  
60 E. Van Buren St., Ste. 630  
Chicago, Illinois 60605  
Don.Brown@Illinois.Gov  
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Hearing Officer Carol Webb  
Pollution Control Board  
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PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board Petitioner Southern Illinois Power Cooperative's Response to Illinois

Environmental Protection Agency's Motion for Extension of Time and a Certificate of Service, copies of which are herewith served upon you.

Respectfully Submitted,

SOUTHERN ILLINOIS POWER  
COOPERATION

*/s/ Sarah L. Lode*

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Dated: September 23, 2025

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**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on this 23rd day of September, 2025:

I have electronically served a true and correct copy of the attached Petitioner Southern Illinois Power Cooperative's Response to Illinois Environmental Protection Agency's Motion for Extension of Time by electronically filing with the Clerk of the Illinois Pollution Control Board and by e-mail upon the following persons:

Don Brown, Clerk of the Board  
Carol Webb, Hearing Officer  
60 E Van Buren St  
Suite 630  
Chicago, IL 60605  
[Don.Brown@illinois.gov](mailto:Don.Brown@illinois.gov)  
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My e-mail address is Sarah.Lode@afslaw.com

The number of pages in the e-mail transmission is 11.

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

*/s/ Sarah L. Lode* \_\_\_\_\_

Dated: September 23, 2025

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*Attorneys for Southern Illinois Power Cooperative*

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**SOUTHERN ILLINOIS POWER COOPERATIVE'S RESPONSE TO  
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S  
MOTION FOR EXTENSION OF TIME**

Petitioner Southern Illinois Power Cooperative ("SIPC") files this Response to Illinois Environmental Protection Agency's ("IEPA") Motion for Extension of Time (the "Response"). In support of this Response, SIPC states as follows:

1. On September 18, 2025, IEPA filed a Motion for Extension of Time (the "Motion") requesting an additional twenty-one days for the simultaneous deadlines to file initial and responsive post-hearing briefs in this matter. The Motion is IEPA's second request for an extension. IEPA reached out to SIPC with its intention to request an extension just two days before and filed its Motion just one day before initial post-hearing briefs were due. IEPA cites two reasons for its need for additional time, neither of which justifies granting IEPA's last minute request, as further described below. Therefore, IEPA's Motion should be denied, and any extension should be limited to a reasonable period of seven days.

2. A hearing was held in this matter on June 10, 11, and 12, 2025. *See generally* Transcript of June 10, 2025 Hearing; Transcript of June 11, 2025 Hearing; Transcript of June 12, 2025 Hearing. At the hearing's conclusion, the Hearing Officer asked the parties for input on a

schedule for post-hearing briefs, noting that hearing transcripts would be available on June 27, 2025, and public comment would close June 30, 2025. June 12 Tr. at 550:6–9. Transcripts were posted to the Board’s website on June 30, 2025. After input and agreement by IEPA and SIPC, the Hearing Officer ordered a schedule where simultaneous initial post-hearing briefs would be due on August 29, 2025, and responsive post-hearing briefs on October 17, 2025. June 12 Tr. at 550:4–14.

3. On Tuesday, August 26, 2025, IEPA reached out to SIPC to ask for a three-week extension of the post-hearing briefing deadlines. August 26, 2025, Email, attached as **Attachment 1**. IEPA explained it was requesting an extension because its lead attorney in the matter unexpectedly had to be out of the office, and IEPA wanted to ensure he had adequate time to review and finalize the brief upon his return. *Id.* SIPC did not object to IEPA’s requested extension, and the Hearing Officer granted IEPA’s request extending the deadline for initial post-hearing briefs to September 19, 2025, and responsive briefs to November 7, 2025. Hearing Officer Order at 1 (August 28, 2025).

4. On September 17, 2025, IEPA again reached out to SIPC, requesting SIPC’s consent to a second extension. SIPC offered to agree to a seven-day extension but indicated it did not believe a longer delay was justified. On September 18, 2025, IEPA filed its eleventh-hour Motion requesting an additional twenty-one-days, until October 10, 2025, to file initial post-hearing briefs in this matter. Motion at 3. This Motion also requested the deadline for responsive post-hearing briefs be pushed to December 1, 2025. *Id.* IEPA states it is requesting an additional extension because (1) the briefing requires some “collaboration among . . . Agency personnel” who have had “intervening obligations” and (2) the United States Environmental Protection Agency (“USEPA”) letter dated September 3, 2025, memorializing USEPA’s position on Illinois’s

adjusted standards (the “Sept. 3 Letter”), “necessitated further review of the present matter by Agency personnel.” *Id.*

5. IEPA’s stated reasons for needing another extensive, last-minute extension are unpersuasive.

6. First, IEPA has not justified how, just two days before the due date for post-hearing briefs, it suddenly requires an additional three weeks for “required collaboration among a number of Agency personnel.” Motion at 3. IEPA has had over ninety-nine days since the conclusion of hearing to which these post-hearing briefs relate and over eighty-two days since transcripts were posted to coordinate necessary collaboration and prepare its brief. Indeed, when IEPA previously requested an extension, it indicated additional time was needed only for review and finalization by its lead counsel. *See* Attachment 1. In other words, IEPA indicated in August that its brief was nearly complete and was just awaiting sign-off from the lead attorney. IEPA has provided no justification for why now additional review is needed from “a number of Agency personnel.”

7. Second, the Sept. 3 Letter referenced by IEPA in its Motion does not warrant an extension of twenty-one days.

8. USEPA issued the Sept. 3 Letter nearly two weeks ago. *See* AS 2021-006, *Correspondence from Carolyn Hoskinson, Director (USEPA) directed to James Jennings, Director, (IEPA)*, Public Comment #24, Attachment. IEPA waited fourteen days after receiving the letter, just two days before briefs were due, to request this additional extension. Surely, if the letter “necessitated further review of the present matter,” IEPA should have been aware of that fact well before its last-minute request to SIPC and eleventh-hour Motion. Motion at 3.

9. Further, IEPA mischaracterizes the contents and impact of the Sept. 3 Letter on this proceeding. The Sept. 3 Letter is merely a formal statement of information of which IEPA, by its own admission, has long been aware.

10. Despite knowledge of and working towards federal primacy for 35 Ill. Admin. Code Part 845 *since 2021*, IEPA never once indicated, during this very long proceeding, that USEPA's review of the program was relevant to or impacted IEPA's positions in this case. Public Comment #24 at 1; *see also* R2020-019(A), *In the Matter of: Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments: Proposed new 35 Ill. Adm. Code 845 (Sub Docket A)*, Order of the Board at 11 (May 15, 2025) ("IEPA notes that it is currently working with USEPA to obtain approval for Part 845 . . . IEPA reported that it has been in discussions with USEPA concerning Part 845 since 2021 . . . once discussions are completed on the drafts submitted, the Agency will then formally file its submittal to USEPA for approval"). If it had any impact on IEPA's recommendation in this matter, IEPA certainly should have mentioned that in one of its two recommendation documents in this proceeding or at hearing. It did not.

11. Additionally, the Sept. 3 Letter presents IEPA with no new information justifying such a long, last-minute extension. The Sept. 3 Letter merely explains USEPA's long-existing legal position on alternative State requirements and notes *IEPA's decision* to "simplify the application process" by not seeking approval of State adjusted standards in its federal primacy application for Part 845. Public Comment #24, Attachment. In fact, IEPA has been aware of USEPA's position *since April of this year*, and the Sept. 3 Letter is simply the result of IEPA's request for a formal USEPA statement. Public Comment #24 at 1. Thus, far from necessitating further review of this matter, the Sept. 3 Letter simply memorializes a position of which IEPA has



long been aware. Accordingly, it should not result in requiring an extensive, additional period of “Agency review” at this late juncture. Motion at 3.

12. Ultimately, while SIPC is willing to agree to a reasonable extension of seven days for the parties’ simultaneous post-hearing briefs, a twenty-one-day extension is unwarranted. Accordingly, SIPC requests that the Hearing Officer deny the Motion and instead grant a seven-day extension for both parties to file simultaneous post-hearing briefs, extending the deadline for initial post-hearing briefs to Friday, September 26, 2025, and the deadline for responsive post-hearing briefs to Monday, December 8, 2025.

Respectfully Submitted,

Southern Illinois Power Cooperative

By: /s/ Bina Joshi  
One of its attorneys

Dated: September 23, 2025

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*Attorney for Petitioner Southern Illinois Power Cooperative*

**ATTACHMENT 1**

**Lode, Sarah**

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**From:** Strauss, Rebecca Y. <Rebecca.Strauss@Illinois.gov>  
**Sent:** Tuesday, August 26, 2025 4:15 PM  
**To:** Joshi, Bina; Lode, Sarah  
**Cc:** Neibergall, Gabriel; Diers, Stefanie  
**Subject:** AS 2021-006 | Filing Extension Request

**This Message Is From an External Sender**

This message came from outside ArentFox Schiff LLP. Please treat this email with caution.

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Hello Bina and Sarah,

I hope that you both are well! We were wondering if SIPC would consent to a joint extension for our simultaneous post-hearing brief filings in AS 2021-006. Gabe, our lead attorney in this matter, has unexpectedly needed to be out of the office, and we would like to be sure that he has adequate time to review and finalize the Agency's brief upon his return. If it is amenable to you, we would like to request an extension of three weeks for the initial post-hearing brief, setting a new deadline of September 19 for both parties' post-hearing briefs. To give us both the same amount of time to prepare our simultaneous response briefs, we would additionally request an extension of three weeks for the response briefs, setting a new deadline of November 7 for both parties.

Please let me know if SIPC will agree to a three-week extension to the briefing schedule or, alternatively, if there is different extended briefing schedule that you would be more amenable to, and I will file a motion for an extension. Happy to discuss further.

Thanks,

Rebecca Strauss  
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