

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Dynegy Midwest Generation, Inc. )  
Refurbishment of Unit 1 Electrostatic )  
Precipitator )  
Property Identification Number )  
17-20-300-006-0080 )  
)  
)  
)

PCB 04-57  
(Tax Certification)

**RECEIVED**  
CLERK'S OFFICE  
OCT 16 2003  
STATE OF ILLINOIS  
Pollution Control Board

NOTICE

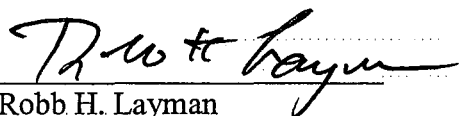
TO: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601

Donna Redmon  
Tax Manager  
Dynegy Midwest Generation, Inc.  
1000 Louisiana, Suite 5800  
Houston, Texas 77002

Steve Santarelli  
Illinois Department of Revenue  
101 West Jefferson  
P.O. Box 19033  
Springfield, Illinois 62794

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the APPEARANCE AND RECOMMENDATION of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

Date: October 14, 2003

  
Robb H. Layman  
Special Assistant Attorney General  
ARDC #6205498

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276  
Telephone: 217/782-5544  
Facsimile: 217/782-9807  
TDD: 217/782-9143

THIS FILING IS SUBMITTED  
ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

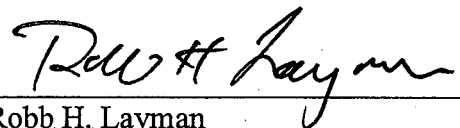
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Pollution Control Board

APPEARANCE

I hereby file my Appearance in this proceeding on behalf of the Illinois Environmental Protection Agency.

  
Robb H. Layman  
Special Assistant Attorney General  
ARDC #6205498

DATED: October 14, 2003

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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P.O. Box 19276  
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**RECOMMENDATION**

Now Comes the Illinois Environmental Protection Agency ("Illinois EPA"), through its attorneys, and pursuant to Section 125.204 of the Illinois Pollution Control Board's ("Board") regulations, files the following Recommendation regarding the tax certification of air pollution control facilities pursuant to 35 Ill. Adm. Code 125.204.

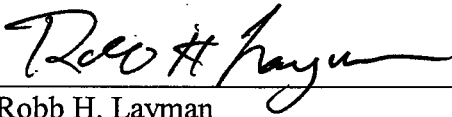
- 1) On April 29, 2003, the Illinois EPA received a request from Dynegy Midwest Generation, Inc. for an Illinois EPA recommendation regarding the tax certification of air pollution control facilities pursuant to 35 Ill. Adm. Code 125.204, and noted the request as log number TC-03-04-29L. (Exhibit A).
- 2) The applicant's address is: Donna Redmon  
Tax Manager  
Dynegy Midwest Generation, Inc.  
1000 Louisiana  
Suite 5800  
Houston, Texas 77002.
- 3) The air pollution control facilities in this request are located at Power Plant Road, Oakwood, Vermilion County and consist of the following:

Refurbishment of Unit 1 Electrostatic Precipitator whose primary purpose is to

improve particulate collection and operation. Because the primary purpose of this system is to reduce or eliminate air pollution, it is certified as a pollution control facility.

4. Section 11-10 of the Property Tax Code, 35 ILCS 200/11-10 (2000), defines “pollution control facilities” as: “any system, method, construction, device or appliance appurtenant thereto or any portion of any building or equipment, that is designed, constructed, installed or operated for the primary purpose of: (a) eliminating, preventing, or reducing air or water pollution ...or (b) treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without treatment, pretreatment modification or disposal might be harmful, detrimental or offensive to human, plant or animal life, or to property.”
5. Pollution control facilities are entitled to preferential tax treatment, 35 ILCS 200/11-5 (2000).
6. Based on the information in the application and the purpose of the facilities, to prevent, eliminate or reduce air pollution, it is the Illinois EPA’s engineering judgment that the described facilities may be considered “pollution control facilities,” pursuant to 35 Ill. Adm. Code 125.200(a), with the primary purpose of eliminating, preventing, or reducing air pollution, or as otherwise provided in 35 Ill. Adm. Code 125.200. Therefore, the facilities are eligible for tax certification from the Board.
7. Therefore, the Illinois EPA recommends that the Board issue the requested tax certification.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

By:   
Robb H. Layman  
Special Assistant Attorney General

Of Counsel:  
Charles E. Matoesian  
Assistant Counsel

October 14, 2003

1021 North Grand Ave. E.  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
Telephone: 217/782-5544  
Facsimile: 217/782-9807  
TDD: 217/782-9143

ENVIRONMENTAL PROTECTION AGENCY		STATE <b>Illinois</b>	
NOTICE OF STATE CERTIFICATION (Pursuant to Section 169 of the Internal Revenue Code of 1954, as amended)		WATER OR AIR POLLUTION CONTROL AGENCY OR AUTHORITY Environmental Protection Agency	
<p>It is hereby certified that the control facility described in the attached application is in conformity with State and local programs and requirements for the control of <input type="checkbox"/> water pollution <input checked="" type="checkbox"/> air pollution, as required by section 169 of the Internal Revenue Code of 1954, as amended, and regulations issued thereunder. According to the applicant, this control facility <input checked="" type="checkbox"/> was placed <input type="checkbox"/> will be placed in operation on December 16, 2001, 19</p> <p>In the case of control facility not yet in operation, this notice is certification only that the control facility, if constructed and operated in accordance with the application, will be in conformity with State and local programs or requirements for abatement or control of water or air pollution.</p>			
1. NAME OF APPLICANT Dynergy Midwest Generation, Inc.		2. PERSON AUTHORIZED TO RECEIVE CERTIFICATION Donna Redmon	
ADDRESS (Street, City, State, Zip Code) 2828 North Monroe Street Decatur, IL 62526		TITLE Tax Manager	
		ADDRESS (Street, City, State, Zip Code) 1000 Louisiana, Ste 5800, Houston, TX 77002	
3. DESCRIPTION OF CONTROL FACILITY Refurbishment of the Vermilion Power Station Unit 1 electrostatic precipitator to improve operation and reliability. The refurbishment includes: <ul style="list-style-type: none"> <li>• Replacement of the collector plates, emitting electrodes, mechanical rapper systems, and ESP hot roof; and</li> <li>• addition of liner plates to the inside of the existing precipitator box, a new purge air system to keep ash from entering the equipment in the penthouse area, and a fifth transformer-rectifier set.</li> </ul>			
4. LOCATION OF CONTROL FACILITY (Street, City, State, Zip Code) Power Plant Road, Oakwood, IL 61858		5. RECEIVING BODY OR STREAM OF WATER, IF ANY N/A	
6. USE OF THE CONTROL FACILITY CERTIFIED HEREBY IS IN CONFORMITY WITH THE FOLLOWING APPLICABLE STATE PLAN OR REQUIREMENTS FOR THE CONTROL OF <input type="checkbox"/> WATER POLLUTION <input checked="" type="checkbox"/> AIR POLLUTION.  35 Illinois Administrative Code 212			
ISSUED  THIS ____ DAY OF _____ 19____		SIGNED (Official of State Agency)	
STATE CERTIFICATION NUMBER		TITLE	

A

U.S. ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF FEDERAL CERTIFICATION  
(Pursuant to Section 169 of the Internal Revenue Code of 1954, as amended)

PLEASE TAKE NOTICE that pursuant to section 169 of the Internal Revenue Code of 1954, as amended, and Part 20 of Title 40 of the Code of Federal Regulations, the control facility identified herein

Is certified

Will, if constructed, reconstructed, acquired, erected, installed and operated in accordance with the accompanying application, be certified

as being in compliance with the applicable regulations of Federal agencies and the general policies of the United States for cooperation with the States in the prevention and abatement of  water pollution  air pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.) or the Clean Air Act, as amended (42 U.S.C. 1857 et seq.). This certification is based on facts furnished by the applicant, and is valid for purposes of section 169 only to the extent that such facts are complete and accurate.

1. NAME OF APPLICANT Dynergy Midwest Generation, Inc.		ADDRESS (Street, City, State, Zip Code) 2828 North Monroe Street Decatur, IL 62526	
2. EMPLOYER IDENTIFICATION NUMBER 37-1385459			
3. PERSON AUTHORIZED TO RECEIVE CERTIFICATION:			
NAME Donna Redmon		ADDRESS (Street, City, State, Zip Code) 1000 Louisiana, Ste. 5800, Houston, TX 77002	
TITLE Tax Manager			
4. DESCRIPTION OF CONTROL FACILITY Refurbishment of the Vermilion Power Station Unit 1 electrostatic precipitator to improve operation and reliability. The refurbishment includes:  <ul style="list-style-type: none"> <li>• Replacement of the collector plates, emitting electrodes, mechanical rapper systems, and ESP hot roof; and</li> <li>• addition of liner plates to the inside of the existing precipitator box, a new purge air system to keep ash from entering the equipment in the penthouse area, and a fifth transformer-rectifier set.</li> </ul>			
5. LOCATION OF CONTROL FACILITY (Street, City, State, Zip Code) Power Plant Road, Oakwood, IL 61858			
6. EFFLUENT DISCHARGED TO N/A			
7. THE CONTROL FACILITY IDENTIFIED HEREIN <input checked="" type="checkbox"/> DOES <input type="checkbox"/> DOES NOT GENERATE PROFITS THROUGH THE RECOVERY AND SALES OF WASTES, OR OTHERWISE.			
8. THE CONTROL FACILITY IDENTIFIED HEREIN <input type="checkbox"/> IS <input checked="" type="checkbox"/> IS NOT A BUILDING THE ONLY FUNCTION OF WHICH IS THE ABATEMENT OR CONTROL OF POLLUTION, AS DETERMINED IN ACCORDANCE WITH SECTION 1.169-2 (2) (i) OF THE INCOME TAX REGULATIONS.			
9. <input type="checkbox"/> A. THE CONTROL FACILITY IDENTIFIED HEREIN IS USED ONLY IN CONNECTION WITH PLANTS OR PROPERTIES THAT WERE IN SERVICE ON OR BEFORE DECEMBER 31, 1975 <input checked="" type="checkbox"/> B. <u>100</u> % OF THE AMORTIZABLE BASIS OF THE FACILITY IS ALLOCABLE TO ITS USE IN CONNECTION WITH PLANTS OR PROPERTIES THAT WERE IN SERVICE ON OR BEFORE DECEMBER 31, 1975.			
10. <input checked="" type="checkbox"/> A. THE CONTROL FACILITY PERFORMS NO FUNCTION IN ADDITION TO THE ABATEMENT OR CONTROL OF POLLUTION. <input type="checkbox"/> B. _____ % OF THE AMORTIZABLE BASIS OF THE CONTROL FACILITY IS ALLOCABLE TO THE ABATEMENT OR CONTROL OF POLLUTION.			
ISSUED THIS _____ DAY OF _____, 19____		SIGNATURE	
STATE CERTIFICATION NUMBER		TITLE	

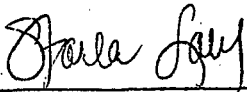
ENVIRONMENTAL PROTECTION AGENCY

APPLICATION FOR CERTIFICATION OF POLLUTION CONTROL FACILITY  
(Pursuant to Section 169 of the Internal Revenue Code of 1954, as amended)

NO CERTIFICATION MAY BE MADE UNLESS A COMPLETED APPLICATION FORM HAS BEEN RECEIVED (26 U.S.C. §169; 40 C.F.R. PART 20). IF NO CLAIM OF BUSINESS CONFIDENTIALITY ACCOMPANIES THIS INFORMATION WHEN IT IS RECEIVED BY EPA, IT MAY BE MADE AVAILABLE TO THE PUBLIC BY EPA WITHOUT FURTHER NOTICE. INFORMATION COVERED BY A CLAIM OF CONFIDENTIALITY WILL BE DISCLOSED BY EPA ONLY TO THE EXTENT, AND BY MEANS OF THE PROCEDURES, SET FORTH IN TITLE 40, CODE OF FEDERAL REGULATIONS, PART 2, 41 C.F.R. 26902 et seq., SEPTEMBER 1, 1976.

A BUSINESS CONFIDENTIALITY CLAIM COVERING ALL OR PART OF THE INFORMATION FURNISHED IN OR WITH THIS APPLICATION MAY BE ASSERTED BY PLACING ON (OR ATTACHING TO) THE INFORMATION AT THE TIME IT IS SUBMITTED TO EPA, A COVER SHEET STAMPED OR TYPED LEGEND, OR OTHER SUITABLE FORM OF NOTICE EMPLOYING LANGUAGE SUCH AS "TRADE SECRET," "PROPRIETARY," OR "COMPANY CONFIDENTIAL." ALLEGEDLY CONFIDENTIAL PORTIONS OF OTHERWISE NON-CONFIDENTIAL DOCUMENTS SHOULD BE CLEARLY IDENTIFIED, AND MAY BE SUBMITTED SEPARATELY TO FACILITATE IDENTIFICATION AND HANDLING BY EPA. IF THE APPLICANT DESIRES CONFIDENTIAL TREATMENT ONLY UNTIL A CERTAIN DATE OR UNTIL THE OCCURRENCE OF A CERTAIN EVENT, THE NOTICE SHOULD SO STATE.

Application is hereby made for certification of the pollution control facility described herein. The following information is submitted in accordance with provisions of Part 20 of Title 40 of the Code of Federal Regulations and to the best of my knowledge and belief is true and correct.

APPLICANT Dynege Midwest Generation, Inc.	DATE April 22, 2003
SIGNATURE 	STREET ADDRESS, CITY, STATE, ZIP CODE 1000 Louisiana, Suite 5800 Houston, Texas 77345
TITLE Director, Environmental	

NOTE: READ ACCOMPANYING INSTRUCTIONS CAREFULLY PRIOR TO COMPLETING FORM.



SECTION A - IDENTITY AND LOCATION OF CONTROL FACILITY				
<b>1. FULL BUSINESS NAME OF APPLICANT</b> Dynegy Midwest Generation, Inc.		<b>2. TYPE OF OWNERSHIP</b> <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> OTHER (Describe) <input type="checkbox"/> PARTNERSHIP <input checked="" type="checkbox"/> CORPORATION		
<b>3. PERSON TO CONTACT REGARDING THIS APPLICATION (Name and Title)</b> Starla Lacy, Director, Environmental			<b>TELEPHONE</b> 713-767-8961	
<b>ADDRESS (Street, City, State, Zip Code)</b> 1000 Louisiana, Ste 5800, Houston, TX 77002				
<b>4. PERSON AUTHORIZED TO RECEIVE CERTIFICATION (Name and Title)</b> Donna Redmon      Tax Manager				
<b>ADDRESS (Street, City, State, Zip Code)</b> 1000 Louisiana, Ste 5800, Houston, TX 77002				
<b>5. BUSINESS NAME OF PLANT (If different from Item 1) (Street, City, State, Zip Code)</b> Vermilion Power Station Power Plant Road, Oakwood, IL 61858			<b>6. APPLICANT'S EMPLOYER IDENTIFICATION NO.</b> 37-1385459	
SECTION B - DESCRIPTION OF CONTROL FACILITY				
<b>1. DESCRIBE THE FACILITY FOR WHICH CERTIFICATION IS SOUGHT. INCLUDE TYPE OF EQUIPMENT, MANUFACTURER AND MODEL NUMBER. SUBMIT DESIGN CRITERIA, ENGINEERING REPORT AND/OR PERFORMANCE SPECIFICATIONS WHICH DESCRIBE FUNCTION AND OPERATION OF FACILITY:</b> Refurbishment of the Vermilion Power Station Unit 1 electrostatic precipitator to improve operation and reliability. The refurbishment includes:  <ul style="list-style-type: none"> <li>• Replacement of the collector plates, emitting electrodes, mechanical rapper systems, and ESP hot roof; and</li> <li>• addition of liner plates to the inside of the existing precipitator box, a new purge air system to keep ash from entering the equipment in the penthouse area, and a fifth transformer-rectifier set.</li> </ul>				
<b>2. IS FACILITY IN OPERATION?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<b>A. IF "YES" DATE FACILITY WAS PLACED IN OPERATION</b> December 2001	<b>B. IF "NO" DATE FACILITY IS EXPECTED TO BE PLACED IN OPERATION</b>	<b>3. IF FACILITY CONSISTS OF A BUILDING, IS IT EXCLUSIVELY FOR CONTROL OF POLLUTION?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>4. DOES THE FACILITY (installed after December 31, 1975 ONLY) AFFECT THE OPERATING UNIT (of the plant or other property in connection with which the facility is used) MOST DIRECTLY ASSOCIATED WITH THE FACILITY IN ANY OF THE FOLLOWING WAYS?</b> INCREASE THE OUTPUT OR CAPACITY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO      EXTEND THE USEFUL LIFE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO REDUCE THE TOTAL OPERATING COSTS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO a. IF THE ANSWER TO ANY OF THE ABOVE IS "YES" IS THE PERCENTAGE BY WHICH THE OPERATING UNIT WAS EFFECTED <input type="checkbox"/> 5% OR <input type="checkbox"/> LESS b. IF NONE OF THE FOREGOING INCREASES, EXTENSIONS, OR REDUCTIONS EXCEEDING 5% STATE THE RATIONALE AND FURNISH THE DATA USED TO ARRIVE AT THE PERCENTAGE(S) GIVEN IN RESPONSE TO ITEM 4(a).				
SECTION C - DESCRIPTION OF COMMERCIAL PROCESS OR ACTIVITY				
<b>1. DESCRIBE PROCESS OR ACTIVITY IN CONNECTION WITH WHICH FACILITY IS OR WILL BE USED.</b> Electric Generating Unit				
<b>2. STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE NUMBER</b> 4911				
<b>3. DATE THAT EACH PLANT OR OTHER PROPERTY IN CONNECTION WITH WHICH FACILITY IS OR WILL BE USED, COMMENCE OPERATION.</b>				
PLANT OR PROPERTY			DATE	
A. Vermilion Power Station, Unit 1			May 1955	
B.				
C.				

**SECTION C - DESCRIPTION OF COMMERCIAL PROCESS OR ACTIVITY**

4A. IF FACILITY IS OR WILL BE USED IN CONNECTION WITH MORE THAN ONE PLANT OR PROPERTY, AND IF ONE OR MORE OF THE PLANTS OR PROPERTIES IN CONNECTION WITH WHICH THE FACILITY IS OR WILL BE USED WAS NOT IN OPERATION PRIOR TO JANUARY 1, 1976, STATE THE PERCENTAGE OF THE COST OF FACILITY WHICH IS ALLOCABLE TO THE PLANT(S) OR PROPERTY(IES) IN OPERATION PRIOR TO THAT DATE. N/A %

4B. DESCRIBE THE REASONING AND FURNISH THE DATA USED TO ARRIVE AT THE PERCENTAGE GIVEN IN RESPONSE TO ITEM 4(A).

N/A

5A. IF FACILITY PERFORMS A FUNCTION OR FUNCTIONS IN ADDITION TO THE ABATEMENT OF POLLUTION, STATE THE PERCENTAGE OF THE COST OF FACILITY ALLOCABLE TO THE ABATEMENT OF POLLUTION. N/A %

5B. DESCRIBE THE REASONING AND FURNISH THE DATA USED TO ARRIVE AT THE PERCENTAGE GIVEN IN RESPONSE TO ITEM 5(A).

N/A

**SECTION D - WASTEWATER CHARACTERISTICS (To be completed only in connection with facilities for the control of water pollution)**

DESCRIBE THE EFFECT OF POLLUTION CONTROL FACILITY IN TERMS OF QUANTITY AND QUALITY OF EMISSION AND OF WASTES OR BY-PRODUCTS REMOVED, ALTERED, DISPOSED OF, OR PREVENTED. IF FEASIBLE, ATTACH PROCESS FLOW OR SCHEMATIC DIAGRAM WITH MATERIAL BALANCES OF THE WASTE OR WASTEWATER STREAM OR DISCHARGE. REPORT EITHER ON ACTUAL BASIS OR, IF FACILITY IS NOT YET IN OPERATION, ON DESIGN BASIS (Use Standard Units - pounds/gallon, grams/liter, ppm, etc.).

1. HOURS PLANT OR PROPERTY IS IN OPERATION: a. Per Month: Min. \_\_\_\_\_ Max. \_\_\_\_\_ Avg. \_\_\_\_\_  
b. Per Year: Min. \_\_\_\_\_ Max. \_\_\_\_\_ Avg. \_\_\_\_\_

2. WASTEWATER DISCHARGE IN (A) GALLONS PER MINUTE, (B) MILLIONS OF GALLONS	WITHOUT POLLUTION CONTROL FACILITY			WITH POLLUTION CONTROL FACILITY		
	a. Min. _____ Max. _____ Avg. _____	Min. _____	Max. _____	Avg. _____	Min. _____	Max. _____
b. Min. _____ Max. _____ Avg. _____	Min. _____	Max. _____	Avg. _____	Min. _____	Max. _____	Avg. _____

**3. POLLUTANTS OR WASTE PRODUCTS**

3.a	Min. _____	Max. _____	Avg. _____	Min. _____	Max. _____	Avg. _____
3.b	Min. _____	Max. _____	Avg. _____	Min. _____	Max. _____	Avg. _____
3.c	Min. _____	Max. _____	Avg. _____	Min. _____	Max. _____	Avg. _____
3.d	Min. _____	Max. _____	Avg. _____	Min. _____	Max. _____	Avg. _____
3.e	Min. _____	Max. _____	Avg. _____	Min. _____	Max. _____	Avg. _____
3.f	Min. _____	Max. _____	Avg. _____	Min. _____	Max. _____	Avg. _____
3.g	Min. _____	Max. _____	Avg. _____	Min. _____	Max. _____	Avg. _____
3.h	Min. _____	Max. _____	Avg. _____	Min. _____	Max. _____	Avg. _____
3.i	Min. _____	Max. _____	Avg. _____	Min. _____	Max. _____	Avg. _____
3.j	Min. _____	Max. _____	Avg. _____	Min. _____	Max. _____	Avg. _____



**7. DESCRIBE METHOD OF DETERMINING RATES, CONCENTRATION AND CHARACTERISTICS OF EMISSIONS.**

Volumetric flow rate is from the latest particulate emission stack test.

Concentration (grains/cubic feet) without pollution control facility was calculated using AP-42 emission factor with coal data, and flow data from the particulate emission stack test.

Concentration (grains/cubic feet) with pollution control facility is taken from the latest particulate emission stack test. The minimum, maximum, and average were taken from the three test runs.

**8. IDENTIFY APPLICABLE STATE AND LOCAL AIR POLLUTION CONTROL REQUIREMENTS AND STANDARDS.**

35 Illinois Administrative Code 212

**SECTION F - COST INFORMATION (See Note to instructions for this section)**

**1. IS THERE ANY BY-PRODUCT OR MATERIAL WHICH, WITHOUT THE CONTROL FACILITY, WOULD BE LOST AND WHICH IS RECOVERED THROUGH THE USE OF THE FACILITY?**  YES  NO

**A. IF YES, IDENTIFY**

**B. INDICATE THE DISPOSITION OF EACH TYPE OF RECOVERED MATERIAL, INCLUDING IF APPLICABLE, THE SALE OR SIMILAR DISPOSITION OF RECLAIMED OR RECOVERED MATERIAL TO INDUSTRIAL WASTE RECOVERY FIRMS OR OTHERS.**

2. ANNUAL COST RECOVERY	A. MATERIAL RECOVERED AND SOLD	\$ N/A
	B. OTHER	\$ N/A
	C. TOTAL	\$ N/A
3. TOTAL AVERAGE ANNUAL MAINTENANCE AND OPERATING COSTS (Not applicable if no cost recovery is reported in Item 2)		\$ N/A

ILLINOIS POLLUTION CONTROL BOARD

April 3, 2003

DYNEGY MIDWEST GENERATION, LLC )  
(Refurbished Electrostatic Precipitator Unit 1 )  
(Property Identification Number -17-20-300- )  
006-0080)), )

Petitioner, )

v. )

PCB 03-172  
(Tax Certification)

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )

Respondent. )

ORDER OF THE BOARD (by T.E. Johnson):

On March 31, 2003, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain facilities of Dynegy Midwest Generation, LLC (Dynegy Midwest) as "pollution control facilities" for preferential tax treatment under the Property Tax Code. 35 ILCS 200/11-5 *et seq.* (2002). The Agency filed the recommendation under Part 125 of the Board's procedural rules. 35 Ill. Adm. Code 125. In this order, the Board describes the legal framework for tax certifications, discusses the Agency's recommendation, and certifies that Dynegy Midwest's facilities are pollution control facilities.

LEGAL FRAMEWORK

Under the Property Tax Code, "[i]t is the policy of this State that pollution control facilities should be valued, at 33 1/3% of the fair cash value of their economic productivity to their owners." 35 ILCS 200/11-5 (2002); *see also* 35 Ill. Adm. Code 125.200(a)(2). "For tax purposes, pollution control facilities shall be certified as such by the Pollution Control Board and shall be assessed by the Department [of Revenue]." 35 ILCS 200/11-20 (2002); *see also* 35 Ill. Adm. Code 125.200(a).

Under Section 125.202 of the Board's procedural rules, a person may submit an application for tax certification to the Agency. 35 Ill. Adm. Code 125.202. If the Agency receives a tax certification application, the Agency must file with the Board a recommendation on the application, unless the applicant withdraws the application. 35 Ill. Adm. Code 125.204(a). Among other things, the Agency's filing must recommend that the Board issue or deny tax certification. 35 Ill. Adm. Code 125.204(a)(4). If the Board finds "that the claimed facility or relevant portion thereof is a pollution control facility . . . , the Pollution Control Board . . . shall enter a finding and issue a certificate to that effect." 35 ILCS 200/11-25 (2002); *see also* 35 Ill. Adm. Code 125.216(a).

### AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Dynegy Midwest on September 16, 2002. Agency Recommendation (Agency Rec.) at 1. On March 31, 2003, the Agency filed a recommendation on the application with the Board. The Agency's recommendation identifies the facilities at issue: Refurbishment of Electrostatic Precipitator Unit 1. Agency Rec. at 1. The Agency's recommendation further describes the facilities: for particulate collection and operation. *Id.* at 1-2. The Agency's recommendation also identifies the location of the facilities: Power Plant Road, Oakwood, Vermilion County. *Id.* at 1.

The Agency recommends that the Board certify that the identified facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2002)) because the primary purpose of the facilities is eliminating, preventing, or reducing air pollution. Agency Rec. at 2.

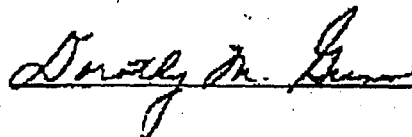
### TAX CERTIFICATE

The Board finds and certifies that Dynegy Midwest's facilities identified in this order are pollution control facilities under the Property Tax Code. 35 ILCS 200/11-10 (2002). Under Section 11-25 of the Property Tax Code, the effective date of this certificate is "the date of application for the certificate or the date of the construction of the facility, whichever is later." 35 ILCS 200/11-25 (2002); *see also* 35 Ill. Adm. Code 125.216(a). Section 125.216(d) of the Board's procedural rules states that the Clerk "will provide the applicant and the Agency with a copy of the Board's order setting forth *the Board's findings and certificate, if any.*" 35 Ill. Adm. Code 125.216(d) (quoting in italics 35 ILCS 200/11-30 (2002)). The Clerk therefore will provide Dynegy Midwest and the Agency with a copy of this order.

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) (2002); *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.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 3, 2003, by a vote of 7-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

**PROOF OF SERVICE**

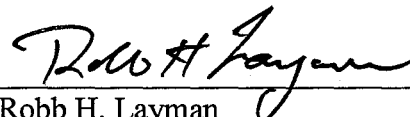
I, the undersigned, certify that I have served the attached APPEARANCE AND RECOMMENDATION upon the person to whom it is directed, by placing them in an envelope addressed to:

TO: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601

Donna Redmon  
Tax Manager  
Dynergy Midwest Generation, Inc.  
1000 Louisiana, Suite 5800  
Houston, Texas 77002

Steve Santarelli  
Illinois Department of Revenue  
101 West Jefferson  
P.O. Box 19033  
Springfield, Illinois 62794

and mailing it by First Class Mail from Springfield, Illinois on October 14, 2003, with sufficient postage affixed.



Robb H. Layman  
Special Assistant Attorney General  
ARDC #6205498

THIS FILING IS SUBMITTED  
ON RECYCLED PAPER