

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

THE CITY OF SPRINGFIELD,)	
a municipal corporation,)	
Petitioner,)	
)	PCB 06-75
v.)	(Permit Appeal – Air)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

NOTICE OF FILING

To: Dorothy M. Gunn
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph
Suite 11-500
Chicago, IL 60601

Robb H. Layman
Sally Carter
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

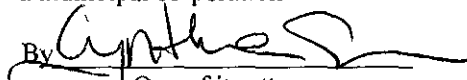
Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794-9274

Mr. William Murray
City Water Light & Power
800 East Monroe Street
4th Floor
Springfield, IL 62701

Please take notice that on December 2, 2005, we filed electronically with the Office of the Clerk of the Illinois Pollution Control Board the **MOTION FOR LEAVE TO FILE A REPLY INSTANTER TO RESPONDENT'S RESPONSE TO MOTION TO STAY EFFECTIVENESS OF CAAPP PERMIT**, which is served upon you.

Respectfully submitted,

THE CITY OF SPRINGFIELD,
a municipal corporation

By 
One of its attorneys

Dated: December 2, 2005

Cynthia A. Faur
Mary A. Gade
Elizabeth A. Leifel
Sonnenschein Nath & Rosenthal LLP
8000 Sears Tower
Chicago, Illinois 60606
(312) 876-8000

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**MOTION FOR LEAVE TO FILE A REPLY INSTANTER
TO RESPONDENT'S RESPONSE TO MOTION
TO STAY EFFECTIVENESS OF CAAPP PERMIT**

NOW COMES Petitioner, City of Springfield, as owner and operator of an electric generation and transmission company commonly known as City Water, Light & Power ("CWLP"), and by and through its attorneys, Cynthia A. Faur, Mary A. Gade, Elizabeth A. Leifel, and Sonnenschein Nath & Rosenthal LLP, and pursuant to Section 101.500(e) of the Illinois Pollution Control Board's ("Board's") procedural rules, 35 Ill. Admin. Code § 101.500(e), petitions the Board for leave to file its Reply to Respondent's Motion in Partial Opposition to, and Partial Support of, Petitioner's Request for Stay to Motion to Stay ("Motion").

In support of this motion, CWLP states as follows:

1. On September 29, 2005, Respondent issued to CWLP a final permit ("Permit") pursuant to the Clean Air Act Permit Program ("CAAPP").
2. On November 3, 2005, CWLP filed with the Board a Petition For Hearing To Review Clean Air Act Permit Program Permit Issuance pursuant to 415 ILCS 5/40.2.
3. Also on November 3, 2005, CWLP filed a Motion to Stay Effectiveness of its CAAPP permit pursuant to 35 Ill. Admin. Code § 105.304(b).

4. On November 18, 2005, Respondent filed with the Board its Motion in Partial Opposition to, and Partial Support of, Petitioner's Request for Stay. Respondent's Motion was served upon CWLP on November 21, 2005.

5. Under the Board's procedural rules, a moving party is not entitled to file a reply, except as permitted by the Board or the Hearing Officer to prevent material prejudice. 35 Ill. Admin. Code § 101.500(e). The Board's rules further provide that a Motion for Leave to Reply must be filed within 14 days of service of the Respondent's Motion. *Id.*

6. In its Motion, Respondent makes certain representations concerning the legal and regulatory framework regarding an automatic stay of the effectiveness of a CAAPP permit pending final resolution by the Board on appeal. CWLP does not believe that these representations completely or appropriately characterize the legal or regulatory framework. Further, CWLP believes that factual characterizations in the Respondent's Motion concerning the content of CWLP's permit and the extent to which the permit has been appealed are inaccurate, and Respondent's characterizations of the legal and regulatory framework regarding a discretionary stay of the permit are not appropriate.

7. Failure to allow CWLP an opportunity to address the characterizations of the factual and legal issues set forth in Respondent's Motion would materially prejudice CWLP.

WHEREFORE, for the above and foregoing reasons, Petitioner CITY OF SPRINGFIELD respectfully requests that the Hearing Officer grant it leave to file its Reply to Respondent's Motion in Partial Opposition to, and Partial Support of, Petitioner's Request for Stay instanter.

Respectfully submitted,

CITY OF SPRINGFIELD, Petitioner

By: 

One of Its Attorneys

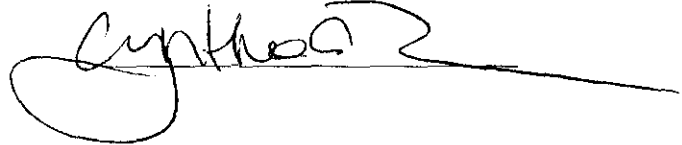
Dated December 2, 2005

Cynthia A. Faur
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Elizabeth A. Leifel
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8000 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
(312) 876-8000

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certify that I have served upon the individuals named on the attached Notice of Filing true and correct copies of the **MOTION FOR LEAVE TO FILE A REPLY INSTANTER TO RESPONDENT'S RESPONSE TO MOTION TO STAY EFFECTIVENESS OF CAAPP PERMIT** by electronic file and First Class Mail, postage prepaid on December 2, 2005.

A handwritten signature in black ink, appearing to read "Cynthia", with a long horizontal line extending to the right.