

ILLINOIS POLLUTION CONTROL BOARD
March 16, 2006

GATEWAY FS, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 06-76
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

On November 17, 2005, at the parties' request, the Board extended until March 3, 2006, the time period for Gateway FS, Inc. (Gateway FS) to appeal an October 27, 2005 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 101.300(b), 105.402, 105.406. On March 7, 2006, Gateway FS filed a petition asking the Board to review the Agency's determination. Because the postmark date of the petition is within the extended time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404. The Agency modified the high priority corrective action plan budget for Gateway FS's leaking underground petroleum storage tank facility located at 219 North Rapp Street, Columbia, Monroe County.

Gateway FS appeals on the grounds that (1) the budget as submitted to the Agency was "reasonable, justifiable, necessary, consistent with generally accepted engineering practices, and eligible for reimbursement" (Pet. at 5); and (2) the Agency's modification of the budget was "without technical justification and was therefore arbitrary and capricious." Pet. at 4. Gateway FS's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

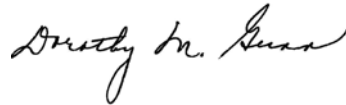
Gateway FS has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2004)), which only Gateway FS may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Gateway FS may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is July 5, 2006 (the 120th day after March 7, 2006). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for June 15, 2006.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 6, 2006, which is 30 days after Gateway FS filed the petition. 35 Ill. Adm. Code 105.410(a). If the Agency wishes to seek additional time to file the

record, it must file a request for extension before the date on which the record is due to be filed. 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.410(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 16, 2006, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board