

APR 28 2006

**STATE OF ILLINOIS
Pollution Control Board**

ILLINOIS POLLUTION CONTROL BOARD

April 28, 2006

IN THE MATTER OF:)
)
PROPOSED NEW 35 ILL. ADM. CODE 225) R06-25
CONTROL OF EMISSIONS FROM LARGE) (Rulemaking - Air)
COMBUSTION SOURCES (MERCURY))

HEARING OFFICER ORDER

On April 26, 2006, a pre-hearing videoconference was held between Springfield and Chicago to attempt to identify and limit issues of disagreement among the participants to promote efficient use of hearing time. 35 Ill. Adm. Code 102.404(b) and 102.406(c). In attendance was the Illinois Environmental Protection Agency (Agency), representatives for: (1) Ameren Energy Generating Company, AmerenEnergy Generating Company, and Electric Energy Inc.; (2) Dynegy and Midwest Generation, (3) Kincaid Generation, L.L.C.; and (4) Illinois Environmental Regulatory Group.

The pre-hearing conference addressed the Agency's motion concerning the order of the hearing, the schedule for the first hearing, and the availability of an expert witness. Also the pre-hearing conference addressed general issues concerning all the hearings. I will set forth the decisions reached on these issues below beginning with general issues and then addressing the specifics of the Agency's motion.

Generally, the participants were notified that the hearing rooms in Chicago and Springfield had been reserved for ten working days in anticipation of the hearings proceeding for that length of time. Also, the hearing transcripts are being expedited to ensure that the transcripts are available for the preparation of testimony for the succeeding hearings. The testimony will be taken as if read and *brief* summaries will be allowed if a witness insists; however, I prefer we begin with cross-examination immediately.

The May 8 hearing is reserved for the Agency's presentation of its case so no other participant can testify. However, anyone may ask questions of the Agency. Persons who do not prefile for the June 5 hearing will only be allowed to testify if time permits at the close of all prefiled testimony. The same is true of anyone wishing to make an oral public comment. I urge anyone wishing to testify to prefile to ensure your ability to testify. As a reminder, anyone may file a written public comment with the Board.

As to the more specific issues, the first issues raised in the Agency's motion concerned the order and schedule of the first hearing. As indicated at the pre-hearing conference, the first and second hearings will begin on May 8 and June 5, respectively, at 1:00 PM. After the first days, the first and second hearings will continue day-to-day beginning each day at 9 a.m., unless specified otherwise by the hearing officer. The hearings will proceed until 5:00 p.m. day-to-day, unless otherwise specified by the hearing officer.

The order of the first set of hearings will follow that set forth by the Agency's motion and repeated below, using the technical support document as a guide. The Agency may change the order of the testimony prior to the start of the May 8 hearing, based on suggestions made at the pre-hearing conference. The Agency will tie the provisions of the technical support document to relevant sections of the proposed rule. The first hearing will proceed as follows:

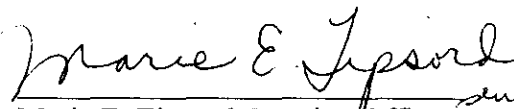
Chapter 1.0	Introduction
Chapter 2.0	Background Information on Mercury
Chapter 3.0	Mercury Impacts on Human Health
Chapter 4.0	Mercury Impaired Waters In Illinois
Chapter 5.0	Deposition of Mercury
Chapter 9.0	Economic Modeling
Chapter 6.0	Regulatory Activities - -Federal and other States
Chapter 7.0	Illinois Mercury Emissions Standards for Coal Fired Power Plants in Illinois
Chapter 8.0	Technical Feasibility of Controlling Mercury Emission from Coal Fired Power Plants in Illinois
Chapter 10.0	Other Relevant Issues and Additional Considerations

Also as discussed at the pre-hearing conference, we will attempt to cover all questions on a topic before proceeding. However, if necessary, and I will rule on this as it arises, we will go back to a topic.

The order for the second hearing was also discussed and it was generally decided that the second hearing would begin with testimony from those in support of the Agency's proposal. That testimony will be followed by testimony opposing the Agency's proposal. This order will be revisited at the close of the May 8th hearings.

The Agency also noted in its motion that Dr. Deborah Rice is available during the week of May 8-12 only on May 8. As discussed at the pre-hearing conference, Dr. Rice will be available the week of May 15 and will return that week if additional questioning is necessary.

IT IS SO ORDERED.



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