

ILLINOIS POLLUTION CONTROL BOARD

October 19, 2006

DYNEGY MIDWEST GENERATION, INC.)	
(VERMILION POWER STATION),)	
)	
Petitioner,)	
)	PCB 06-194
v.)	(Permit Appeal - Air)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by N.J. Melas):

On July 6, 2006, the Board, at the parties' request, extended until October 3, 2006 the time period within which Dynegy Midwest Generation, Inc. (Vermilion Power Station) (Dynegy) could appeal a construction permit issued to Dynegy by the Illinois Environmental Protection Agency (Agency) on May 30, 2006. *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 105.208(a). On October 3, 2006, Dynegy filed a petition asking the Board to review the Agency-issued permit.

The construction permit application concerns Dynegy's coal-fired electric generating station located at 2150 North County Road, Oakwood, Vermilion County. The Agency issued Dynegy a permit to construct a baghouse at the Vermillion Power Station. The baghouse is to be installed as air pollution equipment on two coal-fired boilers at the station. The baghouse would collect ash that passes through the electrostatic precipitators (ESP) of each unit and sorbent injected into the flue gas stream after the ESPs, which in turn would collect mercury from the flue gas. Dynegy is challenging numerous aspects of the permit. Dynegy's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

Because the permit incorporates many conditions that Dynegy is currently challenging in another permit appeal (Dynegy v. IEPA, PCB 06-73), Dynegy challenges their inclusion in the construction permit, and asks the Board to stay the effectiveness of those conditions. To date, the Board has received no response from the Agency regarding Dynegy's request for a stay. The Board has granted a stay of the portions of the permit Dynegy contests (Conditions 1.1(a), 1.1(b), 1.2, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9-1, 1.9-2, 1.9-4, 1.10-2, 1.11) in a Clean Air Act Permit Program appeal by Dynegy at the same facility. Dynegy v. IEPA, PCB 06-73 (Feb. 16, 2006). The Board exercises its discretion to grant Dynegy's request to stay the contested conditions until the final resolution of this appeal.

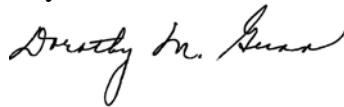
Dynegy has the burden of proof. 415 ILCS 5/40(a)(1) (2004); *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and

completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2004)), which only Dynegy may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Dynegy “may deem the permit issued.” 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is January 31, 2007 (the 120th day after October 3, 2006). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for January 18, 2006.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by November 2, 2006 which is 30 days after Dynegy filed the petition. 35 Ill. Adm. Code 105.212(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 105.212(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 October 19, 2006, by a vote of 4-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board