

ILLINOIS POLLUTION CONTROL BOARD  
April 17, 2008

|                                 |   |                       |
|---------------------------------|---|-----------------------|
| DYNEGY MIDWEST GENERATION, INC. | ) |                       |
| (BALDWIN ENERGY COMPLEX),       | ) |                       |
|                                 | ) |                       |
| Petitioner,                     | ) |                       |
|                                 | ) |                       |
| v.                              | ) | PCB 08-66             |
|                                 | ) | (Permit Appeal - Air) |
| ILLINOIS ENVIRONMENTAL          | ) |                       |
| PROTECTION AGENCY,              | ) |                       |
|                                 | ) |                       |
| Respondent.                     | ) |                       |

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

On April 9, 2008, Dynegy Midwest Generation, Inc. (Dynegy) timely filed a petition for review of a March 3, 2008 construction permit issued to it by the Illinois Environmental Protection Agency (Agency). See 415 ILCS 5/40(a)(1) (2006); 35 Ill. Adm. Code 105.206(a). The Agency granted Dynegy a construction permit for installation of a baghouse, scrubber, and sorbent injection control system for Unit 3 at the Baldwin Energy Complex located at 10901 Baldwin Road, Baldwin, Randolph County.

Dynegy appeals many permit conditions it alleges the Agency has inappropriately included, citing a variety of grounds. Dynegy's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

Dynegy has the burden of proof. 415 ILCS 5/40(a)(1) (2006); 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) (2006)), 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" absent the contested conditions. 415 ILCS 5/40(a)(2) (2006). Currently, the decision deadline is August 7, 2008 (the 120th day after April 9, 2008). See 35 Ill. Adm. Code 105.114. There is a Board meeting currently scheduled on the August 7, 2008 decision deadline date.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by May 9, 2008 which is the first business day following the 30th day 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).

Within the body of its petition, Dynegy has requested that the Board stay the effectiveness of various conditions of the permit until the Board has rendered its final decision in this matter. The Agency has not yet responded to this request. See 35 Ill. Adm. Code 101.500(d). The Board reserves ruling on the issues relating to the requested stay pending any response of the Agency.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 17, 2008, by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

---

John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board