

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
NO_x TRADING PROGRAM:) R06-22
AMENDMENTS TO 35 ILL.) (Rulemaking – Air)
CODE PART 217)

STATUS REPORT

NOW COMES the Illinois Environmental Protection Agency (“Illinois EPA”), by and through its attorneys, and pursuant to 35 Ill. Adm. Code 101.522, hereby files a Status Report pursuant to the Illinois Pollution Control Board’s August 20, 2009 Order, and, respectfully requests that the Illinois Pollution Control Board (“Board”) grants this motion for extension. In support of its Motion, the Illinois EPA states as follows:

1. On August 3, 2009, Illinois Environmental Regulatory Group (“IERG”) filed a MOTION FOR EMERGENCY RULE and MOTION FOR EXPEDITED ACTION ON THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP’S ALTERNATIVE PROPOSAL.
2. On August 6, 2009, the Board directed participants to file responses to the motions no later than Thursday, August 13, 2009. The Illinois EPA filed a response on August 13, 2009, and IERG filed a reply on August 17, 2009.
3. On August 20, 2009, the Board denied IERG’s Motions for Emergency Rulemaking and ordered the Illinois EPA to file a Status Report on or before October 19, 2009, indicating whether and when it will be filing a withdrawal of this docket and submitting a new proposal addressing Non-EGUs and NO_x emissions.
4. On September 14, 2009, IERG filed a Motion for Reconsideration and Clarification arguing that the Board had misapplied the law when IERG’s Motions for Emergency Rulemaking were denied.
5. On September 28, 2009, the Illinois EPA filed a Motion to File Instanter and

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Motion for Extension to File a Response seeking an extension of time to October 12, 2009, for the response to the Motion for Reconsideration and Clarification.

6. On October 1, 2009, the Hearing Officer granted an extension until October 13, 2009.

7. On September 24, 2009, the Illinois EPA received a letter from the United States Environmental Protection Agency (“USEPA”) confirming that Non-Electric Generating Units (“Non-EGUs”) were not required to hold allowances for the 2009 control period. A copy of that letter is attached.

8. On October 14, 2009, the Illinois EPA filed another Motion for Extension for Filing a Response to the Motion for Reconsideration and Clarification, until October 26, 2009.

9. On October 15, 2009, IERG withdrew the portion of its Motion for Reconsideration and Clarification that concerned the Reconsideration, but left the issue of clarification before the Board.

10. On October 21, the Illinois EPA filed a Motion for Filing Instantly and Extension. On October 23, 2009, the Hearing Officer granted the Motion for Extension until November 10, 2009.

11. On October 26, 2009, the Illinois EPA filed a Response to IERG’s Motion for Reconsideration and Clarification of the Board’s August 20, 2009 Board Order.

12. On November 10, 2009, the Illinois EPA filed a Motion requesting an extension of time to file a status report. On November 25, 2009, the Hearing Officer granted the Illinois EPA until December 22, 2009 to file a status report.

13. The Illinois EPA plans to file a Motion to Withdraw docket R06-22 in January 2010. The amendments proposed in the Illinois EPA’s initial proposal of updating NO_x allocations under the NO_x State Implementation Plan (“SIP”) Call, provisions for low mass

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emitters and other amendments are now moot, because USEPA is no longer administering the NO_x SIP Call program as indicated in its letter of September 24, 2009 (Attached to the Illinois EPA's Motion of October 14, 2009). Any amendments to the NO_x SIP Call Trading Program are, therefore, unnecessary and not federally approvable.

14. At the same time that the Illinois EPA files its Motion to Withdraw docket R06-22, it will also file a new proposal sunsetting only the trading portions of the NO_x SIP Call Trading program, and retaining the monitoring, recordkeeping and reporting elements as required by the Clean Air Interstate Rule.

15. The contents of the Status Report have been discussed with IERG, and they indicated that there is no objection to the filing of the Status Report.

WHEREFORE, for the reasons stated above, the Illinois EPA respectfully requests that the Board or Hearing Officer accept this Status Report for Docket R06-22.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/_____

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DATED: December 18, 2009

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS)
) **SS**
COUNTY OF SANGAMON)
)

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served electronically the attached STATUS REPORT of the Illinois Environmental Protection Agency upon the following persons:

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ILLINOIS ENVIRONMENTAL
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