

ILLINOIS POLLUTION CONTROL BOARD
January 7, 2010

DYNEGY MIDWEST GENERATION, INC.)
(TILTON ENERGY CENTER),)
)
Petitioner,)
)
v.) PCB 09-92
) (Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by G.L. Blankenship):

On April 22, 2009, Dynegy Midwest Generation, Inc. (Dynegy) filed a petition (Pet.) asking the Board to review a March 19, 2009, determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40.2(a) (2008), 35 Ill. Adm. Code 105.302. The Agency issued a renewed Clean Air Act Permit Program (CAAPP) permit, subject to conditions, for Dynegy’s Tilton Energy Center, an electric generating station located at 80 West First Street, Tilton, Vermillion County. Dynegy appeals on various grounds, including that several conditions are confusing and ambiguous as a result of missing punctuation and terms; that the Agency’s decision to include certain conditions while excluding others was inappropriate, arbitrary and capricious; and that the Agency’s inclusion of reporting requirements in one condition results from the Agency’s outmoded software systems. Pet. at 3-9. Dynegy also requested that the Board grant a partial stay of the CAAPP permit by staying portions of specified conditions. In an order dated May 7, 2009, the Board accepted Dynegy’s petition for hearing but reserved ruling on the requested stay pending the Agency’s response.

In an order dated June 18, 2009, the Board granted Dynegy’s requested partial stay of the contested permit conditions and stayed all or part of permit conditions 6.2.3, 7.1.8(e)(ii), 7.1.9(d), 7.1.9(f), 7.1.9(j)(ii), 7.1.10(c)(i), 7.1.10(d)(i), and 7.2.12(c)(ii), as requested by Dynegy. In that order, the Board stated that “[t]he partial stay remains in effect until the Board takes final action on the permit appeal or until the Board orders otherwise.”

On December 21, 2009, Tilton Energy LLC (Tilton) filed a “Motion for Leave to File Amended Appeal” (Mot.). The motion states that, on November 2, 2009, Dynegy and Tilton “signed an agreement transferring environmental permit responsibility, coverage and liability regarding the Tilton Energy Center” from Dynegy to Tilton. Pet. at 1. Tilton further states that, on the same date, Dynegy “submitted a Request for Ownership Change for the Permit to the Agency (IEPA Form 272-CAAPP).” *Id.* Tilton adds that “[t]he transfer was effective November 6, 2009” and that Tilton has since become a subsidiary of Valley Road, LLC. *Id.* Tilton states that, on December 4, 2009, it “submitted a Illinois EPA Administrative Permit Amendment

CAAPP Form 273 to the Agency requesting that the name and address for the facility contact be changed.” *Id.* at 1-2.

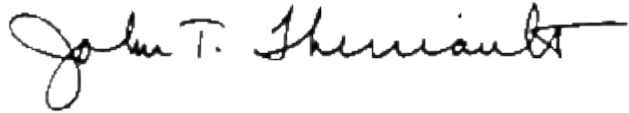
Tilton states that it seeks leave to file an amended petition “to reflect the transferred ownership,” change the petitioner’s name from Dynegy to Tilton, and amend the caption. Mot. at 2. Tilton attached a redlined version of its proposed amended appeal, which reflects the requested changes. *See* Mot., Exh. B.

Tilton states that the Agency does not object to its request. Mot. at 2. Tilton argues that “[n]one of the parties involved in this action would be unfairly prejudiced by granting Tilton’s request, nor will this request delay the progress of this matter.” *Id.*

Section 100.500(d) of the Board’s procedural rules provides in pertinent part that, “[w]ithin 14 days after service of a motion, a party may file a response to the motion. If no response is filed, the party will be deemed to have waived objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion.” 35 Ill. Adm. Code 101.500(d). The Board has received no response to Tilton’s motion for leave to file an amended appeal. Having reviewed the substance of the motion, the Board grants the motion for leave and accepts the amended appeal. In future orders and in its Clerk’s Office On-Line, the Board will amend the caption in this proceeding to reflect this order.

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 January 7, 2010, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board