

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

AMEREN ENERGY RESOURCES,)	
)	
Petitioner,)	
)	
v.)	PCB 12-126
)	(Variance-Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE

TO: John Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph St., Suite 11-500
Chicago, IL 60601

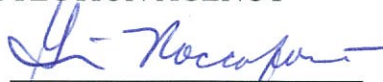
Renee Cipriano
Amy Antonioli
Gabriel Rodriguez
Schiff Hardin LLP
233 South Wacker Drive, Suite 6600
Chicago, IL 60606

Carol Webb, Hearing Officer
Illinois Pollution Control Board
1021 N. Grand Ave. East
P.O. Box 19274
Springfield, IL 62794-9274

Albert L. Hogan III
Skadden, Arps, Slate, Meagher & Flom LLP
155 North Wacker Drive
Chicago, IL 60606

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the RESPONSE TO MOTION OF AMEREN ENERGY RESOURCES AND ILLINOIS POWER HOLDINGS, LLC TO REOPEN DOCKET AND SUBSTITUTE PARTIES of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Gina Roccaforte
Assistant Counsel
Division of Legal Counsel

DATED: May 20, 2013
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217.782.5544
217.782.9143 (TDD)

**THIS FILING IS SUBMITTED
ON RECYCLED PAPER**

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RESPONSE TO MOTION OF AMEREN ENERGY RESOURCES AND ILLINOIS POWER HOLDINGS, LLC TO REOPEN DOCKET AND SUBSTITUTE PARTIES

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, Gina Roccaforte, and, pursuant to 35 Ill. Adm. Code 101.500(d), hereby respectfully responds to the Motion of Ameren Energy Resources and Illinois Power Holdings, LLC to Reopen Docket and Substitute Parties (“Motion”) filed by Movants, Ameren Energy Resources (“AER”) and Illinois Power Holdings, LLC (“IPH”). In response to the Motion, the Illinois EPA states as follows:

1. The Motion was served on the Illinois EPA by first-class mail on May 6, 2013.
2. The Illinois EPA has reviewed the Motion.
3. In granting AER’s variance petition, the Board found that “AER has adequately addressed its alternatives for complying with the current MPS requirements; that AER has demonstrated that the requested variance will result in a net benefit to the environment; that AER would suffer an arbitrary or unreasonable hardship if forced to comply with the deadlines in Sections 225.233(e)(3)(C)(iii) and (iv); that granting AER’s petition for variance with conditions...would be within the State’s current obligation under the Illinois SIP to attain and maintain compliance with the National Ambient Air Quality Standards (NAAQS); and that

granting AER a variance from the rule is consistent with federal law.” *Ameren Energy Resources v. Illinois Environmental Protection Agency*, PCB 12-126 (September 20, 2012), at 48-49 (“Order”).

4. It appears that the relevant factors in support of the Board’s decision to grant AER the variance have not changed and are not affected by the acquisition of AER by IPH. Moreover, IPH intends to operate the energy centers in substantially the same manner as AER operates them, subject to the terms and conditions set forth in the Order.

5. Procedurally, the Illinois EPA has no issue with the manner in which the Movants’ request is being made to the Board to reopen the docket and substitute parties. Though not exactly on point, the Board has granted such motions in similar cases. *In the matter of: Petition of Cromwell-Phoenix, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 218.204(C)*, AS 03-05 (November 20, 2003).

6. However, solely as to the financial statements and representations made in the Motion and supporting documentation by AER and IPH, in addition to Dynegy Inc., the Illinois EPA believes that an opportunity for a public hearing on the Motion in the same format and location as the previous public hearing held by the Board would benefit all parties and would better provide the Illinois EPA with the ability to respond to the Motion.

7. Accordingly, after such opportunity is held, the Illinois EPA will be in a better position to submit a reasoned response to the Motion.

WHEREFORE, for the reasons set forth above, the Illinois EPA respectfully requests that a public hearing on the Motion in the same format and location as the previous public hearing be held by the Board as expeditiously as possible.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Gina Roccaforte
Assistant Counsel
Division of Legal Counsel

DATED: May 20, 2013
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STATE OF ILLINOIS

COUNTY OF SANGAMON

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SS

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served electronically the attached RESPONSE TO MOTION OF AMEREN ENERGY RESOURCES AND ILLINOIS POWER HOLDINGS, LLC TO REOPEN DOCKET AND SUBSTITUTE PARTIES upon the following person:

John Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph St., Suite 11-500
Chicago, IL 60601

and electronically and by mailing it by first-class mail from Springfield, Illinois, with sufficient postage affixed to the following persons:

Carol Webb, Hearing Officer
Illinois Pollution Control Board
1021 N. Grand Ave. East
P.O. Box 19274
Springfield, IL 62794-9274

Renee Cipriano
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Gina Roccaforte
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