

ILLINOIS POLLUTION CONTROL BOARD
December 19, 2013

ENBRIDGE PIPELINES, LLC TANK NO. 2)
INTERNAL FLOATING ROOF (Property ID)
No. 12-29-101-002-0000 and Parcel No. 14-12-)
29-101-001-0000))
Petitioner,)
)
v.) PCB 14-43
) (Tax Certification - Air)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (D. Glosser):

On December 2, 2013, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of Enbridge Pipelines, LLC (Enbridge) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2012); 35 Ill. Adm. Code 125. Enbridge’s facility is located at 15637 West Bruns Road, Manhattan, Will County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that petitioner’s identified internal floating roof system for Tank No. 2 is a pollution control facility.

LEGAL FRAMEWORK

Under the Property Tax Code, “[i]t is the policy of this State that pollution control facilities should be valued, at 33 1/3% of the fair cash value of their economic productivity to their owners.” 35 ILCS 200/11-5 (2012); *see also* 35 Ill. Adm. Code 125.200(a)(2). “For tax purposes, pollution control facilities shall be certified as such by the Pollution Control Board and shall be assessed by the Department [of Revenue].” 35 ILCS 200/11-20 (2012); *see also* 35 Ill. Adm. Code 125.200(a).

Under Section 125.202 of the Board’s procedural rules, a person may submit an application for tax certification to the Agency. *See* 35 Ill. Adm. Code 125.202. If the Agency receives a tax certification application, the Agency must file with the Board a recommendation on the application, unless the applicant withdraws the application. *See* 35 Ill. Adm. Code 125.204(a). Among other things, the Agency’s filing must recommend that the Board issue or deny tax certification. *See* 35 Ill. Adm. Code 125.204(a)(4). If the Board finds “that the claimed facility or relevant portion thereof is a pollution control facility . . . , the Pollution Control Board . . . shall enter a finding and issue a certificate to that effect.” 35 ILCS 200/11-25 (2012); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from petitioner on March 8, 2012.¹ Rec. at 1. On December 2, 2013, the Agency filed a recommendation on the application with the Board, attaching petitioner's application. The Agency's recommendation identifies the facility at issue:

Internal Floating Roof system on a petroleum liquid storage tank identified as Tank No. 2 at the Manhattan storage facility. *Id.*

The Agency further describes the facilities as being used for "the roofing system constructed and installed on the subject storage tank 'rises and falls with the liquid level [of the storage tank] to reduce the vapor space inside the tank.' *See*, Application at page 1, Section D. By doing so, the system acts to prevent or reduce volatile organic materials ("VOM") emissions that would otherwise be emitted from the tank to the atmosphere." Rec. at 2.

The Agency recommends that the Board certify that the identified facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2012)) with the primary purpose of eliminating, preventing, or reducing air pollution. Rec. at 2.

TAX CERTIFICATE

Based upon the Agency's recommendation and petitioner's application, the Board finds and certifies that petitioner's facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2012)). Under Section 11-25 of the Property Tax Code, the effective date of this certificate is "the date of application for the certificate or the date of the construction of the facility, which ever is later." 35 ILCS 200/11-25 (2012); *see also* 35 Ill. Adm. Code 125.216(a). Section 125.216(d) of the Board's procedural rules state that the Clerk "will provide the applicant and the Agency with a copy of the Board's order setting forth *the Board's findings and certificate, if any.*" 35 Ill. Adm. Code 125.216(d) (quoting in italics 35 ILCS 200/11-30 (2012)). The Clerk therefore will provide petitioner and the Agency with a copy of this order.

IT IS SO ORDERED.

Section 11-60 of the Property Tax Code provides that any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification or restriction of a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate may appeal the Board's finding and order to the Circuit Court under the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (2012)). *See* 35 ILCS 200/11-60 (2012).

¹ The Agency's recommendation is cited as "Rec. at _."

I, John Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 19, 2013, by a vote of 4-0.

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

John T. Therriault, Clerk
Illinois Pollution Control Board