

ILLINOIS POLLUTION CONTROL BOARD
December 19, 2013

DYNEGY MIDWEST GENERATION, INC.)
(Fabric Filter Dust Collector System for Rail)
Car Coal Unloading, Wood River Station))
(Property I.D. No. 19-1-08-19-00-000-006),)
)
Petitioner,)
)
v.) PCB 14-56
) (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 a certain facility of Dynegy Midwest Generation, Inc. (Dynegy) as a “pollution control facility” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2012); 35 Ill. Adm. Code 125. The facility is associated with Dynegy’s Wood River Power Station, a coal- and natural gas-fired station for generating electricity (Wood River Station), which is located at No. 1 Chesson Lane in Alton, Madison County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Dynegy’s fabric filter dust collector system for rail car coal unloading at Wood River Station 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 Dynegy on or about August 28, 2012.¹ Rec. at ¶ 1. On December 2, 2013, the Agency filed a recommendation on the application with the Board, attaching Dynegy’s application (Rec. Exh. A). The Agency’s recommendation identifies the facility at issue:

The subject matter of this request consists of a Fabric Filter Dust Collector System, which was constructed and installed inside a main containment building for the rail car loading facility of the Wood River Station. As described in the application, the system is a conventional type of emissions control equipment that was constructed in the “A” conveyor unloading duct to the facility. The system collects particulate matter [PM] from the ductwork during unloading operations and drops it “back onto the conveyor belt.” Rec. at ¶ 4 (internal citations omitted), quoting Rec. Exh. A at 1.

The Agency further describes the facility: “the system is employed ‘to minimize [PM] emissions,’ and thus acts to prevent or reduce contaminants that would otherwise be emitted to the atmosphere.” Rec. at ¶ 4, quoting cover letter to Rec. Exh. A; *see also* Rec. Exh. B (Agency technical memorandum). According to Dynegy’s application, Powder River Basin Wyoming Coal is combusted in two boilers at Wood River Station. Rec. Exh. A at 1.

The Agency recommends that the Board certify that the identified fabric filter dust collector system for rail car coal unloading is a pollution control facility as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2012)), with the primary purpose “to prevent or reduce air pollution.” Rec. at ¶¶ 7, 8.

TAX CERTIFICATE

Based upon the Agency’s recommendation and Dynegy’s application, the Board finds and certifies that Dynegy’s fabric filter dust collector system identified in this order is a pollution control facility 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 states 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 Dynegy 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

¹ The Agency’s recommendation is cited as “Rec. at _.”

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).

I, John T. 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 stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board