

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In The Matter Of:

COMMONWEALTH EDISON CO.,

Complainant,

v.

FREDERICK K. SLAYTON and ANN
VOLE SLAYTON, and CIONI
EXCAVATING, INC.

Respondents.

PCB 2012-50
(Citizens Enforcement – Land)

NOTICE OF FILING

To: Office of the Clerk of the Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have filed today with the Office of the Clerk of the Pollution Control Board “Com Ed’s Motion for Dismissal Without Prejudice,” a copy of which is herewith served upon you.

Dated: August 22, 2014

COMMONWEALTH EDISON CO.

BY: William G. Dickett
Alan P. Bielawski
William G. Dickett
Katharine B. Falahee
Sidley Austin LLP
1 South Dearborn Street
Chicago, IL 60603

Counsel for Commonwealth Edison Co.

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COM ED’S MOTION FOR DISMISSAL WITHOUT PREJUDICE

Complainant, Commonwealth Edison Co. (“Com Ed”), by and through its undersigned attorneys, Sidley Austin LLP, hereby moves the Board to dismiss the above-titled action without prejudice, with each party to bear its own costs and attorneys fees. In support of this motion, Com Ed states as follows:

1. As noted in status conferences with the Hearing Offer, a related case in State court with the same parties has concluded, resulting in judgments against all Respondents. As a result, even though the relief requested in this case is different, Com Ed no longer desires to pursue this action.
2. A complainant is entitled to dismiss, at any time before trial or hearing, its action without prejudice. No motion has been filed by any party that could result in final disposition of this case. Indeed, no substantive motion of any type has been filed in this matter. The only motions filed in this matter related to extending the discovery schedule, and no discovery ever occurred in this matter. Com Ed paid all filing fees at the outset of this case. Costs incurred by the Respondents were non-existent or negligible since discovery did not commence, Respondents rarely appeared for the telephonic status conferences, and no other activity occurred in this matter.
3. Respondents are free to respond to this motion as prescribed by Board rules.

For these reasons, Com Ed hereby requests that the Board dismiss the above-titled action without prejudice with an appropriate Order stating: "The above-titled action is dismissed without prejudice, each party to bear its own costs and attorneys fees."

Respectfully submitted,

COMMONWEALTH EDISON CO.

BY: William G. Dickett
Alan P. Bielawski
William G. Dickett
Katharine B. Falahee
Sidley Austin LLP
1 South Dearborn Street
Chicago, IL 60603

Counsel for Commonwealth Edison Co.

Dated: August 22, 2014

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing motion were mailed, on August 22, 2014, to each of the persons listed below.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

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