

ILLINOIS POLLUTION CONTROL BOARD
December 4, 2014

AMEREN MISSOURI and GOOSE CREEK)	
ENERGY CENTER,)	
)	
Petitioner,)	
)	
v.)	PCB 15-89
)	(CAAPP Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J.D. O’Leary):

On November 5, 2014, Ameren Missouri and Raccoon Creek Energy Center (petitioners) timely filed a petition (Pet.) asking the Board to review an October 16, 2014 determination of the Illinois Environmental Protection Agency (Agency) to renew a Clean Air Act Permit Program (CAAPP) permit with conditions. *See* 415 ILCS 5/40.2(a) (2012); 35 Ill. Adm. Code 101.300(b), 105.302(e). The Agency’s determination concerns petitioners’ electric generating station located at 760 E 2150 N Road, Monticello, Piatt County. Petitioners also request that the Board stay two contested permit conditions. On November 20, 2014, the Board accepted petitioners’ petition for hearing, but reserved ruling on petitioners’ request for a partial stay. For the reasons stated below the Board grants petitioners’ request for a partial stay.

Petitioners request that the Board stay the effectiveness of Conditions 4.0 and 7.2 as a stay “is necessary to prevent irreparable harm to Ameren and to protect its right to meaningfully appeal permit conditions.” Pet. at 3. Petitioners argue that Permit Condition 4.0 is arbitrary and capricious and “is based on a fundamental misreading of 35 Ill. Adm. Code §§ 201.210 and 201.211 and is inconsistent with the Agency’s determination made in Goose Creek’s initial CAAPP permit. . . .” *Id.* at 4; *see* Exh. 1 at 22 (Condition 4.0). Petitioners also contest Condition 7.2 as “unauthorized by law, unreasonable, arbitrary and capricious. These Conditions derive from the Agency’s arbitrary and capricious determination on Condition 4.0. . . .” Pet. at 4; *see* Exh. 1 at 61-66 (Condition 7.2). Petitioners request a stay of these conditions “during the pendency of this appeal.” *Id.* at 5; *see* 415 ILCS 5/40.2 (2012). Petitioners state that, if the Board grants a partial stay, “Ameren will extend its current practices under the CAAPP permit replaced by this permit.” Pet. at 5.

On November 20, 2014, the Board accepted petitioners’ petition for hearing but reserved ruling on the request for a stay. *See* 35 Ill. Adm. Code 101.500(d). The Agency has not responded to petitioners’ request. The Agency is therefore deemed to have waived any objection to granting the motion for a partial stay. 35 Ill. Adm. Code 101.500(d).

Section 40.2(a) of the Act makes it clear that CAAPP permit denials may be stayed during the pendency of the Board's review at the request of the applicant. 415 ILCS 5/40.2(a) (2012). Having reviewed the request and in the absence of any objection by the Agency, the Board grants petitioners' request to stay Conditions 4.0 and 7.2. This stay will remain in effect until the Board takes final action in this matter or the Board orders otherwise.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 4, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board