

ILLINOIS POLLUTION CONTROL BOARD
February 5, 2015

AMEREN MISSOURI and)	
PINCKNEYVILLE)	
ENERGY CENTER,)	
)	
Petitioner,)	
)	
v.)	PCB 15-134
)	(CAAPP Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.K. Zalewski):

On January 7, 2015, Ameren Missouri and Pinckneyville Energy Center (petitioners) timely filed a petition (Pet.) asking the Board to review a December 23, 2014, determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40.2(a) (2012); 35 Ill. Adm. Code 101.300(b), 105.302(e). The petition for review concerns the Pinckneyville Energy Center located at 4646 White Walnut Road, Pinckneyville, Perry County.

Accompanying petitioners' petition for review is a request for partial stay of the permit specifically requesting that the Board stay conditions 4.0 and 7.4 of petitioners' Clean Air Act Permit Program (CAAPP) renewal permit. On January 22, 2015, the Board accepted the petition for hearing but reserved ruling on petitioners' motion for partial stay. On January 27, 2015, the Agency filed a response in partial opposition to petitioners' request for partial stay (Resp.). For the reasons below, the Board grants petitioners' request for partial stay.

PETITIONERS' MOTION AND AGENCY RESPONSE

Petitioners' request for partial stay asserts that, "the Board has granted partial stays in permit appeals where a petitioner has so requested." Pet. at 2. Petitioners request that the Board use its inherent discretionary authority to issue the stay and argue that, "a stay of [c]onditions 4.0 and 7.4 is necessary to prevent irreparable harm to Ameren and to protect its right to meaningfully appeal permit conditions." *Id.* at 3.

Petitioners object to the Agency's failure to include "the two 3.71 mmBTu/hr Natural Gas Indirect heaters as insignificant activities," in the CAAPP renewal permit. Pet. at 3. Regarding Condition 4.0 of the CAAPP renewal permit, petitioners argue that it "arbitrarily and capriciously lists the Gas Heaters as significant emission units." *Id.* at 4. Petitioners assert that listing the gas heaters as significant emission units, "is inconsistent with the Agency's determination made in [petitioner's] initial CAAPP permit," where the Agency found the gas heaters were insignificant activities. *Id.*

In response, the Agency states, “[t]he sole issue in this matter is whether emission units IH-1 and IH-2, further described as . . . Natural Gas Indirect Heaters, qualify as significant emission units.” Resp. at 1 (internal citations omitted). The Agency asserts that it has no objection to a stay of condition 7.4 during the appeal. *Id.* However, with regard to condition 4.0, the Agency argues that a stay of the entire condition, which includes 12 emission units, would be overly broad when only two of the 12 units are contested. *Id.* at 1-2. Therefore, the Agency requests that the Board limit the stay to the two natural gas indirect heaters. *Id.*

BOARD DISCUSSION

Section 40.2(f) of the Act makes clear that contested conditions of a CAAPP permit shall be stayed at the request of the applicant. 415 ILCS 5/40.2(f) (2012); *see also* CenterPoint Energy—Mississippi River Transmission, LLC v. IEPA, PCB 12-14, slip op. at 3 (Nov. 17, 2011). In this case, the petitioners request a stay of conditions 4.0 and 7.4 of the CAAPP renewal permit. Pet. at 3. The Agency does not object to a stay of condition 7.4. Resp. at 1. The Agency does, however, object to a stay of condition 4.0 in so much as that condition applies to significant emission units other than the two natural gas indirect heaters subject of petitioners’ petition. *Id.* at 1-2.

The Board grants petitioners request for stay of conditions 4.0 and 7.4 of the CAAPP renewal permit. This partial stay of the CAAPP renewal permit shall remain in effect until the Board takes final action in this matter or if 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 February 5, 2015, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board