

ILLINOIS POLLUTION CONTROL BOARD
July 7, 2016

CALPINE CORPORATION)	
(ZION ENERGY CENTER),)	
)	
Petitioner,)	
)	
v.)	PCB 16-112
)	(Variance – Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.M. Keenan):

A subsidiary of Calpine Corporation operates the Zion Energy Center—a facility where three simple-cycle natural-gas-fired turbines occasionally use distillate oil. Effective January 1, 2017, Board regulations prohibit fuel combustion sources from using distillate oil with sulfur content above 15 parts per million. 35 Ill. Adm. Code 214.161(b)(2). Tanks at Zion contain distillate oil with sulfur content above 15 parts per million. On June 16, 2016, Calpine petitioned the Board for a variance from this regulation, seeking to use this distillate oil beyond January 1, 2017.

The Board finds the petition procedurally insufficient and directs Calpine to file an amended petition. See 35 Ill. Adm. Code 104.228. The amended petition must correct the original petition’s deficiencies:

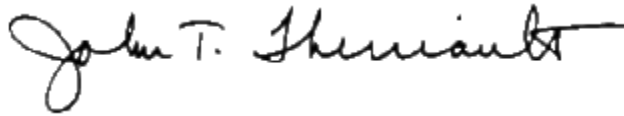
- (1) A variance petition must be filed electronically, unless electronic filing is impracticable for the petitioner. 35 Ill. Adm. Code 101.302(h)(2)(D). Calpine did not file its petition electronically or state that electronic filing is impracticable.
- (2) In a variance petition, anyone other than an individual must be represented by an attorney licensed and registered to practice law. 35 Ill. Adm. Code 101.400(a)(2). The petition does not state that Calpine is represented by an attorney.
- (3) A petition must be sequentially numbered and all pages of the petition must be numbered with the letter “P” before each page number. 35 Ill. Adm. Code 104.106(a). The petition must contain an index listing the page numbers where the petition’s constituent documents (*e.g.*, exhibits, attachments, and supporting documents) begin and end. *Id.* Calpine’s petition did not meet these requirements.

- (4) A petitioner must serve its variance petition and all related documents to the Illinois Environmental Protection Agency; an affidavit of service must accompany the filing with the Board. 35 Ill. Adm. Code 104.202(c). Calpine did not include documentation of service in its petition.
- (5) The variance petition must state whether the requested relief is consistent with federal law. 35 Ill. Adm. Code 104.208. The petition does not adequately discuss this issue.

The Board directs Calpine to file an amended petition within 30 days—until August 8, 2016. If Calpine does not file an amended petition by August 8, 2016, its petition may be dismissed. *See* 35 Ill. Adm. Code 104.228. Though Calpine published newspaper notice of its original petition, it must publish a separate newspaper notice of its amended petition and file a certification of publication with the Board. *See* 35 Ill. Adm. Code 104.214. The decision deadline for this appeal will be 120 days after the date Calpine files an amended petition that meets the Board’s requirements. 35 Ill. Adm. Code 104.232(a)(2). This order does not find that Calpine’s petition otherwise meets applicable petition content requirements; the Board will not accept the amended petition if it contains other deficiencies. *See* 35 Ill. Adm. Code 104.204.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 7, 2016 by a vote of 5-0.



John T. Therriault, Clerk
Illinois Pollution Control Board