

ILLINOIS POLLUTION CONTROL BOARD  
December 14, 2017

IN THE MATTER OF: )  
)  
AMENDMENTS TO 35 ILL. ADM. CODE ) R18-20  
225.233, MULTI-POLLUTANT ) (Rulemaking - Air)  
STANDARDS (MPS) )

**HEARING OFFICER ORDER**

This hearing officer order denies the request of the Eco-Justice Collaborative, Environmental Defense Fund, Environmental Law & Policy Center, Natural Resources Defense Council, Prairie Rivers Network, Respiratory Health Association, and the Sierra Club (Environmental Groups) to extend the hearing in Peoria on January 17, 2018, until 9 p.m. Nevertheless, to accommodate those seeking to offer public comment at the hearing in the early evening, the hearing hours on January 17 are extended until 7 p.m. and no later. The hearing will recess or adjourn promptly at 7 p.m., and, if the hearing is continued to January 18, oral public comment will not be permitted on that day. The Environmental Groups' motion for prehearing conference is also denied; below the order sets forth the schedule for the hearing as extended to 7 p.m., which should settle any remaining questions about the hearing format. The motion for leave to file a reply is granted.

On November 8, 2017, the hearing officer set this matter for hearing. The first hearing is scheduled for January 17, 2018, to be continued, if necessary to January 18, 2018. Per the prehearing conference, the Board attempted to secure a building in Peoria that would allow the Board to remain until later in the evening. However, the Board's contact at the Peoria Public Library, the only venue that returned the Board's request with the appropriate amount of space, stated that the Board could not, under any circumstance stay in the building past 6 p.m.

On November 22, 2017, Lindsey Dubin on behalf of Environmental Groups filed an "affirmation" asking that the Board modify the hearing hours on January 17, 2018. This "affirmation" will be treated as a motion. The Environmental Groups' filing indicated that Ms. Dubin spoke with Alyce Jackson, Manager of Programs at the Peoria Public Library. The Environmental Groups stated that the library is willing to "accommodate the use of the library's auditorium" until 9 p.m. Mot. at 2. The Board contacted the library a second time, and was informed that in fact the library would stay open later in the evening.

Dynergy Midwest Generation, LLC, Illinois Power Generating Company, Illinois Power Resources Generating, LLC and Electric Energy, Inc. (Dynergy) responded to the Environmental Groups filing and indicated that if the Board was "inclined to grant the request", Dynergy does not object. Resp. at 1. Dynergy suggested convening the hearing at 11 a.m. and extending the hearing until 7 p.m., or until the end of public comment, whichever comes first. *Id.* at 1-2.

The order setting this matter for hearing was served by email on Ms. Dubin on November 8, 2017. Notice of hearing was published in newspapers throughout the State and in the *Illinois Register* beginning November 10, 2017. The Environmental Groups acknowledge that the hearing officer notice of hearing was sent on November 8, 2017.

It should be noted that the Board has already received substantial written public comment in this proceeding, which is afforded the same weight as any oral public comment. Further, to re-notice this hearing would unnecessarily tax limited State resources, and therefore no new notice will be published. As the hearing will not be re-noticed, the hearing will begin as scheduled at 10 a.m. on January 17, 2018. However, given the new information on the hearing venue, the hearing office will extend the time of the hearing until 7 p.m. Below is the schedule for the hearing on January 17, 2018.

- I. Prefiled testimony by the Illinois Environmental Protection Agency;
- II. Remaining prefiled testimony;
- III. If prefiled testimony is complete before 4:30, AND no one is present to provide public comment, the hearing will recess until 4:30;
- IV. If prefiled testimony is not complete at 4:30, the prefiled testimony will be moved to the next day and public comment will be allowed until 7 p.m.;
- V. At 7 p.m. the hearing will either adjourn or recess until January 18, 2018;
- VI. The hearing will not be continued to January 18, 2018, if all prefiled testimony has been presented.

### **Procedures for Oral Public Comment**

A sign-up sheet will be placed in the room and pointed out at the beginning of the hearing. Anyone wishing to provide public comment **MUST** sign up before 5 p.m. An individual may sign up in person or ask someone to sign in for them. Also, you may email the hearing officer until 4 p.m. on January 16, 2018, that you wish to provide oral public comment. The hearing officer will set a time limit for comments based on the number of individuals who sign up. Testimony will not be allowed during the comment period.

### **Written Public Comment**

Written public comment may be filed with the Board at any time until the conclusion of the comment period. That date will be announced by hearing officer order after the close of hearings. If you have any questions regarding written public comment you may contact the hearing officer or the Clerk of the Board.

**Availability of Filings**

All filings in this proceeding will be available on the Board's web page at [www.ipcb.state.il.us](http://www.ipcb.state.il.us) and participants may file electronically on the Board's web page. The prefiled testimony and prefiled questions must be served on the persons on the service list.

IT IS SO ORDERED.



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