

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

**NOTICE**

TO: Don Brown  
Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph St., Suite 11-500  
Chicago, IL 60601-3218

**SEE ATTACHED SERVICE LIST**

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S RESPONSES TO HEARING OFFICER ORDER, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/ Gina Roccaforte  
Gina Roccaforte  
Assistant Counsel  
Division of Legal Counsel

DATED: February 6, 2018

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Springfield, IL 62794-9276  
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**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S  
RESPONSES TO HEARING OFFICER ORDER**

The Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”), by one of its attorneys, offers the following responses to the questions asked by the Hearing Officer in the Hearing Officer Order dated January 29, 2018.

**Question:** Does Dynegy, IEPA, or any other participants plan to provide testimony at the next hearings, which are scheduled in Edwardsville in March 2018, to address the proposed rules’ potential health effects from exposure to SO<sub>2</sub> and NO<sub>x</sub> emissions from MPS sources?

**Response:** First, this question seems to presume that exposure to SO<sub>2</sub> and NO<sub>x</sub> will increase under the rulemaking proposal. As explained in the Agency’s testimony and at the first hearing in this matter, the proposed rule reduces allowable emissions; actual emissions may increase, decrease, or remain the same – but that is also the case under the current MPS.

Second, the Illinois EPA does not intend to provide testimony at the next hearing, which is scheduled in Edwardsville in March, to address the proposed rule’s potential health effects from exposure to SO<sub>2</sub> and NO<sub>x</sub> emissions from MPS sources. As the Agency explained at the first hearing, the federal National Ambient Air Quality Standards (“NAAQS”) are the appropriate guide for assessing potential health effects. The Clean Air Act (“CAA”) governs the establishment, review, and revision, as appropriate, of the NAAQS for each criteria pollutant to provide protection for the nation’s public health and the environment. Accordingly, USEPA sets the NAAQS for SO<sub>2</sub> and NO<sub>x</sub>, which specify the maximum amounts of such pollutants to be present in outdoor air. Furthermore, the CAA requires periodic review of the standards and the science upon which the standards are based. Reviewing and establishing the NAAQS is a complicated and lengthy undertaking that includes planning, integrated science assessment, risk/exposure assessment, and policy assessment. Scientific review during the development of this planning and assessment is thorough and extensive. Drafts of all documents are reviewed by the Clean Air Scientific Advisory Committee and the public has an opportunity to comment on them. The Agency does not believe the State of Illinois should or can reassess the NAAQS in this proceeding.

The Agency offered testimony at the first hearing regarding the proposed rule's potential health effects from exposure to SO<sub>2</sub> and NO<sub>x</sub> emissions from MPS sources in the context of the NAAQS. Mr. Bloomberg explained, "The NAAQS are federal air quality standards designed to protect human health with an adequate margin of safety. The NAAQS are based on scientific analysis of how concentrations of various pollutants affect human health. . . The state's responsible for ensuring all areas comply with the NAAQS in accordance [with] US EPA guidance. If an area does not comply, the state is responsible for creating a plan, which may include regulations to bring the area into attainment with NAAQS." *See*, January 17, 2018, Transcript, page 34.

Mr. Bloomberg further explained, "A state implementation plan, or SIP, is the state's plan for attaining and maintaining federal air quality standards. The state must submit regulations that are part of the state's plan to US EPA, which incorporates them into the SIP. This makes such regulations federally enforceable and provides US EPA oversight to ensure NAAQS-related obligations are met." *Id.* at page 35. Mr. Bloomberg also explained that the only SIP for which the MPS is being relied upon by the Agency is the regional haze SIP under Clean Air Act Section 169A. *Id.* at page 35.

Furthermore, Mr. Bloomberg testified regarding local impacts and the NAAQS by explaining that the current MPS was never intended to address the NAAQS. *See, Id.* at page 109, lines 14-24; page 110, lines 1-24; page 111, lines 1-9. Mr. Bloomberg explained that there are other regulations for addressing the NAAQS, such as the SO<sub>2</sub> rules promulgated in 2015 that set forth specific SO<sub>2</sub> emissions limits. *See, e.g., Id.* at pages 90-91.

In fact, Mr. Bloomberg gave an explicit response as to local impact in the Peoria area, in which he indicated, "A good example would be at the Edwards plant where, as I had mentioned earlier, there was an SO<sub>2</sub> rulemaking and at that rulemaking, specific emission levels were set to ensure that the area would be brought into attainment and so no matter what happens in this rulemaking, the SO<sub>2</sub> levels in Part 214 for the Edwards plant will still be there. Edwards cannot increase beyond the emission level that is in that rule. So it doesn't matter if every other Dynegy plant in the state closed down and theoretically, under the MPS, Edwards could emit all 55,000 tons, they couldn't. They still have that other rule that keeps the area in attainment." *See, Id.* at page 150. Furthermore, "The MPS is not really the proper vehicle for doing anything related to the NAAQS because it is a fleet wide standard. It is an annual standard whereas for different NAAQS, for example, the SO<sub>2</sub> NAAQS is an hourly standard. That's why there are hourly limits on, for example, the Edwards plant." *See, Id.* at page 151.

Based on the above, the Agency does not believe additional testimony regarding potential health impacts is needed in this matter. If the Board has further questions regarding the impact of these proposed rule amendments on the NAAQS, the Agency can address them at the next hearing.

Question: Does Dynegy, IEPA, or any other participants plan to address the potential health concerns raised by numerous public comments, both oral and written, that have been addressed to the Board?

**Response: Yes, the Illinois EPA will be addressing these concerns in its responses to questions, as well as additional information requested, from the January hearings, which is required to be filed by February 16, 2018. The Agency will demonstrate that many of the comments about air quality near Dynegy's plants are simply incorrect.**

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

/s/ Gina Roccaforte  
Gina Roccaforte  
Assistant Counsel  
Division of Legal Counsel

Dated: February 6, 2018

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STATE OF ILLINOIS                    )  
  )  
COUNTY OF SANGAMON            )  
  )  
  )

SS

**CERTIFICATE OF SERVICE**

I, the undersigned, an attorney, state the following:

I have electronically served the attached ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S RESPONSES TO HEARING OFFICER ORDER upon the persons on the attached Service List.

My e-mail address is [gina.roccaforte@illinois.gov](mailto:gina.roccaforte@illinois.gov).

The number of pages in the e-mail transmission is 6.

The e-mail transmission took place before 5:00 p.m. on February 6, 2018.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

/s/ Gina Roccaforte  
Gina Roccaforte  
Assistant Counsel  
Division of Legal Counsel

Dated: February 6, 2018

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