

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>ILLINOIS POWER GENERATING COMPANY</b>	)	
<b>(COFFEEN POWER STATION),</b>	)	
	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>PCB 18-82</b>
	)	<b>(NPDES Permit Appeal)</b>
<b>ILLINOIS ENVIRONMENTAL PROTECTION</b>	)	
<b>AGENCY</b>	)	
	)	
	)	
<b>Respondent.</b>	)	

**NOTICE OF FILING**

To: ALL PARTIES ON THE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the attached **RESPONSE TO RESPONDENT’S MOTION FOR EXTENSION OF TIME and WAIVER OF DECISION DEADLINE**, copies of which are herewith served upon you.

Respectfully submitted,

*/s/ Amy Antonioli*

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Dated: July 16, 2018

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>ILLINOIS POWER GENERATING COMPANY</b>	)	
<b>(COFFEEN POWER STATION),</b>	)	
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<b>Petitioner,</b>	)	
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<b>v.</b>	)	
	)	<b>PCB 18-82</b>
<b>ILLINOIS ENVIRONMENTAL PROTECTION</b>	)	<b>(NPDES Permit Appeal)</b>
<b>AGENCY</b>	)	
	)	
	)	
<b>Respondent.</b>	)	

**RESPONSE TO RESPONDENT’S MOTION FOR EXTENSION OF TIME**

On June 13, 2018, Petitioner Illinois Power Generating Company (“IPGC”) (“Petitioner”), pursuant to Section 40(a) of the Illinois Environmental Protection Act (“Act”) (415 ILCS 5/40(a)), and Section 105.200 *et seq.* of the Illinois Administrative Code (35 Ill. Adm. Code 105.200 *et seq.*), petitioned for review of Illinois Environmental Protection Agency’s (IEPA) decision to reissue a National Pollutant Discharge Elimination System (NPDES) permit to Coffeen Power Station on May 10, 2018 (Permit No. IL0000108).

On July 12, 2018, respondent IEPA moved the Illinois Pollution Control Board (Board) for “an extension of time to respond to petition for review of IEPA NPDES permit decision” and indicated that it did not object to IPGC’s request to operate under the 2018 modified permit. Petitioner IPGC responds as follows:

IPGC understands respondent’s request as seeking an extension to file the record of decision and nothing else. Pursuant 35 Ill. Adm. Code 105.116 respondent has 30 days after the filing of the petition for review to file the record. The Illinois Administrative Code does not grant a right to file a “response” to a petition appealing an NPDES permit nor does it require such

“response” be served within 30 days of the filing of a petition. To the extent, respondent seeks the right to respond to the petition, IPGC objects on the grounds that no such response is required.

Furthermore, to the extent respondent’s motion is construed as seeking additional time to respond to IPGC’s request that the Board allow it to seek a discretionary stay of the challenged permit condition at a later date, IPGC objects because it is well beyond the 14-day response period provided by 35 Ill. Adm. Code 101.500(d). IEPA waived its right to obtain an extension to respond to IPGC’s motion that seeks to operate under the 2018 modified permit and preserves the ability to request a discretionary stay of the challenged permit conditions at a later date.

IPGC does not object to respondent’s request to extend the deadline to file the record of decision.

Illinois Power Generating Company,

Respectfully submitted,

/s/ Amy Antonioli

Amy Antonioli

Dated: July 16, 2018

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<b>AGENCY</b>	)	
	)	
	)	
<b>Respondent.</b>	)	

**WAIVER OF DECISION DEADLINE**

NOW COMES Petitioner Illinois Power Generating Company, by and through its attorneys, Schiff Hardin LLP, pursuant to 35 Ill. Adm. Code 101.308(c)(2), hereby agrees to a waiver of the decision deadline for final action by the Illinois Pollution Control Board (“Board”) in this proceeding through January 17, 2019. In support of this waiver, Petitioner states as follows:

1. On June 13, 2018, Petitioner filed a Petition for Review of IEPA NPDES Permit Decision and Motion to Stay.
2. Illinois Power Generating Company challenges certain conditions of NPDES Permit No. IL0000108.
3. The current deadline for this matter is October 11, 2018.
4. Petitioner hereby voluntarily agrees to a limited waiver of the decision deadline through January 17, 2019.

WHEREFORE, Petitioner Illinois Power Generating Company requests that the Illinois Pollution Control Board accept this waiver of the decision deadline for final action on the Petitioner's Petition for Review.

Respectfully submitted,

/s/ Amy Antonioli

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Dated: July 16, 2018

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on this 16<sup>th</sup> day of July, 2018:

I have electronically served a true and correct copy of the attached **RESPONSE TO RESPONDENT'S MOTION FOR EXTENSION OF TIME and WAIVER OF DECISION DEADLINE**, on behalf of Illinois Power Generating Company, upon the persons on the attached service list;

My e-mail address is [aantonioli@schiffhardin.com](mailto:aantonioli@schiffhardin.com);

The number of pages in the e-mail transmission is 7.

The e-mail transmission took place before 5:00 p.m.

/s/ Amy Antonioli

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Amy Antonioli

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**SERVICE LIST**

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<p>Rex Gradeless Division of Legal Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794-9276 <a href="mailto:eps.dlc@illinois.gov">eps.dlc@illinois.gov</a></p>	<p>Division Chief of Environmental Enforcement Office of the Attorney General 100 West Randolph St., Suite 1200 Chicago, IL 60601 <a href="mailto:enviro@atg.state.il.us">enviro@atg.state.il.us</a></p>