

ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

In The Matter of:)	
)	
Proposed New 35 Ill. Adm. Code 225)	No. R06-25
Control of Emissions from)	(Rulemaking – Air)
Large Combustion Sources)	


NOTICE OF FILING

TO: See attached Service List

PLEASE TAKE NOTICE that on April 18, 2006, I filed with the Office of the Clerk of the Pollution Control Board, Kincaid Generation, L.L.C.'s RESPONSE TO ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S MOTION CONCERNING GUIDELINES AND FORMAT OF FIRST HEARING, a copy of which is herewith served upon you.

Respectfully submitted,

KINCAID GENERATION, L.L.C.

By: 

 One of its attorneys

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In The Matter of:

**Proposed New 35 Ill. Adm. Code Part 225
Control of Emissions from
Large Combustion Sources**

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)
) **R06-25**
) **(Rulemaking – Air)**
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**STATE OF ILLINOIS
Pollution Control Board**

**KINCAID GENERATION, L.L.C.'S RESPONSE TO ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY'S MOTION CONCERNING GUIDELINES AND FORMAT OF
FIRST HEARING**

NOW COMES KINCAID GENERATION, L.L.C. ("Kincaid"), by and through its attorneys, Jenner & Block, LLP, and hereby responds to Illinois Environmental Protection Agency's ("IEPA") Motion Concerning Guidelines and Format of First Hearing. Kincaid has no objection to the IEPA's order for examination of witnesses, but Kincaid objects to the four day schedule and to the request that outside expert witnesses be required to be present at the hearing only one day and be allowed to submit answers to additional questions through written testimony.

The IEPA has set out a four day schedule for the presentation and questioning of witnesses on ten different topics for the first hearing. This four day schedule is completely unworkable. The testifying witnesses will be presenting complex and contentious testimony about which both this Board and the numerous interested parties will ask questions. It is highly unlikely that the proposed four day schedule for the first hearing would allow sufficient time for the presentation and questioning of these witnesses. Such a schedule would limit the opportunity to fully question and analyze the facts and opinions that form the basis for the proposed rule.

The IEPA has also asked that outside expert witnesses be required to be present only on the appropriate topic day and, in the event "essential questions" arise at a later time, those witnesses be allowed to respond with written answers. Kincaid objects to this limitation and asks that witnesses

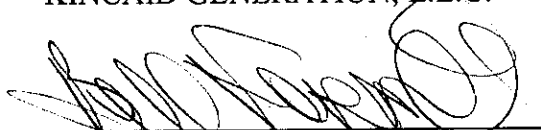
be asked to stay until all questions have been addressed. Kincaid and other interested parties as well as this Board should be given a full and fair opportunity to question any witnesses. Allowing witnesses to respond via written testimony restricts the ability of the questioning party to solicit complete answers as there is no opportunity to ask follow-up questions.

While Kincaid appreciates IEPA's concerns about the State's budgetary issues, this already expedited rulemaking process should not be further compacted. The proposal, if adopted, would have substantial and costly impacts on Kincaid's and similar electric generation stations operators' businesses and those entities should not have their already abridged rights to participate and protect their interests limited even more.

For the reasons stated above, Kincaid Generation, L.L.C. respectfully requests the IPCB adopt guidelines and a format for the first hearing that allows: at least nine days for presentations of all witnesses, including direct and cross-examination testimony; and for all witnesses to be asked to stay until all IPCB and interested party questions have been addressed.

Respectfully submitted,
KINCAID GENERATION, L.L.C.

by:



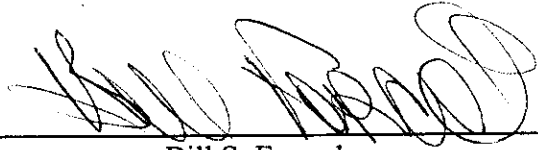
One of Its Attorneys

Dated: April 18, 2006

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CERTIFICATE OF SERVICE

I, Bill S. Forcade, an attorney, hereby certify that I served a copy of the foregoing document, via first-class mail, postage fully prepaid, upon the parties on the attached Service List this 18th day of April, 2006:

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Bill S. Forcade

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