

ILLINOIS POLLUTION CONTROL BOARD

November 6, 2006

IN THE MATTER OF: )  
 )  
PROPOSED NEW CAIR SO<sub>2</sub>, CAIR NO<sub>x</sub> ) R06-26  
ANNUAL AND CAIR NO<sub>x</sub> OZONE SEASON ) (Rulemaking – Air)  
TRADING PROGRAMS, 35 ILL. ADM. )  
CODE 225, CONTROL OF EMISSIONS  
FROM LARGE COMBUSTION SOURCES,  
SUBPARTS A,C,D and E

**HEARING OFFICER ORDER**

On May 30, 2006, the Board received a rulemaking proposal submitted by the Illinois Environmental Protection Agency (Agency) that proposes a new Part 225 to reduce intrastate and interstate transport of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) emissions from fossil fuel-fired electric generating units (affected units), on an annual basis and on an ozone season basis of each calendar year. The Agency proposes the adoption of the Clean Air Interstate Rule (CAIR) SO<sub>2</sub> trading program, the CAIR NO<sub>x</sub> Annual trading program and the CAIR NO<sub>x</sub> Ozone Season trading program to accomplish this objective.

**October 10, 2006 Hearing**

A hearing in this matter was held from October 10 through October 12, 2006, at the Illinois Environmental Protection Agency Office Building Training Room, 1214 West, 1021 North Grand Avenue East, North Entrance, in Springfield. A second hearing has been noticed to commence at 9:00 a.m. on November 28, 2006 at the James R. Thompson Center, Room 2-025, 100 West Randolph Street in Chicago.

At the first hearing, Rachel Doctors and John Kim appeared and participated on behalf of the Agency. Kathleen Bassi and Stephen Bonebrake appeared and participated on behalf of Dynegy Midwest Generation, Inc.; Midwest Generation, LLC; and Southern Illinois Power Cooperative. David Rieser appeared and participated on behalf of Ameren Energy Generating Company, Ameren Energy Resources Generating Company, and Electric Energy, Inc. Steven J. Murawski appeared and participated on behalf of Zion Energy, LLP. Faith E. Bugel appeared and participated on behalf of the Environmental Law and Policy Center. Bruce E. Nilles appeared and participated on behalf of the Sierra Club.

The Agency offered the testimony of Gary E. Beckstead, David E. Bloomberg, Roston Cooper, Rory Davis, Robert Kaleel, Yoginder Mahajan, James R. Ross, and Jacquelyn Sims at the first hearing. The complete transcript of the first hearing was received at the Board on October 17, 2006. Twenty-one exhibits were offered at the hearings. A summary of the exhibits offered at hearing and their disposition is contained in the attached exhibit list.

In compliance with the Americans with Disabilities Act and other applicable Federal and State laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact Dorothy Gunn, Clerk of the Board, at 100 West Randolph St., Suite 11-500, Chicago, Illinois 60601, at telephone number 312/814-6931, fax number 312/814-3669, or TDD number 312/814-6032, five days prior to the hearing.

The October 10, 2006 hearing also addressed the Board's June 28, 2006 request that the Department of Commerce and Economic Opportunity (DCEO) conduct an economic impact study for the rulemaking. No study was submitted by the DCEO, and no comments concerning the DCEO's decision not to perform a study were received at the hearing.

At the first hearing, the Agency was directed to provide comments or additional information on a number of issues. The Agency is directed to file its post-hearing comments on or before October 27th. The mailbox rule will not apply.

### **November 28, 2006 Hearing**

As stated, the second hearing is currently scheduled to begin on November 28, 2006. Please note that the start time of the hearing has been changed. The hearing will now commence at 1:00 p.m. on November 28, 2006, instead of the afore-noticed 9:00 a.m. The Board will post the appropriate notice at the hearing location on November 28, 2006. The change in start time will also be reflected on the Board's calendar at <http://www.ipcb.state.il.us>.

Any persons wishing to testify at the November 28, 2006 hearing must prefile the testimony and any related exhibits with the Board and serve the hearing officer and all persons on the service list no later than November 10, 2006. The mailbox rule will not apply. Persons may receive a copy of the service list by contacting the hearing officer or Nancy Miller at (217) 278-3109.

Anyone wishing to testify or submit an oral public comment is urged to prefile testimony to ensure the ability to testify. Persons who do not prefile, and those seeking to provide an oral public comment, will only be allowed to do so at the close of the prefiled testimony if time permits. As always, anyone may file a written public comment with the Board.

### **Additional Considerations**

The parties are directed to participate in a final pre-hearing telephone status conference on November 21, 2006, at 10:00 a.m. The Agency shall initiate the call. At that time, the parties must be prepared to address any final pre-hearing issues.

Once the public comment period expires, the Board will review the record and consider the proposal. Questions concerning the status of the rulemaking should be addressed to the hearing officer or Nancy Miller at (217) 278-3109.

IT IS SO ORDERED.

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John Knittle  
Hearing Officer  
Illinois Pollution Control Board  
2125 South First Street  
Champaign, Illinois 61820  
(217) 278-3109

**R06-26****Hearing of October 10, 2006 through October 12, 2006****Exhibit List**

Exhibit	Description	Status
Agency Exhibit 1	Errata Sheet	Admitted
Agency Exhibit 2	Testimony of James R. Ross	Admitted
Agency Exhibit 3	CAIR Overhead Presentation	Admitted
Agency Exhibit 4	Testimony of Robert Kaleel	Admitted
Agency Exhibit 5	10/06/06 Draft Summary of Potential Emission Reductions and Power Offsets	Admitted
Agency Exhibit 6	Testimony of Gary E. Beckstead	Admitted
Agency Exhibit 7	Testimony of Yoginder Mahajan	Admitted
Agency Exhibit 8	Testimony of Jacquelyn Sims	Admitted
Agency Exhibit 9	Testimony of Rory Davis	Admitted
Agency Exhibit 10	Testimony of David E. Bloomberg	Admitted
Agency Exhibit 11	CASA Overhead Presentation	Admitted
Agency Exhibit 12	Testimony of Roston Cooper	Admitted
Agency Exhibit 13	Electric Power Plant and Generating Unit Construction Project Listing	Admitted
Agency Exhibit 14	Output-Based Environmental Regulation Article	Admitted
Agency Exhibit 15	September 16, 2005 USEPA Draft Report	Admitted
Agency Exhibit 16	Alternative NO <sub>x</sub> Allowance Allocation Language	Admitted
Agency Exhibit 17	Resource Guide to Creating a State Emissions Allowance Set Aside Program	Admitted
Agency Exhibit 18	Compilation of Air Pollutant Emission Factors	Admitted
Agency Exhibit 19	Fluidized Bed Combustion Program Facts	Admitted
Agency Exhibit 20	Sample Allowance Calculations	Admitted
Midwest Generation Exhibit 1	Statewide Coal-Fired Electric Utilities Data	Admitted