

ILLINOIS POLLUTION CONTROL BOARD

August 23, 2007

IN THE MATTER OF:)
)
SECTION 27 PROPOSED RULES FOR) R07-19
NITROGEN OXIDE (NO_x) EMISSIONS) (Rulemaking - Air)
FROM STATIONARY RECIPROCATING)
INTERNAL COMBUSTION ENGINES AND)
TURBINES: AMENDMENTS TO 35 ILL.)
ADM. CODE PARTS 211 AND 217)

ORDER OF THE BOARD (by A. S. Moore):

On July 19, 2007, the Illinois Environmental Protection Agency (Agency) filed a motion to withdraw testimony (Mot.). Specifically, the Agency seeks to withdraw the testimony of Robert Kaleel, Yoginder Mahajan, Michael Koerber, and Scott Leopold. Mot. at 1.

In support of its motion, the Agency states that on May 11, 2007, it prefiled testimony regarding its rulemaking proposal entitled Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Section 201.146 and Parts 211 and 217 and docketed by the Board as R07-18. Mot. at 1. The Agency further states that, in addressing objections to considering that proposal under the “fast-track” procedures of Section 28.5 of the Environmental Protection Act (415 ILCS 5/28.5 (2006)), the Board bifurcated R07-18 and opened this docket. *Id.*

The Agency argues that, although the Board transferred the record in R07-18 into this docket, R07-19 is “more narrow in scope than the original docket” in which the Agency prefiled testimony from Messrs. Kaleel, Koerber, Leopold, and Mahajan. Mot. at 2. The Agency states that this prefiled testimony “concerns more than the issues addressed in the new docket R07-19.” *Id.* The Agency argues that withdrawing this testimony will result in a hearing more focused upon the relevant issues. *Id.* Finally, the Agency claims that granting the motion will not result in prejudice, as a hearing officer order dated June 15, 2007, requires filing testimony for the first hearing in this proceeding by August 27, 2007. *Id.*

Under Section 101.500(d) of the Board’s procedural rules, “[w]ithin 14 days after service of a motion, a party may file a response to the motion. If no response is filed, the party will be deemed to have waived objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion.” 35 Ill. Adm. Code 101.500(d). The Board notes that no participant in this proceeding has filed a response to the Agency’s motion to withdraw testimony. The Board grants the Agency’s motion and withdraws the testimony of Robert Kaleel, Yoginder Mahajan, Michael Koerber, and Scott Leopold. As the Agency has acknowledged in its motion, prefiled testimony for the first hearing in this docket must be filed no later than August 27, 2007.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 23, 2007, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board