

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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)	

NOTICE OF FILING

TO: Mr. John Therriault	Mr. Tim Fox
Assistant Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 West Randolph Street	100 West Randolph Street
Suite 11-500	Suite 11-500
Chicago, Illinois 60601	Chicago, Illinois 60601
(VIA ELECTRONIC MAIL)	(VIA ELECTRONIC MAIL)

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the **COMMENTS OF THE ILLINOIS MUNICIPAL ELECTRIC AGENCY**, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS MUNICIPAL ELECTRIC AGENCY,

By: /s/ N. LaDonna Driver
N. LaDonna Driver

Dated: June 9, 2008

N. LaDonna Driver
HODGE DWYER ZEMAN
3150 Roland Avenue
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CERTIFICATE OF SERVICE

I, N. LaDonna Driver, the undersigned, hereby certify that I have served the attached **COMMENTS OF THE ILLINOIS MUNICIPAL ELECTRIC AGENCY** upon:

Mr. John Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

via electronic filing and by depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois, on June 9, 2008; and upon:

Mr. Tim Fox
Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Rachel L. Doctors, Esq.
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via electronic mail on June 9, 2008.

/s/ N. LaDonna Driver
N. LaDonna Driver

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COMMENTS OF THE ILLINOIS MUNICIPAL ELECTRIC AGENCY

NOW COMES the Illinois Municipal Electric Agency (“IMEA”), by one of its attorneys, N. LaDonna Driver of HODGE DWYER ZEMAN, and submits the following post-hearing comments in the above-referenced matter:

On March 26, 2008, IMEA submitted the Pre-Filed Testimony of Kevin L. Wagner, who is the Director of Engineering at IMEA. Mr. Wagner testified at the April 9, 2008 Hearing in this rulemaking. IMEA submits these comments following the hearings on April 9, 2008 and May 7, 2008.

As discussed in Mr. Wagner’s pre-filed testimony, IMEA’s primary purpose is to provide for the wholesale electric power supply needs of its members, all of which are municipally-operated electric distribution systems within the State of Illinois. These systems are units of local government that own, operate and maintain the electric distribution system that serves their citizens. *See Pre-filed Testimony of Kevin L. Wagner at p. 2.*

Mr. Wagner pointed out in his pre-filed testimony that five member municipalities have generation that would be impacted by the Proposed Rule: Freeburg, Highland, Mascoutah, Waterloo and Winnetka. *See Pre-Filed Testimony of Kevin L. Wagner at p. 12.* Each of these communities holds Title V permits for their generation. *See Pre-Filed*

Testimony of Kevin L. Wagner at p. 5. IMEA also owns and operates five diesel engine generators, each with nameplate rating of 1825 kilowatts, that are located in the IMEA member communities of Highland and Waterloo and are currently permitted with the respective member's local generation. *See Pre-Filed Testimony of Kevin L. Wagner at p. 4.*

The member-owned units, along with the IMEA-owned diesels, are used in two ways. First, they are operated for economic reasons, which typically occurs during periods of peak summer demand. Since peak usage typically occurs less than 10% of the year, NOx emissions are minimal from operation of these units during periods of peak demand. Even when the member-owned units are not running, having them simply available to operate helps reduce the power supply cost for the members who would otherwise be at the mercy of a capacity market that is expected to experience a 6-fold price increase over the next five years. *See Pre-Filed Testimony of Kevin L. Wagner at pp. 5 and 6.*

Secondly, the member units can be used for system reliability and support in the event of a critical transmission or sub-transmission system outage. An example of system support is when one of the transmission system owners asks members to operate their units to help reduce the loading of transmission grid facilities or to keep system voltage at acceptable levels. Unacceptably low voltage can damage customer equipment and lead to a collapse of the power delivery system. *See Pre-Filed Testimony of Kevin L. Wagner at p. 6.*

These units are also particularly vital to members who are served radially by a single transmission line or transformer. Such members are subject to a total power

outage in their communities as a result of weather-related or other types of damage to the radial facilities. In some circumstances, a weather-related transmission outage can stretch for days or weeks. If a transmission equipment failure involves a single substation transformer that supplies the member, the outage can sometimes extend several months. These lines and transformers must also be taken out of service periodically for routine maintenance. Under such circumstances, the local generation is the only means of providing power to the municipal system's customers. *See Pre-Filed Testimony of Kevin L. Wagner at p. 6.*

Similarly, members with limited capacity backup transmission lines may be required to run local generation for extended periods to prevent equipment overloads or low voltage during outages that affect their primary transmission feed. *See Pre-Filed Testimony of Kevin L. Wagner at p. 6.* As discussed by Mr. Wagner at the first hearing, four of the five members that would be impacted by the Proposed Rule have transmission circumstances such that a single outage would create difficulty in meeting load demands due to weak backup lines. In those circumstances, running local generation is critical to support voltage or prevent overloading of the backup facilities. *See Transcript of April 9, 2008 Hearing at pp. 45 and 46.*

Both economics and reliability are of critical importance to IMEA's members. IMEA's general concerns as to the Proposed Rule relate to the impact on available operation of the affected members' generating units, both because of their peaking use and most particularly because of the members' concerns over their ability to operate for system support or during transmission outages.

One key provision of the Proposed Rule that addresses these concerns is Section 217.388(c). This section allows units that would otherwise be subject to the Proposed Rule's emission requirements to be in compliance with the Proposed Rule if they are operated as low usage units. Low usage units are defined in one of two ways. First, low usage units may take a collective federally enforceable emission limit of 100 tons per year of NOx. Units that qualify for an exemption from the Proposed Rule's requirements and units that are complying with the Proposed Rule's emission requirements are not counted under this emission limit. This was confirmed by Robert Kaleel at the first hearing. *See Transcript of April 9, 2008 Hearing at p. 20.* Second, reciprocating engines may take a federally enforceable limit of 8 million brake horsepower-hours annually in the aggregate and turbines may take a federally enforceable limit of 20,000 Megawatt-hours annually in the aggregate. This second low usage option allows a site with both reciprocating engines and turbines to operate the reciprocating engines up to the 8 million brake horsepower-hours limit and the turbines up to the 20,000 Megawatt-hours annual limit and still be considered low usage units. This was confirmed by Robert Kaleel at the first hearing. *See Transcript of April 9, 2008 Hearing at pp. 20-22.*

IMEA must note that while the low usage provision is an important compliance option, it will, in some cases, impose severe restrictions upon the members' units as currently permitted. Many of the IMEA members' units, particularly the older units, will be forced to operate as low usage units, because it is economically not feasible to modify these units to comply with the emission requirements of the Proposed Rule, particularly given that these units operate sporadically. *See Pre-Filed Testimony of Kevin L. Wagner at pp. 8 and 9.* Mr. Wagner explained, at the first hearing, that each of the members that

would be impacted by the Proposed Rule has units that would likely exceed the Proposed Rule's emission standards. *See Transcript of April 9, 2008 Hearing at p. 47.* As set forth in some detail in Mr. Wagner's pre-filed testimony, even with the low usage option, certain members' capacity may have to be reduced to below 3%. *See Pre-Filed Testimony of Kevin L. Wagner at pp. 9 and 10.*

IMEA has expressed concern that this cut in capacity may have dire consequences in the rare circumstance that a low usage limit would need to be exceeded in response to an emergency situation. Such an emergency would include interruptions of wholesale power deliveries from the transmission grid due to natural disasters, system maintenance or other events beyond the control of the member. *See Pre-Filed Testimony of Kevin L. Wagner at p. 11.*

This concern has been addressed by Section 217.392(c), which provides that any affected unit may, under certain circumstances specified in the Proposed Rule, use NOx allowances to meet the compliance requirements in Section 217.388. This option is available to IMEA's members in the event such member is required to operate in exceedance of its emission limits or its annual low usage limits due to a system emergency, and the NOx allowance provision has not been utilized for more than two events in any rolling five-year period. The NOx allowance provision may be utilized for low usage units that are under the 100 ton/year NOx emission limit, as well as those units utilizing the low usage operating hours limits. For those units using the operating hours low usage limits, the hours exceedance would be converted to a corresponding amount of NOx emissions that may then be compensated for in NOx allowances.

The NOx allowance component is crucial for IMEA's members to maintain system reliability. The low usage compliance option would simply not be workable without the NOx allowance provision. IMEA's members would not be able to limit their units under the low usage designation without the flexibility to operate as needed in an emergency situation. Further, the NOx allowance option inherently assures that any impact caused by the limit exceedance is addressed by retiring the corresponding amount of emissions from the NOx allowance market. *See Pre-Filed Testimony of Kevin L. Wagner at pp. 11 and 12.*

There was some discussion at the first hearing regarding the use of NOx allowances in this context, specifically as to local controls versus regional reductions. *See Transcript of April 9, 2008 Hearing at pp. 52-54.* Note that the Proposed Rule does not rely on NOx allowances for required reductions. In other words, purchasing or holding NOx allowances is not a compliance option under Subpart Q, as affected sources must either meet emission limits on a unit basis, average units together to meet collective emission limits, or accept a low usage emission or operating hour cap. Rather, Proposed Section 217.293(c) simply provides a mechanism to compensate for infrequent difficulties with the Proposed Rule's emission or operating hour limits.

In addition, even where sources participate in NOx trading as a primary compliance tool, USEPA has stated that such an approach may satisfy NOx RACT requirements. *See Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard; Final Rule, 70 Fed. Reg. 71656-71658 (November 29, 2005).* *See also Phase 2 of the Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard – Notice of Reconsideration, 72 Fed. Reg. 31730-31737 (June 8, 2007),*

wherein USEPA stated that the term “reasonable” in “RACT” “may be construed to allow consideration of the air quality impact of required emissions reductions from region-wide cap-and-trade programs such as the CAIR NOx trading program.” *72 Fed. Reg at 31730*. Thus, merely utilizing NOx allowances, even regionally, as compensation for infrequent exceedances of the Proposed Rule’s control requirements, should not run afoul of the RACT concept.

Mr. Wagner’s pre-filed testimony documented the historically low average NOx emissions from IMEA’s members. *See Pre-Filed Testimony of Kevin L. Wagner at p. 12*. Though IMEA’s actual peaking generator usage may be very low, the critical reliability concerns that directly affect the health and safety of IMEA’s member communities make it essential that those communities nonetheless maintain the ability to operate, and subsequently emit NOx, for much greater periods of time during critical outages. Consequently, provisions for low usage designations, and the use of NOx allowances if unforeseen circumstances occasionally require exceedances of limits, are considered to be absolutely essential to any Rule under which IMEA’s members could operate.

IMEA has not challenged the Illinois Environmental Protection Agency’s (“IEPA”) approach for this Proposed Rule, either in terms of applicability, control requirements or projected compliance costs. IMEA’s position in this regard is based solely on the ability of its members to comply with the Proposed Rule via Sections 217.388(c) and 217.392(c). IMEA strongly urges the Illinois Pollution Control Board to retain these provisions, as proposed by IEPA, when proceeding to First Notice.

We appreciate the opportunity to participate in this proceeding.

Respectfully submitted,

By: /s/ N. LaDonna Driver
N. LaDonna Driver

Dated: June 9, 2008

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