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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
December 23, 2008

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)

HEARING OFFICER ORDER

In an opinion and order dated September 16, 2008, the Board proposed amendments to its regulations governing emission of nitrogen oxides (NO_x) (35 Ill. Adm. Code 201, 211, 217) for first-notice publication in the *Illinois Register*. The first-notice proposal was based on an amended proposal filed by the Illinois Environmental Protection Agency (Agency) on December 20, 2007. The proposal appeared in the *Illinois Register* on October 31, 2008. See 32 Ill. Reg. 17035-17104. Under the Illinois Administrative Procedure Act, publication of the proposed amendments began a public comment of at least 45 days. 5 ILCS 100/5-40(b) (2006); 35 Ill. Adm. Code 102.604.

On December 12, 2008, the Illinois Municipal Electric Agency (IMEA) and the Illinois Environmental Regulatory Group (IERG) filed an "Agreed Motion for Extension of Time" to file comments on the Board's first-notice proposal (Mot.). After noting that the 45-day comment period could end as early as Monday, December 15, 2008, IMEA and IERG state that they have been consulting with the Agency and the pipeline participants in this proceeding in order to resolve issues relating to the Board's proposal for first notice. See Mot. at 1. The motion indicates that they

hope to be able to reach agreement on these issues so that they may file a joint comment. The Parties have made significant progress to that end, but require additional time to finalize agreed-upon language and prepare a joint comment. *Id.*

Specifically, the motion requests that the First Notice comment period be extended to January 31, 2009. *Id.* at 2. In addition, the motion states that counsel for the Agency and the pipeline participants "have reviewed and consented to the contents of this Motion." *Id.* Finally, the motion also states that the Agency and the pipeline participants waive any response. See *id.*

Section 101.500(d) of the Board's procedural rules provide that,

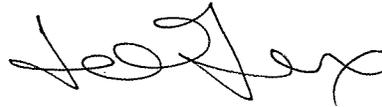
[w]ithin 14 days after service of a motion, a party may file a response to the motion. If no response is filed, the party will be deemed to have waived objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion. Unless undue delay or

material prejudice would result, neither the Board nor the hearing officer will grant any motion before expiration of the 14 day response period except in deadline driven proceedings where no waiver has been filed. Parties may request that the Board grant more time to respond by filing a motion for extension of time.

The 45-day First Notice comment period in this proceeding could conclude as soon as December 15, 2008. The motion for extension filed by IMEA and IERG indicates that the Agency and the pipeline participants agree that the comment period should be extended to January 31, 2008. Mot. at 2. The motion also notes that the Agency and pipeline participants waive any response. *Id.* Accordingly, allowing the 14-day response period to run would result in undue delay.

The motion for extension filed by IMEA and IERG is granted. Because January 31, 2009 falls on a Saturday, the first notice comment period in this proceeding is extended to Monday, February 2, 2009.

IT IS SO ORDERED.



Timothy J. Fox
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, Illinois 60601
312-814-6085
foxt@ipcb.state.il.us