

ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
NATURAL GAS-FIRED, PEAK-LOAD) R01-10
ELECTRICAL POWER GENERATING)
FACILITIES (PEAKER PLANTS))

COMMENT OF COMMONWEALTH EDISON COMPANY

Commonwealth Edison Company (“ComEd”), by its attorneys, Hopkins & Sutter, submits these comments to the Board regarding its inquiry into peaker plants.

The record accumulated in this docket supports the current regulatory scheme. Significant departure from the present environmental and siting laws is unwarranted based on the facts, and could have negative effects on electric consumers in Illinois.

Summary of ComEd’s Comments

ComEd supports the restructuring of the electric industry as crafted by the Illinois Legislature and the Federal Energy Regulatory Commission. ComEd believes that, as designed by the Illinois Legislature, a free market for electric generation will lead to ample capacity at reasonable prices. A critical feature of restructuring is the availability of new privately developed electric generation to meet the State’s increasing demand for power. No longer will the customers of a utility be at risk that too much generation will be built, resulting in high rates based on the cost of building it.

While the market now determines what generation is needed, the regulatory scheme currently in effect assures compliance with current and upcoming state and federal environmental requirements. Using their zoning authority, local governments possess substantial control over the process of siting non-utility generation. Using these established regulatory schemes, some plants proposed in Illinois have been approved and are now operating, while others have been rejected.

New or more stringent regulation is not warranted, would interfere with the market-based approach envisioned by the Legislature, and would likely have a negative effect on the State's generation capacity.

California's model for restructuring is significantly different from Illinois' model. Whereas California has maintained tight regulatory control over wholesale prices and the approval of new generation, Illinois has allowed prices in a free market to determine what generation needs to be built. California's experience this summer, in which demand has continued to grow while generation capacity has not, supports the view that the market should be allowed to operate in Illinois as the Illinois Legislature intended.

ADDITIONAL PEAK GENERATING CAPACITY IS GOOD FOR ILLINOIS

As the testimony of a number of witnesses revealed, peak load – the amount of electricity used when demand is at its highest point – is increasing substantially from year to year. (Fisher, p. 4; Tr. 298-301; see Bulley, p. 1). Because electricity cannot be stored, and must therefore be generated at the instant it is demanded, there must be enough generating capacity available to meet the peak load. (Juracek/Naumann, p. 3).

It makes economic sense for a substantial portion of the generating capacity to be peaker capacity. (Juracek/Naumann, p. 4). Peak demand, or demand approaching the peak, only happens a handful of days per year. Base load plants are very expensive to build, and only make economic sense if there is sufficient demand to allow them to run continuously. What is needed for peak conditions are peaker plants that do not cost as much to build, so that they can economically be run only so many hours per year. (Id.)

It is important for Illinois citizens and consumers that many of these new peaker plants be located in Illinois, or, more specifically, located so as to connect directly to the transmission grid of Illinois utilities. There are three key reasons why this is so:

1. Illinois peakers will benefit Illinois consumers. Electric rates in Illinois are temporarily frozen during a transition to a restructured electric market. 220 ILCS 5/16-111(a). However, as the price of electricity in the future depends increasingly on market forces, keeping prices down in the face of increased demand requires more generation, and generation by a diverse group of electric producers. A large number of sellers with ample amounts of power to sell, directly connected to an Illinois utility's transmission grid, will keep the price of electric power from jumping rapidly. (Juracek/Naumann, p. 9).
2. Illinois peakers promote reliability. Local generation helps support voltage on the system, especially near the generator. ComEd studied its system and found a number of locations in Illinois where new generation would be a particular benefit to ComEd and its customers. (Juracek/Naumann, pp. 10-11). Moreover, the closer a generation source is to the load, the fewer potential problems there are with transmitting the power. If transmission lines become unavailable or overloaded, having local generation could allow nearby customers to remain energized. (Juracek/Naumann, p. 9). If the generation is distant, it may need to travel across numerous transmission systems with different owners and operators. (Id.)

3. Distant peakers are not just as good. There was some uninformed discussion in the hearings that Illinois could rely on peakers built in other states, and merely transmit the power here. That view ignores the principles of power transmission and the reality that the interstate transmission grid evolves slowly. As a matter of physics and prudent operation, only so much power can be transmitted through a given line; at some point, to keep the lines from overloading, a transmission owner must turn down requests to transmit more power or curtail other transactions. The North American Electric Reliability Council and its regional member councils, such as the Mid-American Interconnected Network (MAIN), have rules and guidelines that prevent reliability-threatening overloads. Because the lines connecting neighboring utilities and neighboring states in the Midwest, like all transmission lines, have finite capacity, there have already been numerous instances on which transmission requests were denied. (Juracek/Naumann, p. 9) This is especially true during peak load conditions. It is therefore incorrect that either Illinois can depend heavily on generation in other states, or that Illinois-based generation will be used to supply huge amounts of load in other states. Unless or until massive new transmission line projects redefine the transmission grid, this condition will remain for the foreseeable future. (Tr. 294-95). And, regardless of interstate transmission availability, distant generation cannot support voltage on the local system to the same extent that local generation can.

Accordingly, absent legitimate environmental concerns that are going unaddressed, the Board should not recommend actions that could affect the reliable and economic delivery of electric power in the state.

**ENVIRONMENTAL REGULATION SHOULD NOT
UNDULY INHIBIT AND FRUSTRATE THE POWER
MARKET DEVELOPED BY THE LEGISLATURE**

The Illinois Legislature in the Electric Service Customer Choice and Rate Relief Law of 1997 made the decision to break from the traditional method of the generation and sale of electric power. Under the new legislative scheme, alternative suppliers may sell power to customers in competition with utilities. (Juracek/Naumann, p. 7). Pursuant to federal law, a utility must transmit power for others pursuant to a tariff, on an open-access, non-discriminatory basis, assuring that new generating sources will be able to move and sell their power. Utilities like ComEd can focus on power delivery, not generation, and leave generation (and its inherent investment risks) to private companies. Significantly, in recognition of this new paradigm, the Illinois Legislature explicitly removed the Illinois Commerce Commission's power to direct a utility to build additional generation. 220 ILCS 5/8-503 (1997). Rather, the Legislature has entrusted the emerging free market for electric power to cause the appropriate amount of new generation to be built.

This scheme will not function as the Legislature intended, and the citizens of Illinois will be affected negatively, if Illinois' environmental regulatory scheme is changed unreasonably. While ComEd is certainly not opposed to the application of appropriate environmental laws and regulations to peaker plants, like any other facilities, the Board must realize that restrictions on peaker plants will reduce the supply of electricity generated and available to consumers. Unduly ratcheting up the standards without a proven need would not be good for Illinois.

THE BOARD SHOULD ADDRESS THE GOVERNOR'S SPECIFIC QUESTIONS

The purpose of this docket is to seek answers to five questions posed by the Governor. The first three questions have a common theme: are peaker plants different from other industrial facilities in Illinois so as to require more stringent regulation? The answer, based on the record the Board has developed, is absolutely not. As the record demonstrates, especially through testimony by IEPA and various independent power producers, a well-designed peaker plant easily complies with all applicable federal and state environmental requirements and poses no significant environmental threat to the surrounding community. (Romaine, pp. 13, 24-25, Zak, pp. 3, 6; Kaleel, p. 13; Tr. 58, 115, 234-35). Just like other industrial facilities that produce important products, peaker plants have the potential to emit air pollutants, noise, and use water, and may not be suitable for a residential neighborhood if not regulated by appropriate health-based requirements. Just like other industrial facilities, their product may be consumed locally and may also be shipped elsewhere. However, adequate environmental standards do exist for these pollution sources, which increase in stringency depending on the size and location of the proposed source. (Romaine, p. 13). Application of those standards and numerous new more stringent regulations will well protect the public.

The IEPA, with USEPA's concurrence, has clearly demonstrated that it can determine whether the plants meet the established environmental standards. (Romaine, pp. 16-17 and IEPA Ex. 3). Indeed, based on ample testimony in the record, it appears that peaker plants often meet the standards by a substantial margin. (E.g., Romaine, p. 13; Tr. 234-35). This record does not support new, burdensome regulation. The answer to the first two questions is “no,” Illinois does not need special regulations as to peakers, and they do not pose a unique threat.

As to siting the new peaker plants, the current system is clearly working, so the answer to the third question is also “no.” The market and the existing transmission grid determines where developers propose new plants – places where the power can flow over the grid to customers, making a location profitable. (Juracek/Naumann, p. 10). However, unlike a state-regulated public utility, a private developer must fit its new plant into the zoning and siting scheme of the neighborhood it chooses. Municipalities are well aware of how to use their zoning power to locate industrial facilities where they will not adversely or unfairly affect other land uses, and have substantial discretion to grant or deny zoning changes or variances. For this reason, some plants have obtained approval, while numerous other plants have been turned down. (The latest example: since the first hearings before the Board in this docket, the Board of Trustees of the Village of Libertyville rejected a zoning request for a new peaking plant.) So, the current situation does not demand an overhaul of the siting mechanism. Certainly, a time-consuming, expensive, bureaucratic process would discourage independent power from locating in Illinois. (Juracek/Naumann, p. 11).

The fourth question in this inquiry hearing, regarding the retroactive application of new regulations, need not be answered directly because no new regulations are needed. However, as discussed by the Agency witnesses, retro-fitting equipment is terribly expensive, and would be unfair considering that the facilities met the regulations pursuant to which they were permitted. (Zak, p. 5). Further, certain existing plants may already be subject to new stricter control requirements pursuant to USEPA's recently promulgated regulations.

The record contains ample information to answer the fifth question, what other states are doing: different states take different approaches. (Responses to IPCB Questions to Charles Fisher, Answer No. 4). Some states use a similar system to

Illinois. Others have adopted a more state-led approach to siting, replacing local zoning. The record reflects that in California, a slow bureaucratic process has kept construction of independent power plants to a minimum even though the electric industry has been restructured. (Tr. 293-94). The results in California this past summer – insufficient generation to keep prices stable – suggest that this model is one to avoid. As noted above, ComEd believes that the current system in Illinois has an appropriate balance that works to increase generation while protecting communities and the environment. (Juracek/Naumann, p. 12; Tr. 292-93).

Based on the foregoing, ComEd urges the Board to answer the Governor's questions in accordance with the record here, and to avoid new, unwarranted, and burdensome requirements that will not be in the public interest.

Respectfully submitted,

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COMMONWEALTH EDISON COMPANY

By: _____
One of its attorneys

Christopher W. Zibart
Hopkins & Sutter
70 West Madison Street
Chicago, Illinois 60602-4205
(312) 558-6600
czibart@hopsut.com

Sharon M. Neal
Commonwealth Edison Company
125 South Clark Street
Post Office Box 767
Chicago, Illinois 60690-0767
sharon.neal@exeloncorp.com

CERTIFICATE OF SERVICE

I, Christopher W. Zibart, hereby certify that a copy of Comment of Commonwealth Edison Company was served upon Hearing Officer Amy L. Jackson at the Illinois Pollution Control Board, 600 South Second Street, Suite 402, Springfield, IL 62704 by overnight Federal Express and e-mail on November 6, 2000.

Christopher W. Zibart

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