

ILLINOIS POLLUTION CONTROL BOARD  
June 7, 2012

AMEREN ENERGY RESOURCES, )  
)  
Petitioner, )  
)  
v. ) PCB 12-126  
) (Variance - Air)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

ORDER OF THE BOARD (by J.A. Burke):

On May 3, 2012, Ameren Energy Resources (Ameren) filed a petition for a variance (Petition) from the sulfur dioxide (SO<sub>2</sub>) emission rate provisions of the multi-pollutant standard (MPS) applicable to the Ameren MPS Group. The Ameren MPS Group includes the following electric generating coal-fired power plants located in downstate Illinois: the Coffeen Energy Center located in Montgomery County, the Duck Creek Energy Center located in Fulton County, the E.D. Edwards Energy Center located in Peoria County, the Joppa Energy Center located in Massac County, the Hutsonville Energy Center located in Crawford County, the Meredosia Energy Center located in Morgan County, and the Newton Energy Center located in Jasper County. Pet. at 4-5. Ameren states that, as of January 2012, it generates electricity at five of these facilities, having ceased operation of the Meredosia and Hutsonville Energy Centers. *Id.* at 5. Ameren requests a variance

from both the 2015 and 2017 sulfur dioxide emission rate provisions of the Illinois Multi-Pollutant Standard (MPS), 35 Ill. Adm. Code § 225.233, specifically the SO<sub>2</sub> emissions standards set forth in Section 225.233(e)(3)(C)(iii) and (iv). Pet. at 1.

Ameren seeks relief from Section 225.233(e)(3)(C)(iii) for five years beginning January 1, 2015, and ending December 31, 2019, and relief from Section 225.233(e)(3)(C)(iv) for four years, beginning January 1, 2017, and ending December 31, 2020. Pet. at 1.

Ameren seeks additional time to comply with the 2015 and 2017 SO<sub>2</sub> emission rates because,

among other things, declining power market prices have resulted in an insufficient cash flow necessary to finance and maintain the construction completion schedule of flue gas desulfurization (FGD) equipment at the Newton Energy Center (Newton FGD Project) in time to meet those rates. By seeking relief now, which is critical from a timing standpoint, [Ameren] will conserve cash flow and stave off draconian operational measures with the hope that stability will eventually

return to the marketplace thereby allowing the completion of the Newton FGD project. Pet. at 1-2.

The Environmental Protection Act requires the Illinois Environmental Protection Agency (Agency) to provide public notice of a variance petition, including notice by publication in a newspaper of general circulation in the county where the facility is located within 14 days after the petition is filed. 415 ILCS 5/37(a) (2010); 35 Ill. Adm. Code 104.214. The Agency is also required to file its recommendation on the variance with the Board within 45 days after the filing of the petition, or at least 30 days prior to a scheduled hearing, whichever is earlier. 35 Ill. Adm. Code 104.216. Ameren's petition was filed on May 3, 2012. Therefore, newspaper notice was required by Thursday, May 17, 2012. The Agency filed a certification of publication on May 22, 2012. As indicated by the Agency, newspaper notice was provided in the *Newton Press-Mentor* (Jasper County) on May 10, 2012; the *Canton Daily Ledger* on May 11, 2012 (Fulton County); the *Jacksonville Journal-Courier* on May 11, 2012 (Morgan County); the *Robinson Daily News* on May 11, 2012 (Crawford County); the *Peoria Journal Star* on May 11, 2012 (Peoria County); the *Hillsboro Journal-News* on May 14, 2012 (Montgomery County); and the *Metropolis Plan* on May 16, 2012 (Massac County). The Agency recommendation is currently due Monday, June 18, 2012, which is the first business day following the 45th day after the filing of the petition. Within 14 days after service of the Agency's recommendation, Ameren may file a response to the Agency recommendation or an amended petition. 35 Ill. Adm. Code 104.220.

Ameren does not request a hearing because "a hearing is not necessary at this time." Pet. at 32. Ameren states, however, that once the Illinois Best Available Retrofit Technology (BART)/State Implementation Plan (SIP) is adopted as final, Illinois "must seek revisions to the SIP reflecting the terms of the variance" and that the "SIP revision process will require a public hearing." *Id.* Generally, the Board will hold a hearing on a variance petition (1) if the petitioner requests a hearing, (2) if the Agency or any other person files a written objection to the variance within 21 days after the newspaper notice publication, together with a written request for hearing, or (3) if the Board, in its discretion, concludes that a hearing would be advisable. 415 ILCS 5/37(a) (2010); 35 Ill. Adm. Code 104.224, 104.234. Based on the filings received, the Board concludes that a hearing is advisable in this case.

The assigned hearing officer is responsible for guiding the parties toward prompt resolution of this matter through whatever status calls and hearing officer orders she determines are necessary and appropriate. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/38(a)), which only Ameren may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Ameren may deem the requested variance granted for a period not to exceed one year. *See* 415 ILCS 5/38(a) (2010). Currently, the decision deadline is August 31, 2012. *See* 35 Ill. Adm. Code 104.232. The Board meeting immediately before the decision deadline is scheduled for August 23, 2012.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 7, 2012, by a vote of 5-0.

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.

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John Therriault, Assistant Clerk  
Illinois Pollution Control Board