



PCB#2412

August 10, 2012

Dear Illinois Pollution Control Board,

I am writing to ask that you deny Ameren's request for variance from the 2015 and 2017 SO₂ emission provisions of the Illinois Multi-Pollutant Standard (case PCB 2012-126). I have read Ameren's petition and attended its presentation to the board on August 1. Neither presented a reasonable justification for allowing the variance.

Ameren has had plenty of time to comply with the SO₂ provisions of the Multi-Pollutant Standard. Its requirements were agreed to by Ameren six years ago in 2006. Ameren's attempt to build a case that the standards now represent a hardship does not pass muster. The confluence of supposedly unforeseen events could only have been unforeseen by someone living in a cave. Natural gas prices have been declining steadily for several years now, with forecasts of price declines due to the upsurge in fracking preceding the actual price declines. Illinois' deregulated energy market is nothing new. The disparities between Illinois' environmental regulations and those of less progressive adjacent states existed at the time the agreement was signed. Practices such as piling coal ash in unlined pits have been under fire for years and concern about CO₂ emissions certainly predate the Multi-Pollutant Standard.

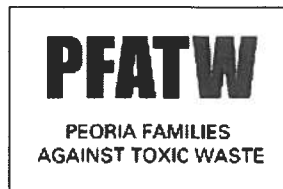
Half of the time industries point to regulatory uncertainty as the reason for delayed infrastructure investment. The other half of the time (and in this case) they have clearly spelled out regulations that somehow end up posing a financial burden as the time for compliance draws near. Electric utilities do sometimes require variances due to "black swan" events (such as the thermal discharge variance given earlier this year in response to the hottest summer on record), but this is not one of those times. None of the factors Ameren cites as coming together to create a "black swan" anomaly should have been unforeseen and I sincerely doubt Ameren was really caught by surprise.

Ameren has not satisfactorily demonstrated financial hardship as a result of the supposed "black swan" events either. In its second quarter 2011 earnings call, Ameren announced \$200 million of lower planned merchant generation capital expenditures. In its third quarter 2011 earnings call, Ameren announced the closure of the Meredosia and Hutsonville plants and the cancellation of the dry sorbent injection/bag house project at its Edwards plant, reducing capital expenditures by a further \$70 million. In its fourth quarter 2011 earnings call, the plans to decelerate pollution control work at Newton were announced, reducing expenses a further \$150 million. Where has this \$420 million gone?

In its fourth quarter, Ameren also, for the first time in many quarters, raised its dividend payout to shareholders. Its performance in 2012 has continued apace (and should get a further bump from the unusually hot summer) with noted stock analyst Jim Cramer's TheStreet blog commenting in June:

"TheStreet Ratings rates Ameren as a buy. The company's strengths can be seen in multiple areas, such as its largely solid financial position with reasonable debt levels by most measures and solid stock price performance. We feel these strengths outweigh the fact that the company has had sub par growth in net income."

Ameren has a complicated corporate structure of parent companies, generating plants, alternative rate energy suppliers and more. It is difficult to trace the cash flows through the various companies, and I don't believe it is the job of the Illinois Pollution Control Board or its staff to do so. It is Ameren's responsibility to clearly explain where its reported savings are going and why it is raising dividends



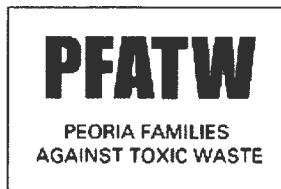
instead of making the pollution control investments it committed to in Illinois. It has addressed none of these issues in its petition or public presentations. Instead it talks about the difficulty of refinancing debt coming due, which is irrelevant to the variance request. Either Ameren already held the debt in 2006 when the agreement was negotiated or it secured the debt more recently, in which case it would have been well aware of its commitments under the Multi-Pollutant Standard.

It should be of further concern to the board that Ameren has scaled back on commitments to install updated pollution control technology at the Edwards plant in Bartonville. The Bartonville plant is one of the oldest and dirtiest in Ameren's fleet, and, unlike the other plants, it is close to a large metropolitan area that is struggling to stay out of air pollution non-attainment. The Ameren Edwards plant, located close to most of the poorest zip codes in Peoria County adds to the overall pollution burden in the southeast corner of the county. This area is enclosed by a hazardous waste landfill that has not yet closed and several significant generators of both criteria and hazardous air pollutants including the Keystone steel operations in Bartonville, the Caterpillar Mapleton foundry, the ADM plant in south Peoria and several chemical manufacturers south of Bartonville.

While I understand that the Multi-Pollutant Standard addresses pollution generated by Ameren's Illinois fleet as a whole, Ameren's attempt to decelerate pollution control upgrades across the entire fleet is twisting the intent of the standard. The closure of the Meredosia and Hutsonville plants allowed Ameren to take the pollution allowances for those plants and spread them across the remaining five plants in the fleet. This, coupled with a plan to "aggressively" run the scrubbers at Duck Creek and other facilities above rated capability, is a dangerous path. Effectively, Ameren is leaving its Illinois fleet with no excess pollution control capacity whatsoever. This will make compliance with future regulations nearly impossible and set up another round of jobs versus regulation posturing. As evidence by its failure to foresee the effects of falling natural gas prices, deregulation, etc., it is also doubtful that Ameren will foresee the effects of having no excess pollution control capacity.

On a personal note, I learned of Ameren's petition when it asked the Peoria County Board to sign a form letter supporting its request. I reviewed the materials submitted to the Peoria County Board and was dismayed at how vague Ameren's explanation of the situation was. The Edwards plant in Peoria County was at one time slated to receive updated pollution control equipment, a move praised as evidence of Ameren's commitment to cleaning up its aging, polluting facility on the border of some of the poorest areas in Peoria County. The upgrades to the Edwards plant were cancelled as a cost-saving move in late 2011, but nowhere did Ameren disclose that the pollution controls being delayed were at its Newton facility, not its Peoria County facility. Instead, local officials were left to infer that local pollution controls were being discussed. After in-person remarks by an Edwards plant manager failed to clarify the specifics of the variance, I spoke up. I shared the news of the cancellations announced in Ameren's fourth quarter earnings call and, perhaps in light of that information, the Peoria County Board's Tax and Legislative Issues Committee declined to endorse Ameren's petition. Had Ameren had been more forthright about the true situation in Central Illinois, I question whether other local mayors and government bodies would have been so quick to sign on in agreement with Ameren's request for a variance.

Ameren's (and every other electric utility's) recurring willingness to threaten local jobs when faced with any new regulation is tiresome. Ameren's failure to fully disclose how many pollution control upgrades have already been cancelled and how the reduction in pollution from closing plants elsewhere is the basis for its claims of pollution reduction is dishonest. These facts should undermine your confidence in any projections of hardship Ameren makes.



In the end, Ameren has chosen a course of "no investment." It has stopped or decelerated all pollution control work in the past few years. It indicated in its public testimony before you it intended to "aggressively" run existing pollution control equipment above recommended limits. By failing to invest in its facilities, it is clear that Ameren's focus is solely on its next quarterly earnings report. I truly feel for the many workers whose jobs are being used as pawns in Ameren's attempt to delay compliance with the standards. History shows over and over that any company without a long-term plan to invest in its facilities also lacks a plan for its workers' long-term job security. I believe the best way to safeguard these jobs is to bring the plants into compliance and build capacity to meet future regulations at the same time.

Ameren has reported numerous cost savings over the past year. Instead of being invested to meet the pollution standards it committed to, Ameren chose not to invest in its facilities and workers but to distribute dividends to shareholders. The aging, polluting Ameren facilities, Ameren workers and the people of Illinois should have been first in line to benefit from those savings. Ameren committed to the SO2 pollution controls in exchange for a delay in compliance with the mercury standards. It sets a bad precedent to allow Ameren to duck out of this agreement now. Illinois suffered additional mercury pollution with the promise of a payout of reduced SO2 emissions. Please deny this request and make sure the promises to the people are kept.

Sincerely,

A handwritten signature in black ink that reads "Tracy Meints Fox". The signature is written in a cursive, flowing style.

Tracy Meints Fox
Peoria Families Against Toxic Waste
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