



**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

EXELON GENERATION, LLC, )  
QUAD CITIES NUCLEAR GENERATION )  
STATION )  
 )  
Petitioner, )  
 )  
v. )  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

PCB 13-31  
(Variance-Water)

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JAN 30 2013  
STATE OF ILLINOIS  
Pollution Control Board

**MOTION FOR EXTENSION OF TIME**  
**TO FILE A RECOMMENDATION**

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency"), by and through its counsel, and pursuant 35 Ill. Adm. Code 101.522, hereby requests the Hearing Officer to grant the Illinois EPA a 45-day extension of time to file a recommendation in the above captioned proceeding. In support thereof, the Agency states as follows:

1. Exelon Generation, LLC ("Petitioner" or "Exelon") filed a Petition to Approve Alternative Thermal Standards pursuant to Section 316(a) of the Clean Water Act and 35 Ill. Adm. Code 304.141(c) on September 20, 2012. The petition sought relief from the thermal water quality standards and mixing zone requirements otherwise applicable in the Mississippi River found in 35 Ill. Adm. Code 302.102 and 303.331. The requested relief would have authorized the discharge of heated cooling water from Petitioner's Quad Cities Nuclear Generation Station as provided for in Section 316(a) of the federal Clean Water Act.

2. The Board docketed the initial petition as AS 13-1 and issued an opinion and order on October 18, 2012 directing petitioner to file an amended petition satisfying the

procedural requirements for adjusted standards by December 19, 2012 or the case would be dismissed. The Board also gave Exelon the option of filing for relief through a site-specific rulemaking proceeding.

3. On December 19, 2012 petitioner filed a petition for variance with the Board requesting relief from the same thermal and mixing zone requirements as the initial petition. No proof of service was filed with the December 19<sup>th</sup> petition, but on December 20, 2012 petitioner filed a certificate of service of the variance petition.

4. On January 10, 2013, AS 13-1 was dismissed. As of the date of the filing of this motion, the Board has not yet acted to accept Exelon's variance petition for hearing.

5. Illinois EPA submitted its certification of publication on January 11, 2013 pursuant to 35 Ill. Adm. Code 104.214(f). The certification of publication indicated that notice of the Exelon's variance petition was published in the *Moline Dispatch/Rock Island Argus* on January 9, 2013.

6. Under 35 Ill. Adm. Code 104.216 and 101.300, the Illinois EPA's recommendation is due on the first business day that occurs 45 days after the filing and service of the petition which is Monday, February 4, 2013.

7. It has been nearly two decades since a regulated entity has directly requested relief from the Board pursuant to Section 316(a) of the Clean Water Act. However, the Agency anticipates that Exelon will be the first of several Illinois utilities to bring such cases to the Board in the near future. As a result of the Board's holding that it lacks authority to hear petitions brought pursuant to 35 Ill. Adm. Code 304.141(c) and 316(a) of the Clean Water Act in the absence of procedural regulations applicable to such cases, the Agency has had to consider some complex legal and policy issues in this proceeding that may impact other facilities and future

proceedings. As a result, the 45-day time line has not been sufficient to develop a final Agency recommendation that takes these legal and policy considerations into account and has been reviewed by the appropriate management staff at the Agency.

8. On January 24, 2013, counsel for the Petitioner agreed to extend the deadline for the Agency's recommendation for an additional 45 days until March 20, 2013.

WHEREFORE, for the reasons stated herein, Illinois EPA respectfully requests that the Hearing Officer grant Illinois EPA's MOTION FOR EXTENSION OF TIME TO FILE A RECOMMENDATION, and order that the Illinois EPA's filing deadline is extended until March 20, 2013.

Respectfully Submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: 

Deborah J. Williams  
Assistant Counsel  
Division of Legal Counsel

Date: January 28, 2013  
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STATE OF ILLINOIS  
COUNTY OF SANGAMON

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Pollution Control Board

**PROOF OF SERVICE**

I, the undersigned, on oath state that I have served the attached Motion for Extension of Time to File a Recommendation upon the person to whom it is directed, by placing it in an envelope addressed to:

John Therriault, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

Alan P. Bielawski  
Jason E. James  
SIDLEY AUSTIN LLP  
One South Dearborn  
Chicago, Illinois 60603

Carol Webb, Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Ave East  
P.O. Box 19274  
Springfield, Illinois 62794-9274

and mailing it First Class Mail from Springfield, Illinois on January 28, 2013, with sufficient postage affixed.



SUBSCRIBED AND SWORN TO BEFORE ME

This 28<sup>th</sup> day of January 2013



Notary Public

