

ILLINOIS POLLUTION CONTROL BOARD
September 7, 2017

WM RENEWABLE ENERGY LLC (Property))	
Identification Number 02-05-.0-200-006),)	
)	
Petitioner,)	
)	
v.)	PCB 18-4
)	(Tax Certification – Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by B.K. Carter):

On August 14, 2017, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of WM Renewable Energy LLC (WM) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2016); 35 Ill. Adm. Code 125. WM’s recycling and disposal facility is located at 601 Madison Road in East. St. Louis, St. Clair County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that WM’s identified landfill gas fuel preparation facilities are pollution control facilities.

LEGAL FRAMEWORK

Under the Property Tax Code, “[i]t is the policy of this State that pollution control facilities should be valued, at 33 1/3% of the fair cash value of their economic productivity to their owners.” 35 ILCS 200/11-5 (2016); *see also* 35 Ill. Adm. Code 125.200(a)(2). “For tax purposes, pollution control facilities shall be certified as such by the Pollution Control Board and shall be assessed by the Department [of Revenue].” 35 ILCS 200/11-20 (2016); *see also* 35 Ill. Adm. Code 125.200(a). Under the statute, the Board determines if the facilities are pollution control facilities; however, the Board is not authorized to assess a value of those facilities.

Under Section 125.202 of the Board’s procedural rules, a person may submit an application for tax certification to the Agency. *See* 35 Ill. Adm. Code 125.202. If the Agency receives a tax certification application, the Agency must file with the Board a recommendation on the application, unless the applicant withdraws the application. *See* 35 Ill. Adm. Code 125.204(a). Among other things, the Agency’s filing must recommend that the Board issue or deny tax certification. *See* 35 Ill. Adm. Code 125.204(a)(4). If the Board finds “that the claimed facility or relevant portion thereof is a pollution control facility . . . , the Pollution Control Board . . . shall enter a finding and issue a certificate to that effect.” 35 ILCS 200/11-25 (2016); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from WM on May 1, 2017.¹ Rec. at 1. A revised application was submitted on June 29, 2017. *Id.* On August 14, 2017, the Agency filed a recommendation with the Board, attaching WM's revised application [(Rec. Exh. A). The Agency's recommendation identifies the facilities at issue as process-related equipment used in association with a landfill gas-to-energy operation. *Id.* at 2. The key parts of the fuel preparation process are described as follows:

Sulfur removal: inlet condensate sump, inlet coalescing separators, collection blowers, sulfur removal vessels, heat exchangers, liquid separator and first stage compressors.

Carbon dioxide removal: pressure swing adsorber and particulate filters/selective membrane stages.

Nitrogen gas removal: four pressure swing adsorber vessels, vacuum pump and compressors.

Final fuel preparation: aftercoolers and product compressors. Rec. at 2.

The Agency further describes the facilities:

The process-related equipment act collectively to remove impurities (i.e., water and particulates) from the landfill gases prior to distribution to the natural gas pipeline. In doing so, the processes act to prevent or reduce air pollution that would otherwise be emitted to the atmosphere. Rec. at 2.

The Agency recommends that the Board certify that the landfill gas fuel preparation process-related equipment are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2016)) with the "primary purpose . . . to prevent or reduce air pollution." Rec. at 3.

TAX CERTIFICATE

Based upon the Agency's recommendation, WM's application, and the Board's technical review, the Board finds and certifies that WM's landfill gas fuel preparation process-related equipment identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2016)). The Board makes no finding regarding the assessed value of those facilities. Under Section 11-25 of the Property Tax Code, the effective date of this certificate is "the date of application for the certificate or the date of the construction of the facility, which ever is later." 35 ILCS 200/11-25 (2016); *see also* 35 Ill. Adm. Code 125.216(a). Section 125.216(d) of the Board's procedural rules states that the Clerk "will provide the applicant and the Agency with a copy of the Board's order setting forth *the Board's findings and certificate, if any.*" 35 Ill. Adm. Code 125.216(d) (quoting in italics 35 ILCS 200/11-30 (2016)). The Clerk therefore will provide WM and the Agency with a copy of this order.

¹ The Agency's recommendation is cited as "Rec. at _."

IT IS SO ORDERED.

Section 11-60 of the Property Tax Code provides that any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification or restriction of a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate may appeal the Board's finding and order to the Circuit Court under the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (2016)). *See* 35 ILCS 200/11-60 (2016).

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 7, 2017, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive, flowing style.

Don A. Brown, Clerk
Illinois Pollution Control Board