

ILLINOIS POLLUTION CONTROL BOARD

November 2, 2017

SIERRA CLUB, PRAIRIE RIVERS)	
NETWORK, and NATIONAL)	
ASSOCIATION FOR THE ADVANCEMENT)	
OF COLORED PEOPLE,)	
)	
Complainants,)	
)	PCB 18-11
v.)	(Enforcement – Water)
)	
CITY WATER, LIGHT & POWER,)	
)	
Respondent.)	

ORDER OF THE BOARD (by K. Papadimitriou):

On September 27, 2017, Sierra Club, Prairie Rivers Network, and the National Association for the Advancement of Colored People (Environmental Groups) filed a complaint against the respondent, City, Water, Light & Power (CWLP), a municipal electric and water utility for Springfield, Illinois. The complaint concerns CWLP’s Dallman Station, a coal-burning power plant located on Lake Springfield in Springfield, Sangamon County. The complaint alleges CWLP violated Sections 12(a) and (d) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), (d) (2016)) and Sections 620.115, 602.301(a), and 620.405 of the Board rules (35 Ill. Adm. Code 620.115, 620.301(a), and 620.405) by causing water pollution through its coal ash disposal ponds, landfill, unconsolidated coal ash fill, and other coal ash and coal combustion waste depositories at Dallman Station.

In this order, the Board directs Environmental Groups to submit documentation of service required by the Board rules and addresses Gregory E. Wannier’s request to appear *pro hac vice*.

LACK OF DOCUMENTATION OF SERVICE

Under Section 101.304(d) of the Board’s rules, a party serving a document upon another party must file documentation of that service. 35 Ill. Adm. Code 101.304(d). Section 101.304(d) further provides that a proceeding is subject to dismissal if documentation of service is not timely filed with the Clerk. *Id.* Under Section 103.204(a), an enforcement proceeding commences by the service of a notice and complaint “by U.S. Mail with a recipient’s signature recorded, a third-party commercial carrier with a recipient’s signature recorded, or personal service upon all respondents and the filing of the notice and complaint with the Clerk.” 35 Ill. Adm. Code 103. 304(a). *See also* 35 Ill. Adm. Code 101.300(b) and (c), 101.302(h), and 101.304(c)(2).

On September 27, 2017, simultaneously with filing the complaint, the Environmental Groups filed a certificate of service, indicating that on September 27, 2017, the complaint, notice of electronic filing, and entry of appearances were served on CWLP by certified mail, return

receipt requested. Under Section 101.304(d)(2) of Board's rules, when the party is serving a document by U.S. mail, "the delivery confirmation containing the recipient's signature must accompany the document being filed with the Clerk." 35 Ill. Adm. Code 101.304(d)(2). If the delivery confirmation is not available when the document is filed with the Clerk, the filing party must provide such confirmation within seven days after it becomes available to the filing party. 35 Ill. Adm. Code 101.304(d)(2)(B).

The Board notes that no delivery confirmation has been filed with the Clerk as of the date of this order. The Board, therefore, directs the Environmental Groups to file the delivery confirmation containing recipient's signature by December 1, 2017. CWLP's answer to the complaint is due 60 days after it received the complaint, if CWLP wants to deny any allegations in the complaint. 35 Ill. Adm. Code 103.204(d).

REQUEST TO APPEAR *PRO HAC VICE*

On October 11, 2017, Gregory E. Wannier, staff attorney for Sierra Club, filed a request with the Board to appear *pro hac vice* on behalf of Sierra Club. Mr. Wannier's request indicates that he is licensed and registered to practice before the State Bar of California and submits his request pursuant to 35 Ill. Adm. Code 101.400(a).

Under Section 101.400(a)(3), no Board order is required for an out-of-state attorney to appear and no motion to appear *pro hac vice* is necessary. 35 Ill. Adm. Code 101.400(a)(3). However, the out-of-state attorney's appearance must include specific information required by Sections 101.400(a)(3)(A) and (B):

- A) A representation that the out-of-state attorney is in, and will maintain throughout the proceeding, compliance with Supreme Court Rule 707; and
- B) Identification of the active status Illinois attorney associated with the out-of-state attorney under Supreme Court Rule 707 and the date on which the active status Illinois attorney filed an appearance in the proceeding. *Id.*

The Board notes that Mr. Wannier's request does not include information required by Sections 101.400(a)(3)(A) and (B). The Board, therefore, directs Mr. Wannier to timely file such information to the Board.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 2, 2017, by a vote of 5-0.



Don A. Brown Clerk
Illinois Pollution Control Board