

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
)
AMENDMENTS TO) **R18-20**
35 ILL. ADM. CODE 225.233,) **(Rulemaking – Air)**
MULTI-POLLUTANT STANDARDS (MPS))

NOTICE OF FILING

To: ALL PARTIES ON THE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the attached **PUBLIC COMMENT #2 OF DYNEGY MIDWEST GENERATION, LLC, ILLINOIS POWER GENERATING COMPANY, ILLINOIS POWER RESOURCES GENERATING, LLC, AND ELECTRIC ENERGY, INC.**, copies of which are herewith served upon you.

/s/ Ryan Granholm

Ryan Granholm

Dated: November 16, 2017

Ryan Granholm
SCHIFF HARDIN LLP
233 South Wacker
Drive Suite 7100
Chicago, Illinois 60606
312-258-5500

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
)
AMENDMENTS TO) **R18-20**
35 ILL. ADM. CODE 225.233,) **(Rulemaking – Air)**
MULTI-POLLUTANT STANDARDS (MPS))

**PUBLIC COMMENT #2 OF DYNEGY MIDWEST GENERATION, LLC, ILLINOIS
POWER GENERATING COMPANY, ILLINOIS POWER RESOURCES
GENERATING, LLC, AND ELECTRIC ENERGY, INC.**

NOW COME Dynegy Midwest Generation, LLC, Illinois Power Generating Company, Illinois Power Generating, LLC and Electric Energy, Inc. (collectively, the “Companies”), by their attorneys, Schiff Hardin LLP, pursuant to 35 Ill. Adm. Code 102.108(a), and offer the following public comment in response to questions raised in Public Comment #4.

On November 2, 2017, the Companies received notification electronically of an e-mail communication sent to the Illinois Pollution Control Board (“Board”) and filed in this docket as Public Comment #4. The questions presented by Mr. Jonathan Eastvold, seemingly on behalf of all members of the Joint Commission on Administrative Rules (“JCAR”), are unusual from both a timing perspective as well as from a content perspective. Despite this, this comment provides the Board and JCAR with information responsive to Mr. Eastvold’s questions to aid in a more accurate assessment of the Illinois EPA’s rule proposal.

Mr. Eastvold first asks for additional data explaining how much of an increase in emissions each facility could have as a result of this rulemaking. Neither the current nor proposed form of the multi-pollutant standard (“MPS”) regulates emissions at the unit or facility level. Both regulate emissions at the system level thereby allowing emission fluctuations at each plant as long as the system rates in the case of the current MPS, or emission caps in the case of

the proposal, are met. Importantly, the amount of emissions that the system is allowed to emit, and therefore the magnitude of any potential increase in emissions, is *significantly lower* under the proposal than under the current MPS. For example, according to Illinois EPA as presented to the Board in its filing, the maximum emissions allowed under the current MPS are 32,841 tons per year of nitrogen oxide (NO_x) and 66,354 tons per year of sulfur dioxide (SO₂). Under the proposal, the maximum emissions allowed is 25,000 tons per year of NO_x and 55,000 tons per year of SO₂. Using Illinois EPA's numbers, the proposal results in lower allowable emissions of 7,841 tons per year of NO_x and 11,354 fewer tons per year of SO₂.¹ The reductions in allowable emissions serve to increase the level of environmental and public health protection. Although Mr. Eastvold does not ask, but as Illinois EPA explains in its technical support document, there are three additional provisions that provide further environmental protection. First, the Agency has imposed on all units that operate Selective Catalytic Reduction controls, called SCRs (a type of pollution control equipment), a requirement to both operate the SCRs year round and a requirement to meet a specific emission rate to further control NO_x emissions. The Joppa plant in southern Illinois also faces a newly-imposed requirement that places a specific emission cap on its operations. Again, all three of these requirements do not exist in the current rule.

In Mr. Eastvold's email, he also asks the Board to estimate the economic impact of "*these additional emissions.*" [emphasis added]. Again, this question is based upon the assumption, not supported by the current record that the rule proposal results in increased emissions. Again, it does not, and to ask the Board to perform any such economic impact assessment is not warranted. Relatedly, though, these plants do provide a considerable economic

¹ The Agency has also represented to the Board in its filing that after consultation, the USEPA represented it would likely approve the rule and indeed, would not have made that representation to the Illinois EPA if backsliding would occur under the revision.

value to the communities in which they operate, to the region and to the State of Illinois. Not only do they provide much needed tax revenue and financial support for the non-government and government entities alike, these plants provide communities outside Chicago with good paying jobs—jobs that may not otherwise exist but for the continuing operation of the plants.

Lastly,² Mr. Eastvold asks whether relaxing the SO₂ and NO_x restrictions result in any changes in carbon dioxide (CO₂) emissions. As already noted, the proposal does not relax the SO₂ and NO_x restrictions—the rule proposal actually tightens the restrictions. However, even more relevant to the question, the existing MPS, the provision of the rule that is the subject of the proposal, does not and was never intended to regulate CO₂ emissions. In fact, like many states, there are no regulations in the State of Illinois that do. Should the state of Illinois wish to regulate CO₂ emissions, there is both a legislative and rulemaking process available to allow for transparency, and the full and complete involvement of all those impacted.

The Companies hope this letter provides some useful information so JCAR may better understand the proposal. As JCAR is familiar with Board procedure, JCAR knows that the Board will hold hearings to gather information from the public and industry impacted, allow for public comment and will go to Second Notice only after considering the information gathered. However, if any party continues to have particular concerns regarding the actual impact of the Illinois EPA's rule proposal, we stand ready to respond accordingly.

² Mr. Eastvold also provides some citation suggestions and present a question regarding language usage (language that is found throughout the Illinois Environmental Protection Act) we will leave to the Board to address.

CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 16th day of November, 2017, I have electronically served the attached **PUBLIC COMMENT #2 OF DYNEGY MIDWEST GENERATION, LLC, ILLINOIS POWER GENERATING COMPANY, ILLINOIS POWER RESOURCES GENERATING, LLC, AND ELECTRIC ENERGY, INC.**, upon all parties on the attached service list.

My e-mail address is rgranholm@schiffhardin.com.

The number of pages in the e-mail transmission is 7.

The e-mail transmission took place before 5:00 p.m.

/s/ Ryan Granholm

Ryan Granholm

Ryan Granholm
SCHIFF HARDIN LLP
233 South Wacker
Drive Suite 7100
Chicago, Illinois 60606
312-258-5500

SERVICE LIST

<p>Don Brown, Assistant Clerk Don.brown@illinois.gov Mark Powell, Hearing Officer Mark.Powell@illinois.gov Marie Tipsord, Hearing Officer Marie.Tipsord@illinois.gov Illinois Pollution Control Board James R. Thompson Center Suite 11-500 100 West Randolph Chicago, Illinois 60601</p>	<p>Dana Vetterhoffer Dana.vetterhoffer@illinois.gov Gina Roccaforte Gina.roccaforte@illinois.gov Division of Legal Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue, East P.O. Box 19276 Springfield, Illinois 62794-9276</p>
<p>Eric Lohrenz Eric.lohrenz@illinois.gov Office of General Counsel Illinois Department of Natural Resources One Natural Resources Way Springfield IL 62702-1271</p>	<p>Andrew Armstrong aarmstrong@atg.state.il.us Office of the Attorney General 500 South Second Street Springfield, IL 62706</p>
<p>James Gignac jgignac@atg.state.il.us Stephen Sylvester, Assistant Attorney General ssylvester@atg.state.il.us 69 West Washington Street, Suite 1800 Chicago, IL 60602</p>	<p>Katy Khayat Katy.Khayyat@illinois.gov Department of Commerce and Economic Opportunity Small Business Office 500 East Monroe Street Springfield, IL 62701</p>
<p>Lindsay Dubin ldubin@elpc.org 35 East Wacker Drive, Suite 1600 Chicago, IL 60601</p>	<p>Greg Wannier, Staff Attorney Greg.wannier@sierraclub.org Sierra Club Environmental Law Program 2101 Webster Street, Suite 3100 Oakland, CA 94612</p>
<p>Faith Bugel fbugel@gmail.com Interested Party 1004 Mohawk Wilmette, IL 60091</p>	