

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

IN THE MATTER OF: )

COAL COMBUSTION WASTE )  
SURFACE IMPOUNDMENTS )  
AT POWER GENERATING )  
FACILITIES: PROPOSED NEW )  
35 ILL. ADM. CODE 841 )

R14-10  
(Rulemaking – Water)

**NOTICE OF FILING**

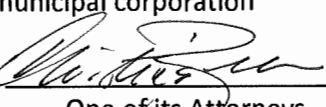
To: John T. Therriault, Clerk  
Tim Fox, Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph  
Suite 11-500  
Chicago, IL 60601

And Attached Service List

Please take notice that on July 3, 2014, I filed with the Office of the Clerk of the Illinois Pollution Control Board the attached **Motion for Leave to File Instantly and Response in Support of Illinois Environmental Protection Agency's Motion to Sever and Open Subdocket**, and nine (9) duplicate copies served with the Clerk, and one copy served upon each additional party listed on the Service List.

Respectfully submitted,

THE CITY OF SPRINGFIELD,  
a municipal corporation

By   
One of its Attorneys

Dated: July 3, 2014  
Christine G. Zeman  
Regulatory Affairs Director  
Office of Public Utilities  
800 East Monroe  
Springfield, Illinois 62757  
(217) 789-2116, Ext. 2628  
Email: [christine.zeman@cwlp.com](mailto:christine.zeman@cwlp.com)

## Service List

<b>Party Name</b>	<b>Address</b>	<b>City/State/Zip</b>
<b>Office of the Attorney General</b> <b>Interested Party</b> <ul style="list-style-type: none"> <li>Stephen Sylvester - Asst. Attny. Genl.</li> </ul>	69 West Washington Street, Suite 1800	Chicago IL 60602
<b>IEPA</b> <b>Petitioner</b> <ul style="list-style-type: none"> <li>Joanne M. Olson - Assistant Counsel</li> <li>James Jennings - Assistant Counsel</li> </ul>	1021 North Grand Avenue East P.O. Box 19276	Springfield IL 62794-9276
<b>Much Shelist PC</b> <b>Interested Party</b> <ul style="list-style-type: none"> <li>David Rieser</li> </ul>	191 North Wacker Drive Suite 1800	Chicago IL 60606
<b>McDermott, Will &amp; Emery</b> <b>Interested Party</b> <ul style="list-style-type: none"> <li>Mark A. Bilut</li> </ul>	227 West Monroe Street	Chicago IL 60606-5096
<b>Schiff Hardin, LLP</b> <b>Interested Party</b> <ul style="list-style-type: none"> <li>Amy Antonioli</li> </ul>	6600 Willis Tower 233 South Wacker Drive	Chicago IL 60606-6473
<b>Environmental Law and Policy Center</b> <b>Interested Party</b> <ul style="list-style-type: none"> <li>Faith E. Bugel</li> <li>Jessica Dexter</li> <li>Jennifer L. Cassel</li> <li>Andrew Armstrong</li> <li>Josh Zaharoff</li> </ul>	35 E. Wacker Drive Suite 1600	Chicago IL 60601
<b>Sierra Club</b> <b>Interested Party</b> <ul style="list-style-type: none"> <li>Jack Darin</li> </ul>	70 E. Lake Street, Suite 1500	Chicago IL 60601-7447
<b>Ameren Services</b> <b>Interested Party</b> <ul style="list-style-type: none"> <li>*</li> </ul>	One Ameren Plaza PO Box 66149	St. Louis MO 63166
<b>Illinois Department of Natural Resources</b> <b>Interested Party</b> <ul style="list-style-type: none"> <li>*Office of General Counsel</li> </ul>	One Natural Resources Way	Springfield IL 62702-1271

<b><u>Southern Illinois Power Cooperative</u></b> <b>Interested Party</b>	11543 Lake of Egypt Road	Marion IL 62959-8500
<ul style="list-style-type: none"> <li>• Jason McLaurin</li> </ul>		
<b><u>Exelon Law Department</u></b> <b>Interested Party</b>	10 South Dearborn, 49th Floor	Chicago IL 60603
<ul style="list-style-type: none"> <li>• *</li> </ul>		
<b><u>Prairie Rivers Network</u></b> <b>Interested Party</b>	1902 Fox Drive Suite 6	Champaign IL 61820
<ul style="list-style-type: none"> <li>• Traci Barkley</li> </ul>		
<b><u>Nijman Franzetti LLP</u></b> <b>Interested Party</b>	10 South LaSalle Street Suite 3600	Chicago IL 60603
<ul style="list-style-type: none"> <li>• Susan M. Franzetti</li> </ul>		
<b><u>IERG</u></b> <b>Interested Party</b>	215 E. Adams St.	Springfield IL 62701
<ul style="list-style-type: none"> <li>• Alec Messina</li> </ul>		
<b><u>Dynegy Midwest Generation, Inc.</u></b> <b>Interested Party</b>	1500 Eastport Plaza Dr.	Collinsville IL 62234-6135
<ul style="list-style-type: none"> <li>• Rick Diericx - Senior Director</li> </ul>		
<b><u>Ameren</u></b> <b>Interested Party</b>	1901 Chouteau Avenue	St. Louis MO 63103
<ul style="list-style-type: none"> <li>• Michael Smallwood - Consulting Engineer</li> </ul>		
<b><u>Environmental Integrity Project</u></b> <b>Interested Party</b>	1000 Vermont Avenue NW Suite 1100	Washington DC 20005
<ul style="list-style-type: none"> <li>• Abel Russ - Attorney</li> </ul>		
<b><u>Midwest Generation</u></b> <b>Interested Party</b>	500 West Madison Street Suite 2640	Chicago IL 60661
<ul style="list-style-type: none"> <li>• Christopher Foley - Senior Counsel</li> </ul>		
<b><u>Electric Energy, Inc.</u></b> <b>Interested Party</b>	2100 Portland Road P.O. Box 165	Joppa IL 62953
<ul style="list-style-type: none"> <li>• *</li> </ul>		
<b><u>Kincaid Generation LLC</u></b> <b>Interested Party</b>	P.O. Box 260	Kincaid IL 62540

<b><u>Prairie Power, Inc.</u></b> <b>Interested Party</b>  <ul style="list-style-type: none"><li>• *</li></ul>	P.O. Box 10	Peral IL 62361
<b><u>Prairie State Generating Company</u></b> <b>Interested Party</b>  <ul style="list-style-type: none"><li>• *</li></ul>	4190 County Highway 12	Marissa IL 62257
<b><u>NRG Energy, Inc.</u></b> <b>Interested Party</b>  <ul style="list-style-type: none"><li>• Elizabeth Quirk-Hendry - General Counsel East Region</li><li>• Kelth Schmidt - Director of Environment</li></ul>	211 Carnrgie Center	Princeton NJ 08540
<b><u>NRG Energy, Inc.</u></b> <b>Interested Party</b>  <ul style="list-style-type: none"><li>• Walter Stone - Vice President</li></ul>	8301 Professional Place Suite 230	Landover MD 20785

BEFORE THE POLLUTION CONTROL BOARD  
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COAL COMBUSTION WASTE )  
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35 ILL. ADM. CODE 841 )

MOTION FOR LEAVE TO FILE INSTANTER AND RESPONSE IN SUPPORT  
OF ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S MOTION  
TO SEVER AND OPEN SUBDOCKET

Now comes the undersigned on behalf of The City of Springfield, Office of Public Utilities, d/b/a City Water, Light and Power (CWLP) and pursuant to 35 Illinois Administrative Code 101.500 (d) moves the hearing officer, Tim Fox, to grant CWLP's Motion for Leave to File Instanter the attached Response in Support of the Motion to Sever and Open Subdocket of the Illinois Environmental Protection Agency ("IEPA" or "Agency") and moves the Illinois Pollution Control Board to grant the Agency's said Motion. In support of this Motion for Leave to File Instanter and its Response in Support of the Agency's Motion to Sever and Open Subdocket, CWLP states:

- I. In support of Motion for Leave to File Instanter
  1. CWLP is a municipal utility participant in the rulemaking proceeding, who also participated in the Agency's outreach conducted between April 2013 and its filing of this rulemaking proposal on October 23, 2013.
  2. – 14. CWLP adopts and incorporates as if set forth paragraphs 1 – 13 of Section I of the Agency's Motion to Sever and Open Subdocket filed June 11, 2014, ("Agency's Motion") as the Background and Procedural History of this Motion for Leave to File Instanter and Response in Support of the Agency's Motion.
  15. Since the Agency's Motion was filed, two days of additional hearings were held by the Board, and yet another hearing is scheduled for July 24, 2014, but the Bond has yet to rule on the Agency's Motion. The Environmental Groups filed their Response to the Agency's Motion on or about June 17, 2014, and a Response in Support of IEPA's Motion to Sever and Open Subdocket was filed by Ameren Missouri and Ameren Energy Medina Valley Cogen, LLC, on or about June 26, 2014, ("Ameren's Response in Support").
  16. While this Response is sought to be filed slightly beyond the fourteen days for a Response to a Motion allowed per Rule 101.500 (d) of the Board's Procedural Rules, no prejudice will result, including because the Board has yet to rule and an additional day of hearing is yet scheduled.

II. In support of the Agency's Motion

- 1 – 19. CWLP adopts and incorporates by reference paragraphs 1-19 of Section II of the Agency's Motion as if set forth here.
- 20 – 25. CWLP adopts and incorporates paragraphs, 3 – 8 of Ameren's Response in Support as if set forth here.
26. CWLP further asserts that the Environmental Group's Response itself provides additional reasons to grant the Agency's Motion. In its outreach and in this rulemaking, the Agency has repeatedly asserted that this rule making is to establish a process, while recognizing the unique site characteristics and conditions of ash impoundments across the state.
27. For example, in its Statement of Reasons, the Agency states: "This proposed rule sets forth a process to monitor CCW surface impoundments and groundwater, as well as a process for preventative response, corrective action and closure. The proposed rule allows each owner and operator to develop a site specific plan for groundwater monitoring, preventative response, corrective action and closure." (emphsais added). Statement of Reasons at 1. Yet, just one day prior to hearings set for May 14, 2014, the Environmental Groups filed an unsupported counterproposal that would establish substantive design criteria, financial assurance, and a requirement that owners or operators of units subject to Part 841 file a closure plan and post-closure care plan within one year of the effective date of these new rules.
28. As to the timing of the filing of closure and post-closure care plans, the Environmental Groups' Response acknowledge that even the "Subtitle D" coal combustion residual rate proposal of the U.S. EPA, utilities would have five (5) years to retrofit or close. (Environmental Groups' Response at Page 3; emphasis added.) The Environmental Groups provide scant explanation or evidentiary support to explain these counter proposals to the Agency's or to U.S. EPA's proposed rules.
29. Active ash impoundments like that at CWLP are an integral part of electric generation, such that the timing of closure and submittal of closure plans (and developing alternatives thereto) is a complex, time-consuming and costly process impacting operations. Moreover, in the case of CWLP, a municipal utility, contracting with experts and purchasing must adhere not only to the City's Code, but also to the Municipal Code of the State of Illinois, customarily requiring more time to develop, negotiate and pass ordinances approving of such contracts that would be required for potential closure and developing alternatives to the sluicing of ash from certain CWLP units, than is required for investor-owned utilities owned or operated by private-sector companies.
30. In addition, CWLP maintains its drinking water filter plant on the same site as its Dallman Power Station, and is permitted to utilize its ash impoundments for handling of the byproduct from the treatment process for its drinking water supply, which would be impacted by the potential closure of its ash impoundments. Exhibit 44 references this byproduct of the potable water treatment process in discussing alternatives for our "lime sludge" for example at page 714.
31. CWLP should have the opportunity to more fully present more comprehensive information to the Board in a more focused setting that a subdocket would allow on

design standards, financial assurance and the timing of the development and submittal of closure plans and post-closure care plans, which, as already addressed in the Agency's Motion and Ameren's Response, would not have a detrimental impact on human health or the environment as the Environmental Groups contend.

32. Opening a Subdocket may have the additional benefit of U.S. EPA finalizing its coal combustion residual rule, as referenced by participants at the hearing held June 18, 2014, is currently due in December 2014, which would enable consideration of U.S. EPA's actual standards rather than speculation on a proposal. Having actual standards of U.S. EPA to consider would clearly add efficiencies to the Board's consideration of any design standards at issue here.

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For these reasons, CWLP request that the hearing officer grant CWLP's Motion for Leave to File Instantly the attached Response in Support of the Agency's Motion to Sever and Open Subdocket, and that the Board grant the Agency's Motion.

Respectfully submitted,

THE CITY OF SPRINGFIELD,  
a municipal corporation

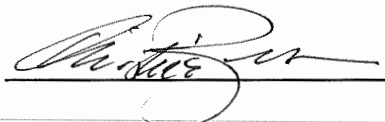
By 

One of its Attorneys

Dated: July 3, 2014  
Christine G. Zeman  
Regulatory Affairs Director  
Office of Public Utilities  
800 East Monroe  
Springfield, Illinois 62757  
(217) 789-2116, Ext. 2628  
Email: christine.zeman@cwlp.com

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that I have served upon the individuals named on the foregoing Notice of Filing a true and correct copy of the **APPEARANCE OF CHRISTINE G. ZEMAN** by First Class Mail, postage prepaid on July 3, 2014, from Springfield, Illinois.



A handwritten signature in cursive script, appearing to read "Christine G. Zeman", is written over a horizontal line.

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This filing uses recycled paper as defined in Subpart B of the Procedural Rules.