

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

IN THE MATTER OF:)	
)	
COAL COMBUSTION WASTE (CCW) AND)	
SURFACE IMPOUNDMENTS)	R2014-010
AT POWER GENERATING)	(Rulemaking – Water)
STATIONS: PROPOSED NEW)	
35 ILL. ADM. CODE 841)	

NOTICE OF FILING

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

And Attached Service List

Please take notice that on October 2, 2015, I electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the attached **Comments of Prairie State Generating Company to Environmental Groups Motion to Reopen Docket R2014-010**, a copy of which is attached and herewith served upon you. A copy was also emailed to John T. Therriault, Clerk.

Respectfully Submitted,

Prairie State Generating Company,

By 
Director of Environmental Services

Dated: October 02, 2015
James Andrew
Director of Environmental Services
Prairie State Generating Company
3872 County Hwy 12
Marissa, IL 62257
(618) 824-7655
Email: jandrew@psgc-llc.com

AFFIDAVIT OF SERVICE

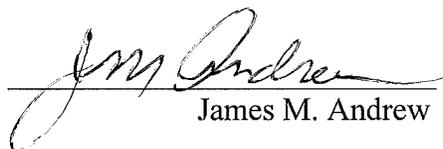
I, James Andrew, Director of Environmental Services for Prairie State Generating Company, - certify that I have served a copy of the attached **Notice of Filing and Comments of Prairie State Generating Company to Environmental Groups Motion to Reopen Docket R2014-010** upon persons listed on the Service List by mailing a true copy thereof in an envelope duly addressed bearing proper first class postage and deposited in the United States mail at Marissa, IL on October 02, 2015.

I further certify that I have electronically served a true and correct copy of the attached **Notice of Filing and Comments of Prairie State Generating Company to Environmental Groups Motion to Reopen Docket R2014-010**, on behalf of Prairie State Generating Company, upon the following Mr. John Therriault, Clerk of the Illinois Pollution Control Board at the email address of John.therriault@illinois.gov;

My e-mail address is jandrew@psgc-llc.com;

The number of pages in the e-mail transmission is 9.

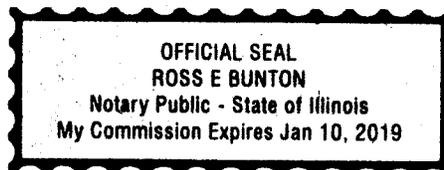
The e-mail transmission took place before 5:00 p.m.


James M. Andrew

Notary Seal

SUBSCRIBED AND SWORN TO BEFORE ME this 2 day of October, 2015.


Notary Public



Service List

<u>Party Name</u>	<u>Address</u>	<u>City/State/Zip</u>
<u>Office of the Attorney General</u> <ul style="list-style-type: none"> Stephen Sylvester - Asst. Attny. General 	69 West Washington Street Suite 1800	Chicago IL 60602
<u>IEPA</u> <ul style="list-style-type: none"> Joanne M. Olson - Assistant Counsel James Jennings - Assistant Counsel 	1021 North Grand Avenue East P.O. Box 19276	Springfield IL 62794-9276
<u>Much Shelist PC</u> <ul style="list-style-type: none"> David Rieser 	191 North Wacker Drive Suite 1800	Chicago IL 60606
<u>McDermott, Will & Emery</u> <ul style="list-style-type: none"> Mark A. Bilut 	227 West Monroe Street	Chicago IL 60606-5096
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<u>Environmental Law and Policy Center</u> <ul style="list-style-type: none"> Jessica Dexter Jennifer L. Cassel Josh Zaharoff 	35 E. Wacker Drive Suite 1600	Chicago IL 60601
<u>Sierra Club</u> <ul style="list-style-type: none"> Jack Darin Faith Bugel 	70 E. Lake Street, Suite 1500	Chicago IL 60601-7447
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<u>Southern Illinois Power Cooperative</u> <ul style="list-style-type: none"> Jason McLaurin 	11543 Lake of Egypt Road	Marion IL 62959-8500

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<p><u>Prairie Rivers Network</u></p> <ul style="list-style-type: none"> • Traci Barkley 	<p>1902 Fox Drive Suite 6</p>	<p>Champaign IL 61820</p>
<p><u>Nijman Franzetti LLP</u></p> <ul style="list-style-type: none"> • Susan M. Franzetti 	<p>10 South LaSalle Street Suite 3600</p>	<p>Chicago IL 60603</p>
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<p><u>Environmental Integrity Project</u></p> <ul style="list-style-type: none"> • Abel Russ - Attorney 	<p>1000 Vermont Avenue NW Suite 1100</p>	<p>Washington DC 20005</p>
<p><u>Midwest Generation</u></p> <ul style="list-style-type: none"> • Christopher Foley- Senior Counsel 	<p>500 West Madison Street Suite 2640</p>	<p>Chicago IL 60661</p>
<p><u>Electric Energy, Inc.</u></p> <ul style="list-style-type: none"> • * 	<p>2100 Portland Road P.O. Box 165</p>	<p>Joppa IL 62953</p>
<p><u>Kincaid Generation LLC</u></p>	<p>P.O. Box 260</p>	<p>Kincaid IL 62540</p>
<p><u>Prairie Power, Inc.</u></p> <ul style="list-style-type: none"> • * 	<p>P.O. Box 10, Pearl, IL 62361 c/o 3130 Pleasant Run</p>	<p>Springfield IL 62711</p>
<p><u>NRG Energy, Inc.</u></p> <ul style="list-style-type: none"> • Elizabeth Quirk-Hendry- General Counsel East Region • Keith Schmidt- Director of Environment 	<p>211 Carnegie Center</p>	<p>Princeton NJ 08540</p>

<u>NRG Energy, Inc.</u> <ul style="list-style-type: none">• Walter Stone- Vice President	8301 Professional Place Suite 230	Landover MD 20785
<u>City Water Light and Power</u> <ul style="list-style-type: none">• Christine G. Zeman	800 East Monroe	Springfield IL 62757

PRAIRIE STATE

Generating Company

PRAIRIE STATE GENERATING COMPANY, LLC
3872 County Highway 12
Marissa, IL 62257

October 2, 2015

Mr. John Therriault
Clerk
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

And Attached Service List

In the Matter of:

Comments of Prairie State Generating Company, LLC to the Environmental Groups' Motion to Re-Open Docket R2014-010, Coal Combustion Waste (CCW) Ash Ponds and Surface Impoundments at Power Generating Facilities: Proposed New 35 Ill. Adm. Code Part 841

Prairie State Generating Company ("PSGC") appreciates the opportunity to provide the following comments related to the rulemaking proposal submitted by the Environmental Law and Policy Center, Prairie Rivers Network and Sierra Club (collectively "the Environmental Group") in the above-referenced matter ("the Proposed Rule"). Like other EGUs in Illinois, PSGC has surface impoundments which have the potential to be impacted by the Proposed Rule and accordingly, is or will be directly impacted by this rulemaking process. As such, PSGC respectfully requests consideration of the following comments by the Illinois Pollution Control Board ("IPCB") regarding the Environmental Group's request to re-open the Docket in the Proposed Rule. PSGC opposes the Environmental Group's request to re-open for the reasons set forth below.

BACKGROUND

PSGC is the operating company of the Prairie State Energy Campus ("Energy Campus"), a stand-alone, technologically-advanced energy facility located in Washington County, Illinois, approximately 60 miles southeast of St. Louis, Missouri. The Energy Campus is comprised of a 1600 megawatt (two nominal 800 MW units) coal-fired, supercritical steam electric generating facility and adjacent underground coal mine. Six public power entities, two rural electric

cooperatives and Peabody Energy jointly own the Energy Campus. Ninety-five percent of the Energy Campus' member-owners are community-owned, non-profit utilities that are committed to providing clean, reliable, and affordable base load electricity to 2.5 million families in hundreds of communities in the Midwest and Mid-Atlantic regions, across eight states (Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Virginia, and West Virginia). More than 4,000 trades men and women were employed during the construction of the PSEC and more than 600 industry experts from communities across southern Illinois and the St. Louis metro east are currently employed at the campus. The Energy Campus is making a significant impact on the economy, with an estimated impact on the Illinois region equal to more than \$785 million annually, while putting to work the vast coal resources of Illinois.

The Energy Campus' power plant design incorporates supercritical pulverized coal boiler technology and \$1 billion of emissions control equipment, consuming less coal to produce more energy, while achieving one of the best levels of pollution control in the country. The power plant incorporates Best Available Control Technology ("BACT") as well as Maximum Achievable Control Technology ("MACT").

COMMENTS

PSGC specifically requests that the IPCB deny the Environmental Group's request to re-open this docket to accept additional comments on the Proposed Rule which they allege will "harmonize the two rule systems" (i.e. the Proposed Rules and the federal coal combustion residuals (CCR) rule (published at 80 Federal Register 21302-21501 (Apr. 17, 2015)) (hereafter referred to as the "CCR Rule"). Prairie State instead supports the Illinois' Environmental Protection Agency's request to extend the stay indefinitely to allow for resolution of pending legal and legislative actions on the final CCR Rule prior to determining whether this docket should be re-opened for multiple reasons.

When this Proposed Rule was initially filed with the IPCB on October 28, 2013, the USEPA had not yet finalized the federal rule related to the disposal of coal combustion residuals and had not indicated when it expected to do so. On April 17, 2015, the U.S. Environmental Protection Agency (USEPA) published its final CCR Rule. The federal CCR Rule finalized design and operating criteria, location restrictions, groundwater monitoring, corrective action, record-keeping, notification, inspection, closure requirements, and post-closure care for landfills and surface impoundments which store CCR. PSGC facilities are covered by this rule. While there are some differences between the two, the scope of and criteria included in the final CCR Rule are similar to that found in the Proposed Rule now before the IPCB.

The intent of this Proposed Rule was to fill a regulatory gap which was neither addressed by IPCB nor federal environmental rules governing CCW surface impoundments at power generating facilities by providing a rule of general applicability for closure and/or corrective action amongst other items at power plant CCR surface impoundments. Any regulatory gap in

the state and federal rules which existed previously has now been filled with the requirements found in the final CCR Rule. The final CCR Rule will be effective on October 19, 2015 (80 Fed. Reg. 37988 (Jul. 2, 2015)), establishing minimum standards which both CCR landfills and surface impoundments must meet, thereby affording protection to both the environment and the public from potential adverse effects of CCR disposal facilities. The final CCR Rule provides a formal mechanism for closure of inactive CCR disposal facilities and corrective action for CCR disposal facilities which have been found to be impacting the environment, as well as numerous other requirements which are similar or identical to those addressed in the Proposed Rule. Furthermore, the final CCR Rule provides for transparency of operations by requiring the owner or operator to maintain a publicly available website of compliance information and also requiring the notification of the state of an extensive list of actions defined in the final rule. While the final CCR Rule may not be identical to the Proposed Rule, the scope and criteria are very similar and afford protection to the environment and public health.

In addition, several entities have filed Petitions for Review of the final CCR Rule with the United States Court of Appeals for the District of Columbia. The outcome of any or all of these legal challenges could significantly alter the manner in which the final CCR Rule is implemented, creating conflict between the federal regulations and finalized state regulations, requiring subsequent re-opening of the docket to resolve those issues.

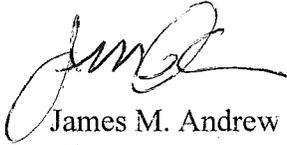
Lastly, congressional bills which would alter the scope and content of the final CCR Rule have been introduced in the U.S. House of Representatives and the U.S. Senate. Because either the pending litigation and/or the congressional action could change the final CCR Rule, prudence calls for any changes to proposed state rules to be made once all outstanding actions on the final federal CCR Rule are completed to ensure that federal requirements are appropriately integrated into any changes made to state programs.

CONCLUSION

The final CCR Rule and this Proposed Rule overlap in many areas. It is therefore important that IEPA be allowed time to evaluate the impact of relevant legal and legislative actions and determine the appropriate manner for integrating the federal requirements into state programs. PSGC understands that the IEPA will likely desire to establish regulatory mechanisms to implement the final federal standards which may involve modifying existing regulations, proposing new regulations, and as the USEPA anticipates, revising its Solid Waste Management Plan; however, prudent use of public and private monetary and personnel resources demands that the docket not be re-opened until all legal and legislative actions have been resolved and the IEPA has had enough time to make the necessary assessments.

Owners and operators of CCR disposal facilities do not need conflicting parallel or redundant rules which could result if this docket is re-opened prior to known pending actions being resolved. For the reasons herein, PSGC respectfully requests the IPCB deny the Environmental Group's motion to Re-open Docket R14-10.

Sincerely,

A handwritten signature in black ink, appearing to read 'JMA', written in a cursive style.

James M. Andrew
Director of Environmental Services