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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

August 14, 2013

ILLINOIS POWER HOLDINGS, LLC and)
AMERENENERGY MEDINA VALLEY)
COGEN, LLC,)
)
Petitioners,)
)
AMEREN ENERGY RESOURCES, LLC,)
)
Co-Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB 2014-010
(Variance – Air)



ORIGINAL

HEARING OFFICER ORDER

This matter is set for hearing on September 17, 2013. In response to the questions provided in Attachment A, the parties are directed to prefile testimony by September 5, 2013.

IT IS SO ORDERED.

Carol Webb

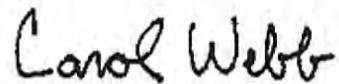
Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/524-8509
Carol.Webb@illinois.gov

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on August 14, 2013, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on August 14, 2013:

John T. Therriault
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601



Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/524-8509
Carol.Webb@illinois.gov

PCB 2014-010
William D. Ingersoll
Brown, Hay & Stephens LLP
205 South Fifth Street, Suite 700
P.O. Box 2459
Springfield, IL 62705-2459

PCB 2014-010
Claire A. Manning
Brown, Hay & Stephens LLP
205 South Fifth Street, Suite 700
P.O. Box 2459
Springfield, IL 62705-2459

PCB 2014-010
Renee Cipriano
Schiff Hardin, LLP
6600 Willis Tower
233 S. Wacker Drive
Chicago, IL 60606-6473

PCB 2014-010
Amy Antonioli
Schiff Hardin, LLP
6600 Willis Tower
233 S. Wacker Drive
Chicago, IL 60606-6473

PCB 2014-010
Gina Roccaforte
IEPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

**Attachment A
PCB 14-10**

QUESTIONS FOR PETITIONERS

Proposed Variance Conditions

1. To demonstrate a “net benefit” of 7,778 tons SO₂ from 2013 through 2020, petitioners present a table accounting for “Variance SO₂ Tons,” “SO₂ Reduced Tons,” and “Cumulative Reductions in SO₂ Variance Tons.” Pet. at 3, Exh. 10, Table 2. Although the proposed variance includes limits on the SO₂ annual emission rates consistent with Table 2, petitioners did not propose a cap on annual SO₂ mass emissions in tons that would also be consistent with Table 2 to ensure that the proposed “net benefit” is realized. The Board included conditions capping the annual system-wide SO₂ mass emissions, and requiring the petitioner to report annually to the Agency its system-wide mass SO₂ emissions, in granting the variance in PCB 13-24. Midwest Generation v. IEPA, PCB 13-24, slip op. at 82 (Apr. 4, 2013).

- (a) Please comment on revising the proposed conditions in the variance request as follows:

If at any time, Illinois Power Holdings, LLC (IPH) acquires ownership or control of the five operating power stations in the Ameren MPS Group, IPH must assure compliance with Condition 2 of this Order and must comply with an overall SO₂ annual emission rate of 0.35 lb/mmBtu through December 31, 2019, and beginning January 1, 2020, must comply with an overall SO₂ annual emission rate of 0.23 lb/mmBtu. In addition, through December 31, 2016, IPH must limit system-wide SO₂ emissions to no more than 51,289 tons; and from January 1, 2017 through December 31, 2019, IPH must limit system-wide SO₂ emissions to no more 51,879 tons. For the purposes of this variance, “system-wide” and “the five operating power stations in the Ameren MPS Group” entail: Coffeen, Duck Creek, E.D. Edwards, Joppa, and Newton Energy Centers. IPH must also report to the Agency its system-wide mass SO₂ emissions each year of the variance with its Annual Emissions Report.

- (b) Please comment on including a condition of the variance that would cap SO₂ mass emissions on an annual basis from the E.D. Edwards station at 2012 levels of 11,803 tons until Unit 1 is permanently retired. Pet. Exh. 6.
- (c) Please comment on including a condition after Unit 1 is permanently retired that would cap annual SO₂ mass emissions from the E.D. Edwards station at a lower level to reflect the operation of only Units 2 and 3.

New PM_{2.5} National Ambient Air Quality Standard (NAAQS)

2. Please provide a copy of the memorandum referenced in footnote 33 on page 66 of the petition: “USEPA Memorandum, From: Gina McCarthy, Assistant Administrator, To: Regional Administrators, Regions 1-10, Subject: Initial Area

Designations for the 2012 Revised Primary Annual Fine Particulate National Ambient Air Quality Standard (April 16, 2013).”

QUESTIONS FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

New 2010 1-hour SO₂ NAAQS

3. In the Board’s September 20, 2012 order in Ameren Energy Resources v. IEPA, PCB 12-126, the Board stated that

the Agency noted, “[t]he MPS was not designed to address the new 2010 1-hour SO₂ [NAAQS], which was not proposed at the time the MPS was being negotiated.” Agency Resp. at 22. The Board notes that the new 1-hour SO₂ NAAQS addresses short term exposure and sets into motion a requirement for the states to assess attainment. 77 Fed. Reg. 46295 (Aug. 3, 2012). Based on the record at this time, the Board does not have enough information to determine if AER’s variance will interfere with the State’s ability to attain or maintain the new 1-hour SO₂ NAAQS or the proposed PM NAAQS because the MPS and current Illinois SIP do not yet address these standards. However, the Board finds that granting AER’s petition for variance with the conditions in the order below would be within the State’s current obligation under the Illinois SIP to attain and maintain compliance with the NAAQS. Ameren Energy Resources v. IEPA, PCB 12-126, slip op. at 56 (Sept. 20, 2012).

Since the petition was filed on July 22, 2013, USEPA Administrator, Gina McCarthy, signed notice of the Final Rule for the initial one-hour SO₂ air quality designations on July 25, 2013, and is submitting it for publication in the Federal Register. *See* <http://www.epa.gov/so2designations/regs.html>

The E.D. Edwards Station is located in one of the designated nonattainment areas for the new 1-hour SO₂ NAAQS. USEPA stated that SIPs “would need to provide for attainment and maintenance of the new 1-hour SO₂ NAAQS as expeditiously as practicable, which we expect to be no later than five years after initial designation . . . in all areas of the State” 75 Fed. Reg. 35553 (June 22, 2010). Five years later would be July 25, 2018, approximately 17 months before the end of the requested variance.

- (a) Please address whether the Agency believes granting the variance will jeopardize the State’s current obligations under the Illinois SIP or to attain and maintain the NAAQS.
- (b) Please address whether the State’s current obligations to attain and maintain the NAAQS will be satisfied by the net environmental benefit claimed by petitioners over the term of the variance.
- (c) Please comment preliminarily on how, if the Agency proposes and the Board adopts new rules to address SIP obligations for the new 1-hour SO₂ NAAQS, that

action would affect (1) the requested variance, (2) the facilities covered by the requested variance, and (3) the E.D. Edwards station in particular.

4. Please submit the following documents for inclusion in the record for this variance request:

- (a) The signed notice submitted for publication in the Federal Register. *See* <http://www.epa.gov/so2designations/pdfs/20130725fr.pdf>
- (b) The USEPA report entitled “Responses to Significant Comments on the State and Tribal Designation Recommendations for the 2010 Sulfur Dioxide National Ambient Air Quality Standards (NAAQS)”, USEPA, July 2013. *See* <http://www.epa.gov/so2designations/pdfs/20130725rtc.pdf>
- (c) “Technical Support Document (TSD), Illinois Area Designations for the 2010 SO₂ Primary National Ambient Air Quality Standard”, USEPA. *See* http://www.epa.gov/so2designations/tsd/05_IL_tsd.pdf

SIP Revision

5. In PCB 12-126, the Agency stated that after preliminary discussions with USEPA Region 5 regarding pending variance request, no adverse issues were identified. Ameren Energy Resources, PCB 12-126, slip op. at 55 (Sept. 20, 2012). Has the Agency discussed the instant variance request with USEPA? If so, please elaborate on USEPA’s response.

QUESTION FOR PETITIONERS AND THE AGENCY

Effect on PCB 12-126 Variance

6. Please address the ongoing legal effect, if any, of the variance granted in Ameren Energy Resources, PCB 12-126 (Sept. 20, 2012), if the requested variance in the instant case is granted and the transaction by which IPH would acquire AER’s active coal-fired power plants goes forward.