

ILLINOIS POLLUTION CONTROL BOARD

January 9, 2014

SUNCOKE ENERGY, INC. (Lime Spray)
Dryer Absorber, Fabric Filter Baghouse)
Systems, Afterburner Tunnel System for Heat)
Recovery Steam Ovens, and Other Coal)
Handling Control Measures for Heat Recovery)
Coke Plant) (Parcel/Property I.D. No. 22-2-20-)
1-00-000-004.002),)
)
Petitioner,)
)
v.) PCB 14-63
) (Tax Certification - Air)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (D. Glosser):

On December 6, 2013, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of SunCoke Energy, Inc. (SunCoke) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2012); 35 Ill. Adm. Code 125. The facilities are associated with SunCoke’s heat recovery coke plant located at State Route 203, Edwardsville Road in Granite City, Madison County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that SunCoke’s Lime Spray Dryer Absorber, Fabric Filter Systems, Afterburner Tunnel System, and other control measures identified in this order are pollution control facilities.

LEGAL FRAMEWORK

Under the Property Tax Code, “[i]t is the policy of this State that pollution control facilities should be valued, at 33 1/3% of the fair cash value of their economic productivity to their owners.” 35 ILCS 200/11-5 (2012); *see also* 35 Ill. Adm. Code 125.200(a)(2). “For tax purposes, pollution control facilities shall be certified as such by the Pollution Control Board and shall be assessed by the Department [of Revenue].” 35 ILCS 200/11-20 (2012); *see also* 35 Ill. Adm. Code 125.200(a). Under the statute, the Board determines if the facilities are pollution control facilities; however, the Board is not authorized to assess a value of those facilities.

Under Section 125.202 of the Board’s procedural rules, a person may submit an application for tax certification to the Agency. *See* 35 Ill. Adm. Code 125.202. If the Agency receives a tax certification application, the Agency must file with the Board a recommendation on the application, unless the applicant withdraws the application. *See* 35 Ill. Adm. Code 125.204(a). Among other things, the Agency’s filing must recommend that the Board issue or

deny tax certification. *See* 35 Ill. Adm. Code 125.204(a)(4). If the Board finds “that the claimed facility or relevant portion thereof is a pollution control facility . . . , the Pollution Control Board . . . shall enter a finding and issue a certificate to that effect.” 35 ILCS 200/11-25 (2012); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from SunCoke on or about December 28, 2009.¹ Rec. at ¶ 1. The Agency further states that it received an amended application from SunCoke on or about October 18, 2010, “for the same air emission sources and/or equipment.” *Id.* On December 6, 2013, the Agency filed a recommendation on the applications with the Board, attaching SunCoke’s initial application (Rec. Exh. A) and amended application (Rec. Exh. B). The Agency’s recommendation identifies the facilities at issue:

The subject matter of the application describes numerous emission control systems and/or devices that were constructed and installed by SunCoke [] at its new Heat Recovery Coke Plant in Granite City, Illinois. As described in the application, the construction of the new plant entailed several systems and/or devices that are widely recognized as conventional emissions control equipment. Among these include the Lime Spray Dryer Absorber and Fabric Filter Baghouse systems, which remove particulate matter and sulfur dioxide emissions from the oven waste gases that operate downstream of the Heat Recovery Steam Generators. The Afterburner Tunnel System collects and oxidizes un-combusted gases (*i.e.*, volatile organic materials) from the heat recovery ovens. As identified in the application, a Traveling Hood/Baghouse system is used on the pushing/charging machine controls that charge particulate matter emissions that might otherwise escape from the ovens, and another Baghouse is employed for the same purpose in the coke screening and crushing facilities. Similarly, numerous Enclosures are used as control measures in various areas of material transfer to control particulate matter and fugitive dust emissions. Rec. at ¶ 4 (citations to Rec. Exh. A omitted).

The Agency further describes the facilities: “Each of these systems and/or devices control or minimize contaminants associated with the Heat Recovery Coke Plant that might otherwise be emitted to the atmosphere and therefore act to eliminate, prevent or reduce air pollution.” Rec. at ¶ 4.

The Agency recommends that the Board certify that the Lime Spray Dryer Absorber, Fabric Filter Systems, Afterburner Tunnel System, and other control measures identified above are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2012)) with the primary purpose “to prevent or reduce air pollution.” Rec. at ¶¶ 7, 8; *see also* Rec. Exh. C (Agency technical memorandum). The Agency specifies the scope of its recommendation:

The [Agency] has reviewed the application materials and, to the best of its ability, identified those things relating to the project for which certification appears to

¹ The Agency’s recommendation is cited as “Rec. at _.”

have been sought. To the extent that the application materials sought certification of the Heat Recovery Coke Plant as a whole, the [Agency] must decline to offer a recommendation supporting a certification of the same. While there certainly may be incidental benefits to the environment from efforts to develop or improve heat and/or steam recovery in manufacturing activities, it is not clear here that the use of heat and/or steam energy associated with the coke plant, and particularly the Heat Recovery Steam Generators, is in the nature of a system, method, construction, device or appliance whose primary purpose relates to environmental protection. Rec. at ¶ 4, n.1.

TAX CERTIFICATE

Based upon the Agency's recommendation and SunCoke's applications, the Board finds and certifies that SunCoke's Lime Spray Dryer Absorber, Fabric Filter Systems, Afterburner Tunnel System, and other control measures identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2012)). The Board makes no finding regarding the assessed value of those facilities. Under Section 11-25 of the Property Tax Code, the effective date of this certificate is "the date of application for the certificate or the date of the construction of the facility, which ever is later." 35 ILCS 200/11-25 (2012); *see also* 35 Ill. Adm. Code 125.216(a). Section 125.216(d) of the Board's procedural rules states that the Clerk "will provide the applicant and the Agency with a copy of the Board's order setting forth *the Board's findings and certificate, if any.*" 35 Ill. Adm. Code 125.216(d) (quoting in italics 35 ILCS 200/11-30 (2012)). The Clerk therefore will provide SunCoke and the Agency with a copy of this order.

IT IS SO ORDERED.

Section 11-60 of the Property Tax Code provides that any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification or restriction of a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate may appeal the Board's finding and order to the Circuit Court under the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (2012)). *See* 35 ILCS 200/11-60 (2012).

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 9, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board