

ILLINOIS POLLUTION CONTROL BOARD

January 9, 2014

MARATHON PETROLEUM COMPANY, LP)
(Mobile Source Air Toxics Phase II - Benzene)
Extraction Unit, Robinson Refinery) (Parcel)
No. 51-34-1-21),)
)
Petitioner,)
)
v.) PCB 14-62
) (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 Marathon Petroleum Company, LP (Marathon) 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 Marathon’s Robinson refinery, a petroleum refinery located at 400 South Marathon Avenue in Robinson, Crawford County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Marathon’s Benzene Extraction Unit and associated process equipment 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 Marathon on or about December 23, 2011.¹ Rec. at ¶ 1. On December 6, 2013, the Agency filed a recommendation on the application with the Board, attaching Marathon's application (Rec. Exh. A). The Agency's recommendation identifies the facilities at issue:

The subject matter of this request consists of a Mobile Source Air Toxics Phase II project, which involved the construction and installation of a new Benzene Extraction Unit by Marathon at the Robinson refinery. According to the application, the Benzene Extraction Unit and associated process equipment was installed to comply with federal Mobil Source Air Toxics requirements promulgated at 40 CFR Part 80 (Regulations of Fuels and Fuel Additives) that became effective February 26, 2007. The application states that these requirements imposed a compliance deadline of July 1, 2011, for the refinery to meet an annual average gasoline benzene concentration of 0.62 volume percent. Rec. at ¶ 3 (citation to Rec. Exh. A omitted).

The Agency further describes the facilities:

In order to comply with the new air toxic requirements for mobile sources, the refinery opted to construct the Benzene Extraction Unit, which is designed to charge "a combined stream of platformate and ultraformate from the Platformer, Ultraformer and Tank Farm" and "removes benzene and toluene from platformate & ultraformate feeds using UOP's Sulfolane Process." The process equipment, which includes a splitter block, extractor block, extractor column, reboiler heater and other process components specified in the application, makes use of [Sulfolane] as "an efficient solvent used to recover aromatics from reformate feeds." The new process achieves the reduction in benzene content required by federal regulations. In doing so, the project's systems and/or devices act to prevent or reduce air contaminants that would otherwise be emitted as contaminants at the point of product use, and therefore prevents or reduces air pollution. Rec. at ¶ 4 (quoting Rec. Exh. A; citations omitted).

The Agency recommends that the Board certify that the Benzene Extraction Unit and associated process equipment 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. B (Agency technical memorandum).

TAX CERTIFICATE

Based upon the Agency's recommendation and Marathon's application, the Board finds and certifies that Marathon's Benzene Extraction Unit and associated process equipment 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.

¹ The Agency's recommendation is cited as "Rec. at _."

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 Marathon 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