

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
AMENDMENTS TO)	R18-20
35 ILL. ADM. CODE 225.233,)	(Rulemaking – Air)
MULTI-POLLUTANT STANDARDS (MPS))	

NOTICE

TO: Don Brown
 Clerk
 Illinois Pollution Control Board
 James R. Thompson Center
 100 West Randolph St., Suite 11-500
 Chicago, IL 60601-3218

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the MOTION TO FILE POST-HEARING COMMENTS INSTANTER and POST-HEARING COMMENTS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, a copy of which are herewith served upon you.

ILLINOIS ENVIRONMENTAL
 PROTECTION AGENCY

By: /s/ Gina Roccaforte
 Gina Roccaforte
 Assistant Counsel
 Division of Legal Counsel

DATED: March 20, 2019

1021 North Grand Avenue East
 P. O. Box 19276
 Springfield, IL 62794-9276
 217/782-5544

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
AMENDMENTS TO) R18-20
) (Rulemaking – Air)
35 ILL. ADM. CODE 225.233,)
MULTI-POLLUTANT STANDARDS (MPS))

MOTION TO FILE POST-HEARING COMMENTS INSTANTER

NOW COMES Proponent, the Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”), by its attorney, and pursuant to 35 Ill. Adm. Code 101.500 and 101.522, respectfully requests that the Hearing Officer allow it to file the attached Post-Hearing Comments of the Illinois EPA Instanter. In support of its Motion, the Illinois EPA states as follows:

1. On March 15, 2019, the Agency filed a Motion for Extension of Time to File Post-Hearing Comments requesting an extension of two additional business days, until March 19, 2019, to complete a re-examination summoned by the new administration of the Board’s proposal to determine if the requirements could be modified to further benefit the environment.
2. On March 18, 2019, the Hearing Officer granted the Agency’s Motion. Hearing Officer Order (March 18, 2019).
3. As set forth in the Motion, the Agency participated in numerous discussions with Vistra and the other rulemaking participants regarding various aspects of the Board's rule language. The Agency has been working diligently to finalize rule changes for proposal to the Board.
4. The Agency was still in discussions as late as March 19, 2019, the day the comments were due. Allowing the additional time for submittal has enabled the Agency to submit proposed amendments to the Board’s proposal.

5. Accepting and considering the Agency's Post-Hearing Comments will not delay the Board's decision in this matter and will provide the Board with proposed regulatory provisions that further benefit the environment.

WHEREFORE, for the reasons set forth above, the Illinois EPA respectfully requests that the Hearing Officer grant its Motion to File Post-Hearing Comments Instantly.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Gina Roccaforte
Gina Roccaforte
Assistant Counsel
Division of Legal Counsel

DATED: March 20, 2019

1021 North Grand Avenue East
P. O. Box 19276
Springfield, IL 62794-9276
217/782-5544

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
AMENDMENTS TO) R18-20
) (Rulemaking – Air)
35 ILL. ADM. CODE 225.233,)
MULTI-POLLUTANT STANDARDS (MPS))

**POST-HEARING COMMENTS OF THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency"), by its attorneys, and respectfully submits its post-hearing comments in the above rulemaking proceeding. The Illinois EPA appreciates the efforts of the Illinois Pollution Control Board ("Board") in this rulemaking proposal to amend 35 Ill. Adm. Code 225.233, Multi-Pollutant Standards ("MPS").

The Board held four hearings in this matter, at which the Agency and various other participants provided testimony and responded to questions, and members of the public provided comments: the first hearing was held in Peoria on January 17-18, 2018; the second hearing in Edwardsville on March 6-7, 2018; the third hearing in Springfield on April 16-17, 2018; and the fourth hearing in Springfield on January 29, 2019.

The Agency's Proposed Revisions to the Board's Second First Notice Proposal

In response to the recent change in administration, the Illinois EPA undertook a reevaluation of key issues in this rulemaking, including the mass-based emission limitations. During this reevaluation, the Agency engaged the other rulemaking participants, including representatives of Vistra¹ and environmental groups, and determined that the Board's proposed

¹ While the Agency uses the name "Vistra" in its Post-Hearing Comments, the Agency acknowledges that the entities appearing before the Board are Dynegy Midwest Generation, LLC; Illinois Power Generating Company; Illinois Power Resources Generating, LLC; and Electric Energy, Inc. (collectively, the "Companies"). The Companies hold the permits for and operate all the EGUs subject to the MPS. At the beginning of this rulemaking,

emissions limitations could be modified to further benefit the environment. As a result of those discussions, the Agency proposes lowering the mass-based emission limitations to 34,500 tons per year for SO₂ and 19,000 tons per year for NO_x, while retaining the originally proposed 11,500 tons for the NO_x ozone season. The allocations for transfer, permanent shutdown, and temporary shutdown have been adjusted by reducing the allocation amounts listed at page 60 of the Board's Order dated October 4, 2018, in proportion to the proposed annual limits, and rounded to the nearest ten. *See*, Exhibit 1, attached.²

Additionally, the Agency proposes mandating the cessation of operations of EGUs in the MPS fleet amounting to at least 2,000 megawatts (calculated on a nameplate basis) of coal-fired electric generation. *See*, Exhibit 2, Proposed Section 225.233(1), attached. The owner or operator of the EGUs would be required to cease operations within 60 days of receiving shutdown approval from the Midcontinent Independent System Operator, Inc. ("MISO"), but in no event later than December 31, 2019, barring special circumstances related to MISO approval. The proposed rule language requires the owner or operator of the EGU to provide a notification to the Agency after: 1) submitting documentation to MISO necessary to cease operations at the EGU; 2) MISO's response as to whether an EGU selected for permanent cessation of operations may shut down or is required to continue operating to maintain transmission reliability; and 3) the permanent cessation of operations of the EGU. Based on the need to further reduce emissions to benefit the environment and citizens, and taking into consideration the economic difficulties in operating coal-fired EGUs, Vistra accepts these changes.

Dynegy Inc. was the ultimate corporate parent of the Companies; however, on April 9, 2018, Dynegy Inc. merged with Vistra, and Vistra is now the ultimate corporate parent of the Companies.

² While the Agency's newly proposed limits are similar to those proposed by the Illinois Office of the Attorney General ("Illinois AGO") earlier in this proceeding, the Agency neither endorses nor adopts the methodology utilized by the Illinois AGO in calculating the numbers for the reasons stated in prior comments and hearings.

The Agency strongly encourages Vistra to include in its retirements under these rule amendments EGUs that are not well-controlled for SO₂ and NO_x.

The Board Should Adopt the Agency's Suggested Amendments to the Board's Second First Notice Proposal

Temporary Shutdowns

The Agency recommends that the Board revise Section 225.233(h)(1) and (h)(3) in the manner suggested in the Agency's December 10, 2018, filing. Agency's Responses to Board Questions Set Forth in Hearing Officer Order Dated October 4, 2018 (filed December 10, 2018) (Exhibit 49). The language put forth by the Agency creates a clear, well-defined standard for temporary shutdowns that can be easily implemented by the Agency. The Agency proposes deeming a shutdown a "temporary shutdown" when one or more EGUs in an MPS Group does not operate over an entire compliance period, consistent with the Board's Second First Notice proposal. This standard recognizes that an adjustment to the MPS emissions limitations is not necessary or practical for short-term cessations in operation, which may occur for a variety of reasons including regular maintenance and establishes an objective standard for compliance purposes. The Agency's proposed amendments simply provide clarification as to when the notification of temporary shutdown must be submitted by the owner or operator.

The amendments suggested by the Illinois AGO would alter the Board's proposal and deem a temporary shutdown to have occurred when a unit stops operating "in accordance with the owner's notice to a Regional Transmission Organization that service will be suspended for more than two months." Pre-filed Testimony of Andrew Armstrong on Behalf of the Illinois AGO (December 10, 2018) (Exhibit 48) at 9. The Illinois AGO bases its recommendation on a document issued by MISO regarding notification of suspension. *Id.* at 9-10. As noted in the

testimony of the Illinois AGO, however, the Illinois AGO is not an expert with regard to MISO or the MISO document, and neither is the Illinois EPA. Transcript (“Tr.”) Jan. 29, 2019, Public Hearing at 21. The MISO document at issue is over 8,000 pages. The Agency is not fully familiar with the circumstances that do and do not trigger the suspension notification requirement, and so cannot opine regarding the ramifications of the Illinois AGO’s suggested amendments. For example, it is unclear to the Agency whether an unplanned shutdown would trigger the MISO requirements, even if the shutdown exceeded two months. The Agency does not recommend that the Board base its regulations on a MISO obligation with which the Agency and the Board are unfamiliar.

In addition, to address some of the “temporary shutdown” concerns raised in testimony on behalf of the Illinois AGO, the Agency further proposes that the Board revise Section 225.233(h)(1) and (h)(3) in the manner suggested in the Agency’s December 10, 2018, filing by also adding a clarifying phrase to portions of the Agency’s suggested amendments. Ex. 48; Ex. 49. *See*, Exhibit 2, attached. Specifically, the Agency proposes that the Board add the phrase “to produce electricity for sale” to each of the above subsections to clarify that a cessation of operations is considered a temporary shutdown when the EGU does not operate “to produce electricity for sale” during an entire compliance period; these amendments eliminate any concern that de minimis operation of an EGU during a compliance period could result in avoidance of the mandatory emissions cap reductions set forth in the proposed rule. Furthermore, this phrase mirrors language in the definition of EGU in Section 225.130 and the applicability provisions in Section 225.205. It is the Agency’s understanding that the proposed revisions to Section 225.233(h)(1) and (h)(3) are agreeable to Vistra.

The Illinois AGO also suggests removing a temporarily shutdown EGU from an MPS Group and subjecting it to a separate emissions cap equivalent to its allocation amount, rather than only adjusting the mass emissions limitations applicable to the whole MPS Group downward. Ex. 48 at 8-10. The Agency disagrees with this suggestion. The concept of removing a non-permanently shutdown EGU from an MPS Group and having it “stand alone” for a time conflicts with the structure of the MPS, which is written in terms of MPS Groups. The rule does not contemplate units flitting in and out of an MPS Group when they stop operating for a limited period of time. A unit that is temporarily shutdown retains its operating permit and could restart operations again the next compliance period, necessitating its continued inclusion in the MPS. The only instance where it is appropriate to remove a unit from an MPS Group altogether is when that unit permanently shuts down and is no longer subject to the MPS emission standards.

Similarly, the Illinois AGO argued in pre-filed testimony and at hearing that the final rule should include a Board note identifying all MPS units that are temporarily shutdown at the time of adoption. Ex. 48 at 4; Tr. at 12-14. The Agency does not agree that a Board note to this effect is needed or would be helpful. Whether a particular unit is or is not currently operating has no impact on the rule proposal under consideration by the Board, regardless of whether the Board adopts the Agency’s or the Illinois AGO’s suggestions. The Illinois AGO argues that a note would be informational for the public, but regulations are not an ideal forum for information sharing; regulations are static (until amended via a formal rulemaking process) while the particular EGUs that are or are not operating may very well change. A Board note providing a single “snapshot” of temporarily shutdown units as of the date the Board adopts the rule is therefore unhelpful and even potentially confusing. The Board can note in its final order the date

that particular units last operated if it determines such information is useful to the public, but such a statement is not necessary in the rule.

Proration

The Agency does not support the proration of allocation amounts in the event of a temporary shutdown of one or more units for several reasons. First, defining a temporary shutdown in any way other than the way proposed by the Board and supported by the Agency could be problematic and would involve additional rule language regarding the definition of a temporary shutdown and recordkeeping and reporting requirements. This additional language would unnecessarily complicate the process of assessing compliance with the MPS, which is one of the reasons the Agency proposed clarifying language to define a temporary shutdown as a unit that does not operate for an entire control period. Such a definition also follows the logic laid out by the Board in its Second First Notice Proposal. Second, the impact on emissions from reducing the overall limit for the MPS Group will be minimal and would offer little efficacy or environmental benefit for periods shorter than an entire control period.

Additionally, reducing the MPS limits during a temporary shutdown of a duration of less than a full control period is contrary to the intent of fleet-wide annual and seasonal emission limits. As discussed in the earlier hearings, when one EGU is not operating, the electrical demand will be met by increased operation at other EGUs. Likewise discussed at earlier hearings, the MPS is not, and never has been, an appropriate means to attempt to prevent the concentration of emissions from any one or set of EGUs that are affected when other EGUs in an MPS Group are shut down – either temporarily or permanently.

Planned outages can be scheduled for a number of reasons, but for an EGU operator, the best time to schedule those would be during times of lowest electrical demand. As an example,

if an EGU were shut down in the months of April and May, and then again in September and October, when demand is lower than in other months, this would represent a full third of the year. However, one would not expect that one third of the total annual emissions from that EGU would have occurred in those months even if there had been no temporary suspension of operations. That means proration would penalize the unit by reducing its allocation by a greater amount than the unit would have emitted if it had been operating. At hearing, the Illinois AGO agreed that this issue complicated any potential proration language but did not offer an alternative to its proposed language that would remedy this issue. The Agency likewise does not have a solution to this difficulty in how to prorate emission allocations over short periods. Attempting to regulate the multitude of scenarios that could arise would unnecessarily complicate the rule language and any subsequent enforcement and do so for relatively little potential environmental benefit.

The Agency's Responses to Questions Posed by the Board at Hearing

In response to the Board's questions at the January 29, 2019, hearing, the Agency provides the following responses.

The Board asked if the Agency is aware of any regulations or requirements, in all media, that require a company to maintain a website that provides certain types of information. This was prompted by a line of questioning directed to the Illinois AGO regarding its suggestion that Vistra be required to post on its website all notices and reports required by the Board's proposal and submitted to the Agency, including annual and ozone season compliance reports, deviation reports, notifications regarding times during which SCR control systems were not operated, notices of unit transfers, notices of shutdown units, and notices of temporarily shutdown units. Tr. at 51; Ex. 48 at 3-4. Generally, requiring that the Agency or a regulated source post

information submitted to the Agency on a website is unnecessary because the public can obtain these documents pursuant to the Freedom of Information Act ("FOIA"), 5 ILCS 140/1 *et. seq.* Under FOIA, absent an extension, the Agency is required to respond to any written request for public records within five business days after receipt of the request for records. 2 Ill. Adm. Code 1828.501(a). In addition to FOIA, the public can obtain information about a facility's compliance on USEPA's Enforcement and Compliance History Online ("ECHO") database. This database contains information on individual facilities, including permit status, air pollutant reports, compliance history, and toxic release inventory.

Furthermore, in the air regulatory context, the Agency and the Board generally do not impose such a requirement on regulated entities. In response to the Board's query, the Agency conducted a search of Agency and Board regulations and did not find any such requirement in the air medium. There are two land regulations that contain such a requirement. Under the Agency's Mercury Thermostat Collection Act, 415 ILCS 98/1 *et seq.*, each thermostat manufacturer required to operate a program for the collection, transportation, and proper management of out-of-service mercury thermostats must, individually or collectively with other thermostat manufacturers, submit an annual report on its collection program to the Agency covering the one-year period ending December 31 of the previous year, to be posted on the manufacturer's website in accordance with Section 20(b) of that Act. 35 Ill. Adm. Code 190.130(d). Under the Board's hazardous waste operating requirements, any generator of a carbon dioxide stream who claims that a carbon dioxide stream is excluded as a hazardous waste must make the required carbon dioxide stream certification readily accessible on the facility's publicly-available website (if such website exists) as a public notification at the time the exclusion is claimed. 35 Ill. Adm. Code 721.104.

The above provisions establish limited website posting obligations on sources. Neither of the provisions requires posting of all notifications and reports required by a rule, as requested by the Illinois AGO, and neither requires posting of annual compliance reports. Neither the Agency nor the Board currently requires a regulated entity to make annual compliance reports or notifications of transfer or shutdown publicly available on the entity's website. The Agency does not endorse the Board setting such a precedent in this rulemaking.

The Illinois AGO testified that "IEPA has available on its websites [sic], for example, discharge monitoring reports under the [National Pollutant Discharge Elimination System] NPDES program, so monitoring reports database . . ." Tr. at 52. However, the Agency website simply contains a link to NetDMR, which is an electronic Discharge Monitoring Report ("DMR") program run by USEPA on which NPDES permittees can electronically sign and submit DMRs in accordance with the Clean Water Act. The Illinois EPA does not maintain this system. Also, the use of NetDMR is limited to permittees, and users are assigned a specific role that may limit the type of access granted on NetDMR. NetDMR is not a publicly searchable database and, thus, is not a model for the Board to follow in this instance.

The Board further solicited the Agency's comment on the proposed changes by the Illinois AGO requiring that notices of transfer, permanent shutdowns, and temporary shutdowns in Section 225.233(f)(3), (g)(3), and (h)(3) be included in annual and ozone season compliance reports submitted to the Agency. Tr. at 53. This would be an unnecessary and redundant requirement. The Agency does not need to receive this information twofold from the owners and operators. Owners and operators are already required to notify the Agency within seven days after transfer, shutdown, or the end of each pertinent compliance period in the case of a temporary shutdown, and within 30 days after discovery of deviations and inoperation of an SCR

control system. It is unnecessary and superfluous to require the owners and operators to submit this identical information again in annual compliance reports to the Agency.

The Board also requested comment and input on the compliance date of January 1, 2019, set forth in Section 225.233(a)(4). Tr. at 64-65. The Agency supports the January 1, 2019, compliance date in the proposed rule. While an adoption date for the proposed rule would occur after this compliance date, the mass emissions limitations apply on an annual basis for SO₂ and NO_x, and a seasonal basis (May 1 to September 30) for NO_x. Accordingly, so long as the proposed rule is adopted by the Board prior to October 1, 2019, rule adoption will still be within both compliance periods. Only one company, Vistra, would be subject to the January 1, 2019, compliance date and it has indicated it is prepared to comply beginning 2019. Reporting obligations are not an issue either. Under the proposal, Vistra is required to demonstrate compliance with the annual emissions standards by submitting a compliance report to the Agency on or before March 1 of each year for the preceding calendar year. Therefore, on or before March 1, 2020, Vistra must submit an annual compliance report to the Agency for calendar year 2019. Likewise, Vistra is required to demonstrate compliance with the seasonal emissions standards by submitting a compliance report to the Agency on or before November 1 of each year for the preceding May 1 through September 30. As such, on or before November 1, 2019, Vistra must submit a seasonal compliance report for the 2019 ozone season (May 1, 2019, through September 30, 2019).

The Board also inquired when the Agency would consider a unit to be permanently shutdown outside of the MPS. Tr. at 43. The Agency briefly touched upon USEPA's shutdown/reactivation policy in the Agency's Responses to Board Questions Set Forth in Hearing Officer Order Dated October 4, 2018 (filed December 10, 2018), and indicated that the

duration of the shutdown of a unit may be relevant for purposes of the Prevention of Significant Deterioration and Nonattainment New Source Review permit programs, 40 CFR § 52.21 and 35 Ill. Adm. Code 203, respectively (collectively “New Source Review permitting” or “NSR permitting”). Ex. 49 at 5-6.

The USEPA’s policy on the shutdown/reactivation of sources provides that the planned reactivation of a source that has been shut down for two or more years may trigger a requirement for NSR permitting because the presumption is that the shutdown was intended to be permanent. The USEPA has discussed this policy in a number of project specific determinations. *See, e.g., In the Matter of Monroe Electric Generating Plant Entergy Louisiana, Inc., Proposed Operating Permit, Petition No. 6-99-2 (June 11, 1999)*. However, the presumption that a source has been permanently shut down after a period of two years is rebuttable by information showing that the intent of the owner or operator beginning at the time of shutdown and continuing thereafter was to only temporarily idle the source to resume operation in the future. USEPA recommends that the permitting authority consider many factors in evaluating the owner or operator's intent, and the analysis is fact-specific.

As the Agency previously pointed out, though, similar policies and analyses are not needed for purposes of this rulemaking. The Board’s proposal specifies that permanent shutdown occurs for purposes of this rule on the date the owner or operator submits a written request to the Agency to modify its operating permit to reflect the shutdown of the units or to withdraw the permit for the source. In these cases, those units or sources would be considered a new source if an entity wished to restart operation. No other participant has suggested a different standard, and as the allocation amounts for temporary and permanent shutdowns are identical, there are no practical ramifications of extended temporary shutdowns.

Conclusion

The Illinois EPA has offered considerable testimony and technical support demonstrating the adequacy of this rulemaking proposal to date. Therefore, the Illinois EPA respectfully requests that the Board adopt the Second First Notice proposal with the Agency's suggested amendments.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Antonette R. Palumbo
Antonette R. Palumbo
Assistant Counsel
Division of Legal Counsel

/s/ Gina Roccaforte
Gina Roccaforte
Assistant Counsel
Division of Legal Counsel

DATED: March 20, 2019

1021 N. Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

EXHIBIT 1**REVISED ALLOCATION AMOUNTS FOR
ANNUAL NO_x EMISSIONS LIMITATION OF 19,000 TONS PER YEAR,
OZONE SEASON NO_x EMISSIONS LIMITATION OF 11,500 TONS, AND
ANNUAL SO₂ EMISSIONS LIMITATION OF 34,500 TONS PER YEAR****Subsection (f)(2):**2) Allocation Amounts in the Event of Transfer of EGUs

		<u>Column A.</u> <u>NO_x</u> <u>Allocation</u> <u>Amount</u> <u>(TPY) in the</u> <u>Event of</u> <u>Transfer</u>	<u>Column B.</u> <u>NO_x</u> <u>Allocation</u> <u>Amount (May</u> <u>1 - Sept 30</u> <u>Tons) in the</u> <u>Event of</u> <u>Transfer</u>	<u>Column C.</u> <u>SO₂</u> <u>Allocation</u> <u>Amount</u> <u>(TPY) in the</u> <u>Event of</u> <u>Transfer</u>
A)	Baldwin	4,570	2,700	3,760
B)	Havana	1,370	810	940
C)	Hennepin	1,140	675	3,760
D)	Coffeen	1,520	900	150
E)	Duck Creek	1,070	630	150
F)	Edwards	2,280	1,350	6,300
G)	Joppa	3,960	2,340	11,290
H)	Newton	2,050	1,215	6,300

Subsection (g)(2):2) Allocation Amounts in the Event of Shutdown of EGUs

		<u>Column A.</u> <u>NO_x</u> <u>Allocation</u> <u>Amount</u> <u>(TPY) in the</u> <u>Event of</u> <u>Shutdown</u>	<u>Column B.</u> <u>NO_x</u> <u>Allocation</u> <u>Amount (May</u> <u>1 - Sept 30</u> <u>Tons) in the</u> <u>Event of</u> <u>Shutdown</u>	<u>Column C.</u> <u>SO₂</u> <u>Allocation</u> <u>Amount</u> <u>(TPY) in the</u> <u>Event of</u> <u>Shutdown</u>
A)	Baldwin 1	1,560	920	1,290
B)	Baldwin 2	1,450	860	1,200
C)	Baldwin 3	1,560	920	1,270
D)	Havana 9	1,370	810	940
E)	Hennepin 1	270	160	910
F)	Hennepin 2	870	500	2,860
G)	Coffeen 1	570	340	60
H)	Coffeen 2	960	560	90
I)	Duck Creek 1	1,070	630	150
J)	Edwards 2	960	560	2,640
K)	Edwards 3	1,330	780	3,660
L)	Joppa 1	660	390	1,880
M)	Joppa 2	660	390	1,880
N)	Joppa 3	660	390	1,880
O)	Joppa 4	660	390	1,880
P)	Joppa 5	660	390	1,880

Q)	Joppa 6	660	390	1,880
R)	Newton 1	2,050	1,215	6,300

Subsection (h)(2):

2) Allocation Amounts in the Event of Temporary Shutdown of EGUs

		<u>Column A.</u> <u>NO_x</u> <u>Allocation</u> <u>Amount</u> <u>(TPY) in the</u> <u>Event of</u> <u>Shutdown</u>	<u>Column B.</u> <u>NO_x</u> <u>Allocation</u> <u>Amount (May</u> <u>1 - Sept 30</u> <u>Tons) in the</u> <u>Event of</u> <u>Shutdown</u>	<u>Column C.</u> <u>SO₂</u> <u>Allocation</u> <u>Amount</u> <u>(TPY) in the</u> <u>Event of</u> <u>Shutdown</u>
A)	Baldwin 1	1,560	920	1,290
B)	Baldwin 2	1,450	860	1,200
C)	Baldwin 3	1,560	920	1,270
D)	Havana 9	1,370	810	940
E)	Hennepin 1	270	160	910
F)	Hennepin 2	870	500	2,860
G)	Coffeen 1	570	340	60
H)	Coffeen 2	960	560	90
I)	Duck Creek 1	1,070	630	150
J)	Edwards 2	960	560	2,640
K)	Edwards 3	1,330	780	3,660
L)	Joppa 1	660	390	1,880
M)	Joppa 2	660	390	1,880

<u>N)</u>	<u>Joppa 3</u>	<u>660</u>	<u>390</u>	<u>1,880</u>
<u>O)</u>	<u>Joppa 4</u>	<u>660</u>	<u>390</u>	<u>1,880</u>
<u>P)</u>	<u>Joppa 5</u>	<u>660</u>	<u>390</u>	<u>1,880</u>
<u>Q)</u>	<u>Joppa 6</u>	<u>660</u>	<u>390</u>	<u>1,880</u>
<u>R)</u>	<u>Newton 1</u>	<u>2,050</u>	<u>1,215</u>	<u>6,300</u>

EXHIBIT 2

Proposed Section 225.233(h)(1) and (h)(3)

(New language in bold)

- h) Temporary shutdown of EGUs in an MPS Group
- 1) If one or more EGUs in an MPS Group **do not operate to produce electricity for sale during** ~~are temporarily shut down over an entire compliance period or periods:~~

* * *
 - 3) If one or more EGUs in an MPS Group **do not operate to produce electricity for sale during** ~~are temporarily shut down over an entire compliance period,~~ the owner or operator must notify the Agency's Bureau of Air, Compliance Section in writing within seven days after the **end of each such compliance period** ~~start date of shutdown.~~ Such notification must include the following information:

* * *

Proposed Section 225.233(l)

- l) EGU Shutdowns
- 1) Within 30 days after the effective date of this subsection, the owner or operator of the EGUs in the MPS Group specified in subsection (a)(4)(A) must submit documentation to the regional transmission operator, Midcontinent Independent System Operator (MISO), that meets all applicable regulatory requirements necessary to obtain MISO approval to permanently cease operating one or more EGUs from such MPS Group with an aggregate capacity of at least 2,000 MW (calculated on a nameplate basis) of coal-fired electric generation.
 - 2) The owner or operator must permanently cease operating each coal-fired EGU identified in such documentation within 60 days of receiving notification from MISO that the owner or operator may cease operating that unit, but in no event later than December 31, 2019, except as follows:
 - A) If MISO determines that operation of a coal-fired EGU is required to continue to operate to maintain transmission reliability, the owner or operator may continue operating the EGU but must use its best efforts to resolve the reliability requirement with MISO and cease operation of the EGU as soon as practicable.
 - B) If MISO has not yet approved the cessation of operation of an EGU by December 31, 2019, the owner or operator may continue operating the

EGU but must continue to seek a resolution with MISO until such time as MISO approves the cessation of operation of the unit.

C) The owner or operator must permanently cease operating an EGU referenced in subsection (1)(2)(A) or (B) no later than 30 days after receipt of MISO's notification that the owner or operator may cease operating the unit.

3) The owner or operator of the EGUs in the MPS Group must submit the following notifications to the Agency's Bureau of Air, Compliance Section, to demonstrate compliance with this subsection:

A) Within 45 days after the effective date of this subsection, the owner or operator must submit a notification to the Agency containing the date that the owner or operator submitted the documentation required by subsection (1)(1) to MISO and a certification that the owner or operator has designated in that documentation EGUs from the MPS Group with an aggregate capacity of at least 2,000 MW of coal-fired electric generation for permanent cessation of operations.

B) Within 30 days after the owner or operator's receipt of MISO's response regarding whether an EGU in the MPS Group may cease operations or is required to continue to operate to maintain transmission reliability, but for responses received on or before December 31, 2019, in no event later than January 7, 2020, the owner or operator must notify the Agency of MISO's decision and identify each EGU to which the decision applies. If an EGU is required to continue operation, the notification to the Agency must also describe the status of resolving the transmission reliability requirement. If MISO has not yet responded regarding one or more EGUs by December 31, 2019, the owner or operator must notify the Agency by January 7, 2020, identifying each EGU still awaiting a response. The owner or operator must update the Agency on the status of either resolving any transmission reliability requirement or receipt of MISO's response by the end of each calendar month, until MISO approves the cessation of operation.

C) Within seven days after the permanent cessation of operations of an EGU under this subsection, the owner or operator must submit a notification to the Agency identifying the EGU in the MPS Group that has permanently ceased operation, the nameplate capacity of such EGU, and the date such EGU permanently ceased operations.

Marie Tipsord
Mark Powell
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Suite 11-500
Chicago, IL 60601-3218
marie.tipsord@illinois.gov
mark.powell@illinois.gov

Renee Snow
General Counsel
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, IL 62702-1271
renee.snow@illinois.gov

Faith Bugel
Attorney at Law
1004 Mohawk
Wilmette, IL 60091
fbugel@gmail.com

Stephen Sylvester
Illinois Attorney General's Office
69 West Washington Street, 18th Floor
Chicago, IL 60602
ssylvester@atg.state.il.us

Matthew J. Dunn, Chief
Environmental Enforcement/Asbestos
Litigation Division
Illinois Attorney General's Office
500 S. Second St.
Springfield, IL 62706
mdunn@atg.state.il.us

Katherine D. Hodge
HeplerBroom LLC
4340 Acer Grove Drive
Springfield, IL 62711
katherine.hodge@heplerbroom.com

Andrew Armstrong
Illinois Attorney General's Office
500 S. Second St.
Springfield, IL 62706
aarmstrong@atg.state.il.us

Amy C. Antonioli
Joshua R. More
Ryan Granholm
Caitlin Ajax
Schiff Hardin LLP
233 S. Wacker Drive, Suite 7100
Chicago, IL 60606
aantonioli@schiffhardin.com
jmore@schiffhardin.com
rgranholm@schiffhardin.com
cajax@schiffhardin.com

Greg Wannier
Staff Attorney, Sierra Club
2101 Webster St., Suite 1300
Oakland, CA 94612
greg.wannier@sierraclub.org

Katy Khayyat
Department of Commerce and
Economic Opportunity
Small Business Office
500 E. Monroe St.
Springfield, IL 62701
katy.khayyat@illinois.gov

Jean-Luc Kreitner
Justin Vickers
Environmental Law & Policy Center
35 E. Wacker Dr., Suite 1600
Chicago, IL 60601
jkreitner@elpc.org
jvickers@elpc.org