

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
)
STANDARDS FOR THE DISPOSAL OF COAL) R 2020-019
COMBUSTION RESIDUALS IN SURFACE) (Rulemaking – Land)
IMPOUNDMENTS: PROPOSED NEW 35 ILL.)
CODE 845)

NOTICE OF FILING

To: Service List

PLEASE TAKE NOTICE that I have today electronically filed, with the Office of the Clerk of the Pollution Control Board, AmerenEnergy Medina Valley Cogen, LLC and Union Electric Company, d/b/a Ameren Missouri's Post-Hearing Comment, copies of which are herewith served upon you.

Dated: January 15, 2021

Respectfully submitted,
**AmerenEnergy Medina Valley Cogen,
LLC and Union Electric Company, d/b/a
Ameren Missouri.**

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AMEREN’S POST-HEARING COMMENT

NOW COMES AmerenEnergy Medina Valley Cogen, LLC and Union Electric Company, d/b/a Ameren Missouri (collectively, “Ameren”), by their attorneys Claire A. Manning and Anthony D. Schuering of BROWN, HAY & STEPHENS, LLP, and submit this Post-Hearing Public Comment in response to the Post-Hearing Comment filed by the Illinois Attorney General’s Office on January 14, 2021. P.C. #143.

The Attorney General’s Public Comment included a recent Sangamon County circuit court decision that granted the State’s Motion to Dismiss Ameren’s Complaint for Declaratory Judgement and Writ of Certiorari based upon the State’s arguments that the complaint was not ripe. On this record, the State has objected to the Board’s consideration of Ameren’s statutory construction arguments, in part because of “ongoing outside pending litigation regarding the subject of fees.” *See, e.g.*, Aug. 11, 2020 Tr., pp. 46:15–22.

Obviously, the circuit court case no longer poses any impediment to the Board’s decision on Ameren’s issues. Requiring Ameren to defend itself in an enforcement action that subjects it to potential penalties pursuant to Section 42 of the Act, when the issue of statutory construction is squarely before the Board in this regulatory proceeding, is not good public policy, not required by any law or procedure, and wholly inequitable to Ameren.

