

ILLINOIS POLLUTION CONTROL BOARD
September 21, 2023

IN THE MATTER OF:)
)
PETITION OF DYNEGY FOR AN) AS 24-4
ADJUSTED STANDARD FROM 35 ILL.) (Adjusted Standard - Air)
ADMIN. CODE PARTS 201 AND 212)

ORDER OF THE BOARD (by B. F. Currie):

On August 14, 2023, Dynegy Midwest Generation, LLC, Illinois Power Generating Company, and Kincaid Generation, LLC (collectively, Dynegy) filed a petition (Pet.) pursuant to Section 28.1 of the Environmental Protection Act (Act) and Part 104 of the Board’s procedural rules. *See* 415 ILCS 5/28.1 (2022); 35 Ill. Adm. Code 104 Subpart D. Dynegy petitions the Board for an adjusted standard from Part 212.122(a) and 212.123(a), 35 Ill. Adm. Code 212.122(a) and 212.123(a). Specifically, Dynegy seeks adjusted standards from the opacity standards applicable to Dynegy’s coal-fired boilers during periods of startup, malfunction and breakdown. On August 28, 2023, Dynegy filed an amended petition that included additional proposed adjusted standard language.

Section 28.1 of the Act and Section 104.408 of the Board’s procedural rules require publication of notice of an adjusted standard proceeding in a newspaper of general circulation in the area affected by the petitioner’s activity. 415 ILCS 5/28.1(d)(1)(2022); 35 Ill. Adm. Code 104.408(a). Notice must be published within 14 days of filing a petition for an adjusted standard with the Board. 35 Ill. Adm. Code 104.408(a). As required by Section 104.410, Dynegy timely filed a certificate of publication of notice of the amended petition on September 13, 2023. Notice of filing was published on August 31, 2023, in the *Taylorville Breeze-Courier*, on September 1, 2023, in the *Effingham Daily News*, and September 7, 2023, in the *North County News*.

The Board finds that the notice and amended petition meet the requirements of Section 28.1 of the Act and Section 104.408 of the Board’s procedural rules and accepts the amended petition for adjusted standard. *See* 415 ILCS 5/28.1 (2022); 35 Ill. Adm. Code 104.408.

Section 104.416(a) of the Board’s rules require that IEPA file a response including its recommendation concerning the Board’s proposed action on this petition within 45 days after the service of the petition. *See* 35 Ill. Adm. Code 104.416(a). In this case, IEPA has timely filed a motion for stay of the proceedings, or in the alternative, a motion for extension of time to file the recommendation. Mot. at 1. Dynegy did not file a response to the motion. The Board’s procedural rules require that motions to stay proceedings be accompanied by sufficient information detailing why a stay is needed and a status report detailing the process of the proceeding. *See* 35 Ill. Adm. Code 101.514. In its motion, IEPA says a stay is appropriate because, “issuing a stay here will conserve resources and allow participants to focus on Dynegy’s rulemaking proposal first, and this proceeding second (and only if still necessary).”

Mot. at 4-5. The Board grants IEPA's motion to stay the proceedings for 90 days, until December 21, 2023.

The Board's procedural rules require that at the close of a stay, the parties must file a status report in compliance with Subpart C. 35 Ill. Adm. Code 101.514. Any additional requests for stay of the proceedings must be directed at the hearing officer. *Id.*

Dynegy waives a hearing on the petition. Pet. at 22. This order makes no determination on the informational sufficiency or the merits of Dynegy's petition. The Board through its own orders or its hearing officer's orders may direct Dynegy to provide additional information.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 21, 2023, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown".

Don A. Brown, Clerk
Illinois Pollution Control Board