

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
) AS 24-03
PETITION OF MARATHON PETROLEUM) (Adjusted Standard – Air)
COMPANY, LLC FOR AN ADJUSTED)
STANDARD FROM 35 ILL. ADM. CODE)
PART 201 AND SECTION 216.361)

NOTICE

TO: See attached service list.

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY’S STATUS REPORT AND MOTION TO EXTEND STAY OF PROCEEDINGS, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

By: /s/ Dana Vetterhoffer
Dana Vetterhoffer
Division of Legal Counsel

Dated: April 16, 2024
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY’S STATUS REPORT AND
MOTION TO EXTEND STAY OF PROCEEDINGS

The Illinois Environmental Protection Agency (“Illinois EPA or Agency”), by one of its attorneys, and pursuant to 35 Ill. Adm. Code 101.502 and 101.514, provides this Status Report and Motion to Extend Stay of Proceedings (“Motion”) of Marathon Petroleum Company, LLC (“Marathon” or “Petitioner”) regarding its adjusted standard petition. The Illinois EPA requests that the Illinois Pollution Control Board (“Board”) stay this proceeding for 150 days while the Board considers the substantively similar rulemaking proposal filed in R23-18(A).

Status Report

On September 5, 2023, the Agency filed a *Motion for Stay of Proceedings, or in the Alternative, Motion for Extension of Time to File Recommendation* while the Board considers the American Petroleum Institute’s (“API”) substantially similar rulemaking proposal in R23-18(A). On October 5, 2023, the Board granted the Agency’s motion to stay the proceedings for 90 days, until December 27, 2023. On December 18, 2023, the Illinois EPA filed with the Hearing Officer its Status Report and Motion to Extend Stay of Proceeding (“Motion to Extend Stay”) for an additional 120 days, until April 25, 2024. On December 20, 2023, Marathon filed response indicating it had no objection to the Illinois EPA’s motion. On January 4, 2024, the Hearing Officer granted the Illinois EPA’s Motion to Extend Stay until April 25, 2024.

Since the Agency's previous status report, the R23-18(A) rulemaking has continued to move forward. A prehearing teleconference was held on February 7, 2024, and the rule proponents informed the Hearing Officer of the status of each proponent's submissions in relation to the Agency's information requests. On February 28, 2024, another prehearing teleconference was held to discuss procedural matters including a date for the third hearing. On March 6, 2024, the Hearing Officer issued an Order scheduling the third hearing for April 15, 2024, in Chicago and setting dates prior to the hearing for responses to Illinois EPA's request for information, pre-filed testimony, and pre-filed questions based on such information and testimony. *See*, R23-18(A), Hearing Officer Order, March 6, 2024. On March 15, 2024, API filed with the Board additional information, including information regarding Marathon. *See*, R23-18(A), *The American Petroleum Institute's and CITGO's Supplemental Response to Illinois EPA's Comment*, March 15, 2024. On April 2, 2024, the Illinois EPA filed its Testimony of Rory Davis and stated that it does not object to adoption of the rule proposal as set forth in API's March 15, 2024, filing with the Board. *See*, R23-18(A), *Illinois EPA's Testimony of Rory Davis*, April 2, 2024. On April 8, 2024, the Board and other participants pre-filed questions for the Agency and for some of the rule proponents. On April 15, 2024, a third public hearing was held in Chicago.

Request to Extend Stay

The Agency files this request to extend the stay in this proceeding while the Board continues to consider API's rulemaking proposal. Until then, the necessity of an adjusted standard will not be known. As explained in the Agency's first motion for a stay, API's proposed amendments substantively mirror Marathon's requested adjusted standard; both regard changes to/relief from the same Board regulations. Marathon itself explained that its petition

was primarily intended to preserve its arguments regarding a stay under Section 28.1(f) of the Act. *Marathon Petroleum Company, LLC's Petition for an Adjusted Standard*, at P-5.

Simultaneously participating in both an expedited rulemaking and Marathon's adjusted standard proceeding will force the Agency, Board, Marathon, and potentially other participants to expend significant resources in proceedings that seek similar relief. Conversely, issuing a stay here will conserve resources and allow participants to focus on API's rulemaking proposal first, and this proceeding second (and only if still necessary).

Again, the Illinois EPA is not opining as to whether Marathon is entitled to a stay under Section 28.1(f) of the Act, but acknowledges Marathon's stated position in this regard and clarifies that this request to extend the stay is not intended to have any impact on the legal posture of such position. The Illinois EPA is simply seeking to "hold" this proceeding while the rulemaking moves forward, to be resumed at a later date if necessary.

Under the Illinois Administrative Procedure Act, no rule or modification or repeal of any rule may be adopted, or filed with the Secretary of State, more than one year after the date the first notice period for the rulemaking commenced. 5 ILCS 100/5-40(e). To the extent the Board intends to adopt a rule in R23-18(A) prior to September 1, 2024 (one year since first notice began), the parties will know by that date whether this adjusted standard proceeding is still necessary. Extending the stay 150 days should provide Petitioner time after that date but before the end of the stay to withdraw its Petition if desired or otherwise communicate to the Board how it would like to proceed.

WHEREFORE, for the reasons set forth above, the Illinois EPA requests that the Board grant this Motion to Extend Stay of Proceedings for 150 days up to and including September 23, 2024, (or a later date if deemed more appropriate by the Board).

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

By: /s/ Dana Vetterhoffer
Dana Vetterhoffer
Division of Legal Counsel

Dated: April 16, 2024
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CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have electronically served the attached ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S STATUS REPORT AND MOTION TO EXTEND STAY OF PROCEEDINGS, upon the following persons:

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The number of pages in the e-mail transmission is 6.

The e-mail transmission took place before 4:30 p.m.

/s/ Dana Vetterhoffer

Dana Vetterhoffer

Division of Legal Counsel

Dated: April 16, 2024

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