

ILLINOIS POLLUTION CONTROL BOARD

January 6, 2005

SOUTHERN ILLINOIS POWER	)	
COOPERATIVE	)	
(Low Sulfur Dioxide Emission Coal Fueled	)	
Device (Property Identification Number	)	
10-26-200-002)),	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 05-119
	)	(Tax Certification - Air)
	)	
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by J.P. Novak):

On January 3, 2005, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain facilities of Southern Illinois Power Cooperative as “low sulfur dioxide emission coal fueled devices” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-35 *et seq.* (2002)). The facilities are at Southern Illinois Power Cooperative’s coal-fired steam electric power generating plant in Marion, Williamson County. The Agency filed the recommendation under Part 125 of the Board’s procedural rules (35 Ill. Adm. Code 125). In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Southern Illinois Power Cooperative’s facilities are low sulfur dioxide emission coal fueled devices.

**LEGAL FRAMEWORK**

Under the Property Tax Code, “[i]t is the policy of this State that low sulfur dioxide emission coal fueled devices should be valued, at 33⅓% of the fair cash value of their economic productivity to their owners.” 35 ILCS 200/11-35 (2002); *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 200/11-50 (2002); *see also* 35 Ill. Adm. Code 125.200(a).

Under Section 125.202 of the Board’s procedural rules, a person may submit an application for tax certification to the Agency. 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. 35 Ill. Adm. Code 125.204(a). Among other things, the Agency’s filing must recommend that the Board issue or deny tax certification. 35 Ill. Adm. Code 125.204(a)(4). If the Board finds that the claimed meets the

definition of a low sulfur dioxide emission coal fueled device, “the Pollution Control Board . . . shall enter a finding and issue a certificate that requires tax treatment as a low sulfur dioxide emission coal fueled device.” 35 ILCS 200/11-55 (2002); *see also* 35 Ill. Adm. Code 125.216(a).

Section 11-40 of the Property Tax Code (35 ILCS 200/11-40 (2002)) defines “low sulfur dioxide emission coal fueled devices” as follows:

[A]ny device used or intended for the purpose of burning, combusting or converting locally available coal in a manner which eliminates or significantly reduces the need for additional sulfur abatement that would otherwise be required under State or Federal air emission standards. 35 ILCS 200/11-40 (2002).

Section 11-40 further defines “device” as follows:

[A]ll machinery, equipment, structures and all related apparatus, including coal feeding equipment, of a coal gasification facility designed to convert locally available coal into a low sulfur gaseous fuel and to manage all waste and by-product streams. 35 ILCS 200/11-40 (2002).

### **AGENCY RECOMMENDATION**

The Agency states that it received a tax certification application from Southern Illinois Power Cooperative for its low sulfur dioxide emission coal fueled devices at Southern Illinois Power Cooperative’s coal-fired steam electric power generating plant on September 30, 2004. Agency Recommendation Agency Rec. at 1. On January 3, 2005, the Agency filed a recommendation on the application with the Board. The Agency’s recommendation identifies the facilities at issue:

A new circulating fluidized bed boiler that uses limestone as part of the fluidized bed to convert locally-available coal to eliminate the need for any additional sulfur dioxide abatement measures. Agency Rec. at 2.

The Agency’s recommendation also identifies the location of the facilities: Section 26, Township 105, Range 2 east in Marion, Williamson County. *Id.* at Ex. A.

The Agency recommends that the Board certify that the identified facilities are low sulfur dioxide emission coal fueled devices as defined in Section 11-40 of the Property Tax Code (35 ILCS 200/11-40 (2002)). Agency Rec. at 2.

### **TAX CERTIFICATE**

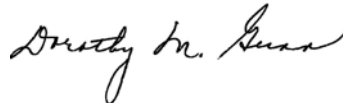
The Board finds and certifies that Southern Illinois Power Cooperative’s facilities identified in this order are low sulfur dioxide emission coal fueled devices under the Property Tax Code (35 ILCS 200/11-40 (2002)). Under Section 11-55 of the Property Tax Code, the effective date of this certificate is “the date of application for the certificate or the date of the

construction of the facility, which ever is later.” 35 ILCS 200/11-55 (2002); *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 (2002)). The Clerk therefore will provide Southern Illinois Power Cooperative and the Agency with a copy of this order.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2002); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board’s procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 6, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board