

ILLINOIS POLLUTION CONTROL BOARD  
November 17, 2005

AMERENENERGY GENERATING	)	
COMPANY, DUCK CREEK POWER	)	
STATION,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 06-66
	)	(CAAPP Permit Appeal – Air)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by G.T.Girard):

On November 3, 2005, AmerenEnergy Generating Company (Duck Creek Power Station) (Ameren) timely filed a petition asking the Board to review a September 29, 2005 determination of the Illinois Environmental Protection Agency (Agency) to issue a Clean Air Act Permit Program (CAAPP) permit with conditions. *See* 415 ILCS 5/40.2(a) (2004); 35 Ill. Adm. Code 105.302(e). Ameren is challenging numerous conditions, including conditions relating to reporting and recordkeeping, as well as the issuance date effective date of the permit. The CAAPP permit application concerns Ameren’s coal-fired power plant at 1775 North CILCO Road in Canton, Fulton County.

Section 40.2(a) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/40.2(a) (2004)) allows several persons to appeal Agency CAAPP permit determinations: permit applicants; persons who participated in the Agency’s public comment process under Section 39.5(8) of the Act (415 ILCS 5/39.5(8) (2004)); and persons who could obtain judicial review under Section 41(a) of the Act (415 ILCS 5/41(a) (2004)). 415 ILCS 5/40.2(a) (2004); *see also* 35 Ill. Adm. Code 105.302(c). Ameren is the CAAPP permit applicant. Ameren appeals on the grounds that the conditions should be removed and that many conditions were included in violation of Section 39.5(q) of the Act (415 ILCS 5/35(q) (2004)). The Board accepts the petition for hearing.

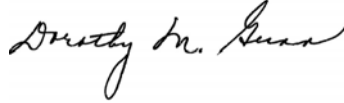
Ameren has the burden of proof. 415 ILCS 5/40.2(a) (2004); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40.2(c) (2004)), which only Ameren may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, “the permit shall not be deemed issued; rather, the petitioner shall be entitled to an Appellate Court order pursuant to Section 41(d) of this Act [415 ILCS 5/41(d) (2004)].” 415 ILCS 5/40.2(c) (2004). Currently, the decision deadline is March 3, 2006 (the 120th day after Ameren filed its petition). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for March 2, 2006.

Unless the Board or the hearing officer orders otherwise, the Agency must file an answer, including the entire record of its determination within 30 days after it is served with the petition. 35 Ill. Adm. Code 105.302(f). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.302(f).

Ameren also filed two motions with the permit appeal. The first motion asks that Ameren be allowed to file an original and four copies instead of the nine copies required by the Board's rules. The Board grants that motion. The second motion seeks a stay of the permit and the Board will reserve ruling on that motion to allow for a response from the Agency.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 17, 2005, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board