

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PETITION OF AMEREN ENERGY MEDINA) AS 21-008
VALLEY COGEN, LLC (OLD MEREDOSIA)) (Adjusted Standard - Land)
FOR ADJUSTED STANDARDS)
FROM 35 ILL. ADMIN. CODE PART 845)

AMEREN’S MOTION REQUESTING PUBLIC HEARING

NOW COMES Petitioner, AMERENENERGY MEDINA VALLEY COGEN, LLC (“Ameren”), by and through its attorneys, Brown, Hay + Stephens, LLP, and pursuant to 35 Ill. Admin. Code 104.420, hereby reiterates its request for a public hearing with respect to the Old Meredosia Adjusted Standards Petition. In support, Ameren states the following:

1. On or about May 11, 2021, Ameren filed its Petition for an Adjusted Standard from 35 Ill. Admin. Code, Part 845 (“Part 845”), seeking recognition that Old Meredosia is closed, exempt from Part 845, and not a surface impoundment as contemplated by the Illinois Environmental Protection Act, 415 ILCS 5 *et seq.* (the “Act”).

2. On filing its Petition, Ameren indicated it “recognizes the public interest relevant in this proceeding and does not intend to waive its right to hearing but will further and fully develop the facts contained in this Petition at hearing, through the testimony of expert witnesses, who will be timely named, and testimony presented, as the Board or its hearing officer prescribes.” *Pet. for Adjusted Standard*, § XII. On May 26, 2021, Ameren filed its Certificate of Publication in accordance with 35 Ill. Adm. Code 104.408.

3. Following a series of status conferences and discussions with the prior attorneys from the Illinois EPA, Ameren believed that Illinois EPA would not be taking a position that materially differed from that set forth in Ameren’s Petition. However, during those discussions, certain issues were raised by Illinois EPA that required further clarification and evidentiary

support. As such, Ameren submitted its Amended Petition for an Adjusted Standard on May 1, 2023, addressing what it believed to be the perceived deficiencies identified by Illinois EPA and indicating that it believed the Petition to be straightforward and that it would waive its right to a public hearing. *Am. Pet. for Adjusted Standard*, § XI. Ameren further indicated that it would answer any questions the Board or Illinois EPA had in writing.

4. On or about August 3, 2023, Illinois EPA submitted its Response to Ameren's Petition, wholly disagreeing with Ameren's position and claiming that "[t]he Petition does not adequately address the potential for Old Meredosia to impact groundwater, nor does it provide adequate information to determine that the existing sediment cover provides any control of these environmental impacts." *Ill. EPA Recommendation*, ¶ 43. As such, Illinois EPA recommended that the Board deny Ameren's request for an adjusted standard from Part 845 and further deny its request for a finding that Part 845 is inapplicable to Old Meredosia.

5. Ameren submitted its Response to the Illinois EPA's Recommendation on February 5, 2024, addressing the perceived deficiencies identified by Illinois EPA, indicating that Ameren stood ready to answer at hearing any questions the Board might have, and withdrawing the previous waiver of its right to a hearing. *Resp. to Ill. EPA Recommendation*, p. 24, fn. 8.

6. Under the Board's regulations, "a public hearing will be held and the Board will assign a hearing officer to an adjusted standard proceeding when: 1) The petitioner requests a hearing be held; or . . . 3) The Board *in its discretion determines that a hearing would be* advisable [415 ILCS 5/28.1]." 35 Ill. Adm. Code 104.422 (emphasis in original). Further, where all parties who have requested a hearing have withdrawn such requests, the Board may still hold such a hearing if it deems doing so advisable. 35 Ill. Adm. Code 104.420(b). The Board's regulations are silent with respect to withdrawals of waivers of the right to a hearing but are clear that a hearing must be held when a petitioner so requests.

7. As set forth in its Amended Petition and Response to Illinois EPA, Old Meredosia is not a threat to the environment. The site has been inactive for fifty years; is home to a wildlife community that includes bald eagles and over ten acres of deciduous forest; the groundwater table is consistently below the bottom of the site (even during seasonal high groundwater conditions); and the rainfall in the area is not sufficient to meet the transpiration requirements of the trees in the area such that the rainfall does not reach the groundwater. Further, because Illinois EPA would be involved in the scheduling of the hearing in this matter, it will suffer no prejudice if a public hearing is held in accordance with the Board's regulations.

WHEREFORE, for the foregoing reasons, AmerenEnergy Medina Valley Cogen, LLC, respectfully requests that the Board grant this motion and hold a public hearing on its Amended Petition for an Adjusted Standard with respect to Old Meredosia in accordance with 35 Ill. Admin. Code 104.22, and for such other and further relief the Board deems just and proper.

Dated: April 3, 2024

Respectfully submitted,

**AmerenEnergy Medina Valley Cogen,
LLC, Petitioner**

By: /s/Lucas J. Hall

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CERTIFICATE OF SERVICE

The undersigned certifies that he caused to be served by email to the Clerk and the individuals with email addresses named on the Service List provided on the Board's website, available at <https://pcb.illinois.gov/Cases/GetCaseDetailsById?caseId=17040>, a true and correct copy of the foregoing Appearance and Consent to Email Service on this 3rd day of April, 2024.

Dated: April 3, 2024

Respectfully submitted,

**AmerenEnergy Medina Valley Cogen,
LLC, Petitioner**

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