

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
) R2023-018(A)
AMENDMENTS TO 35 ILL. ADM. CODE) (Rulemaking – Air)
PARTS 201, 202, AND 212)

NOTICE OF FILING

TO: Mr. Don A. Brown,	Timothy Fox
Clerk of the Board	Chloe Salk
Illinois Pollution Control Board	Hearing Officers
60 East Van Buren Street, Suite 630	Illinois Pollution Control Board
Chicago, Illinois 60605	60 East Van Buren Street, Suite 630
	Chicago, Illinois 60605

(VIA ELECTRONIC MAIL)

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board, **ENTRY OF APPEARANCE OF TREJAHN HUNTER AND ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S PRE-FILED QUESTIONS DIRECTED TO ILLINOIS EPA'S WITNESS RORY DAVIS**, copies of which are hereby served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP,

By: /s/ Melissa S. Brown
One of Its Attorneys

Dated: April 8, 2024

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R2023-018(A)

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
)
) R 23-18(A)
AMENDMENTS TO 35 ILL. ADM. CODE) (Rulemaking – Air)
PARTS 201, 202, AND 212)

ENTRY OF APPEARANCE OF TREJAHN HUNTER

NOW COMES Trejahn Hunter and hereby enters his appearance as an attorney in this matter on behalf of the ILLINOIS ENVIRONMENTAL REGULATORY GROUP.

Respectfully Submitted,

By: /s/ Trejahn Hunter

Dated: April 8, 2024

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
AMENDMENTS TO 35 ILL. ADM. CODE)	R 23-18(A)
PARTS 201, 202, AND 212)	(Rulemaking – Air)

**ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S PRE-FILED QUESTIONS
DIRECTED TO ILLINOIS EPA'S WITNESS RORY DAVIS**

The ILLINOIS ENVIRONMENTAL REGULATORY GROUP ("IERG"), by and through its attorneys, HEPLERBROOM, LLC, hereby submits to the Illinois Pollution Control Board ("Board") its Pre-Filed Questions Directed to the Illinois Environmental Protection Agency's ("Illinois EPA" or "Agency") Witness Rory Davis for the third hearing in this sub-docket rulemaking pursuant to the March 6, 2024 Notice of Hearing.

QUESTIONS FOR RORY DAVIS

1. Is the Agency aware of the U.S. Court of Appeals for the District of Columbia's decision issued on March 1, 2024 in *Environmental Committee of the Florida Electric Power Coordinating Group, Inc. v. EPA, et al.*, which involved petitions for review of USEPA's startup, shutdown, and malfunction ("SSM") State Implementation Plan ("SIP") Call?
2. Has the Agency had any discussions with USEPA about the March 1, 2024 decision?
3. Is the Agency aware of what USEPA may do as a result of the March 1, 2024 decision, for example, petition for rehearing, appeal the decision, or re-issue the SSM SIP Call?
4. Do you agree that the 2015 SSM SIP Call and 2022 Finding of Failure were the basis of the Agency's proposal, and the Board's decision to adopt the Agency's proposal, in PCB R 23-18?
5. Did the Agency submit the amendments adopted in PCB R 23-18 to USEPA for approval as a SIP revision? If so, what is the status of that submittal and USEPA's approval of the submittal?
6. Will the D.C. Circuit Court's March 1, 2024 opinion impact USEPA's approval of the Illinois SIP revision?
7. Has the Agency considered potentially withdrawing the SIP submittal concerning the amendments adopted in PCB R 23-18 as a result of the D.C. Circuit Court's March 1,

2023 decision? If yes, has the Agency considered potentially submitting a proposal to the Board to re-instate the startup, malfunction, and breakdown provisions that were removed and revised in PCB R 23-18?

8. Has the Agency considered whether the D.C. Circuit Court's decision will have any impact on the seven criteria for AELs outlined by USEPA in the 2015 SIP Call (and 2013 proposed rule), which references a 1999 USEPA guidance document?¹

WHEREFORE, for the above and foregoing reasons, the Illinois Environmental Regulatory Group hereby respectfully submits its Pre-Filed Questions Directed to Illinois EPA's Witness for the third hearing in this matter.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP

Dated: April 8, 2024

By: /s/ Melissa S. Brown
One of Its Attorneys

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¹ See 80 Fed. Reg. 33840, at 33843,33913 (June 12, 2015) (referencing "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown," USEPA (Sep. 20, 1999), publicly available on USEPA's website at <https://www3.epa.gov/ttn/naaqs/aqmguide/collection/t5/excesem2.pdf>.)

CERTIFICATE OF SERVICE

I, the undersigned, on oath state the following: That I have served the attached **ENTRY OF APPEARANCE OF TREJAHN HUNTER AND ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S PRE-FILED QUESTIONS DIRECTED TO ILLINOIS EPA'S WITNESS RORY DAVIS**, via electronic mail upon:

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That my email address is Melissa.Brown@heplerbroom.com

That the number of pages in the email transmission is 6.

That the email transmission took place before 5:00 p.m. on April 8, 2024.

Date: April 8, 2024

/s/ Melissa S. Brown
Melissa S. Brown