

ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
NATURAL GAS-FIRED, PEAK-LOAD) R01-10
ELECTRICAL POWER GENERATING)
FACILITIES (PEAKER PLANTS))

**COMMENTS OF THE
MIDWEST INDEPENDENT POWER SUPPLIERS COORDINATION GROUP**

I. Introduction

The Midwest Independent Power Suppliers Coordination Group (“MWIPS”) is an organization of leading competitive power suppliers with a common interest in promoting full and fair competition in the electric industry in the Midwest. MWIPS members stand ready to meet the need for new generating capacity in Illinois and elsewhere in the Midwest in a manner that offers reliability, reduced risk and the lowest cost to consumers. For that reason, MWIPS members have a strong interest in the outcome of the Pollution Control Board’s investigation¹.

The fact that a number of peaker plants are installed and proposed in Illinois is a success story. Badly needed electric generation capacity is being added in a timely manner to meet the growing demands of electricity customers in Illinois and the region. Shrinking reserve margins and the spike in the price of wholesale power during the summer of 1998 provided an indication that additional generating capacity is needed in the state and in the region. Competitive power suppliers have responded to this

¹ A list of MWIPS member companies is attached hereto as Attachment A. It should be noted that the comments presented by MWIPS do not necessarily represent the views of each member company.

indication of need by committing to major investments in the Illinois electric market. Many of these facilities are or will be located in areas designated by the local electric utilities as the areas where new generation would most effectively serve existing and forecasted new load and, at the same time, minimize the need for major transmission line construction.

In a report that examined the price spikes in the Midwest electricity market in the summer of 1998, the Federal Energy Regulatory Commission (“FERC”) noted that “growth in the ECAR and MAIN regions (which include Illinois) is placing a significant strain on existing generation and transmission resources. From 1996 to 1998, the combined projected summer peak for ECAR and MAIN grew from 127,788 MW to 135,321 MW. This 5.9 percent increase is higher than the growth rate of 4.6 percent in the remainder of the United States. This indicates that peak load has grown 28 percent faster in these two regions than in the rest of the country.” (Staff Report to the Federal Energy Regulatory Commission on the Causes of the Pricing Abnormalities in the Midwest during June 1998, p. 2-1.) A review of NERC’s 2000 Summer Assessment, Reliability of the Bulk Electricity Supply in North America, shows that the forecasted demand for this area in the summer of 2000 continues to grow at an increasing rate. ECAR/MAIN demand is forecast at 148,622 MWs or a 9.8% increase from 1998. As the older generating plants that serve Illinois age and, eventually are repowered or retired, the need for new capacity will increase further.

In Illinois, competitive suppliers are stepping forward to meet the growing need for new generation. In a recent report to the Illinois Legislature, the Illinois Commerce Commission noted that 1,146 MW of new unregulated generating capacity were built in Illinois during 1999. The report also stated that another 2,547 MW of generating capacity is expected to begin operation in 2000. (Assessment of Competition in the Illinois Electric Industry Three Months Following the Initiation of Restructuring, Illinois Commerce Commission Report to the Illinois General Assembly, January, 2000.)

The concept of a “peaker” plant that generates electricity solely or primarily to meet peak demand is not new. Electric utilities have traditionally owned and operated peaker plants. The distinctive characteristic of the peaking plants currently proposed in Illinois is that these new generating facilities are “merchant plants.” Merchant generating plants are not part of a utility’s rate base, even where the plant’s owner is the unregulated affiliate of an electric utility. Most of the new generation proposed in the United States today is merchant generation and merchant generation provides a growing portion of the electricity consumed in the United States. The financial risks associated with the development of merchant plants are born by the plant developer rather than by the electric ratepayer. Because merchant plants are not part of a utility’s rate base, they are often referred to as “unregulated” generating plants. It is important to note that these plants are unregulated as to the rates they charge, but must comply with multiple regulations, at the development stage and once they begin to operate.

The proposed plants, if constructed, will enhance reliability of electric service to Illinois consumers by increasing the generating capacity that is available for resale to them and by providing voltage support and other benefits to the local utility that serves those consumers. This new capacity also will increase competition in the wholesale market so as to reduce the probability of price spikes due to capacity shortages. This result is exactly what the Illinois legislature envisioned when it enacted the Electric Service Customer Choice and Rate Relief Act of 1997 which was intended to ensure that all customers continue to receive safe, reliable, affordable, and environmentally safe electric service as a competitive electric market develops (220 ILCS 5/16-101A). Against this background, MWIPS offers the following answers to the specific questions contained in the Pollution Control Board's notice initiating this proceeding.

II. Do peaker plants need to be regulated more strictly than Illinois' current air quality statutes and regulations provide?

The current statutes and regulations adequately protect air quality in Illinois. Illinois air quality regulations that are applicable to peaker plants are consistent with federal standards and requirements for protection of air quality and take into account the effect of pollutants on human health. The air quality analysis required to demonstrate that a facility will not cause a violation of the federal air quality standards is commensurate with the magnitude of the facility emissions and whether the facility is defined as a major or minor source of emissions. A peaker plant operates during a small percentage of the total hours in a year, i.e. typically less than 1,500 hours out of

the yearly total of 8,760 hours². The fact that a peaking plant operates for so few hours, together with the reduced emissions associated with new high efficiency gas- fired technology, typically make the new peaking facility a minor source. The minimal impact of these facilities is best illustrated by considering the permitted emission levels of peaker facilities to be located in the greater Chicago (Cook, Lake, Kane, McHenry , Will and DuPage Counties) area that recently were issued draft or final permits from the Illinois Environmental Protection. The Illinois Environmental Protection Agency's webpage shows that ten projected facilities comprising a total of 3,997 MW of capacity are permitted to emit 2,241 tons of NOX per year. The same NOX emission level appears in a permit to operate an older natural gas fired peaker in DuPage County with a generating capacity of only 250 MW. This comparison demonstrates that new facilities are being required to meet higher standards with respect to air emissions and that the new facilities will have a much reduced impact on air quality when compared to older plants.

Concerns have been expressed that peaker facilities might ultimately be operated for a significantly greater percentage of the year than proposed in the initial permitting process. However, in order to operate a peaker plant economically for a significantly greater number of hours, the facility would have to be converted from simple cycle to combined cycle technology. Both cost and operational considerations mandate this result. First, the per-unit cost to generate electricity from a simple cycle plant is greater than the per-unit cost to generate electricity using combined cycle technology. In

² A peaker plant may operate during far less than 1,500 hours in a given year.

addition, a peaker plant can be brought up to full operation very quickly in response to consumer demand during periods of peak electric usage. This flexibility of operation makes a simple cycle plant more suitable than a combined cycle plant to provide peaking power, while the higher operating cost of a simple cycle plant makes it uneconomic to operate other than at peak times. Conversion from simple cycle to combined cycle technology requires significant modification of the facility and, would require the issuance of additional permits through processes that allow for public participation, just as public participation is part of the initial permitting process for peakers. Although the conversion would increase annual emissions from the plant, the combined cycle facility would have a lower per-unit emission rating, as noted above, and a lower per-unit operating cost.

III. Do peaker plants pose a unique threat, or a greater threat than other types of State-regulated facilities, with respect to air pollution, noise pollution, or groundwater or surface water pollution?

No, peaker plants do not pose a unique threat or a greater threat than other types of state-regulated facilities. Peaker plants are subject to the same review as other types of state-regulated facilities. Air emissions are tightly regulated under the New Source Review (NSR) and Prevention of Significant Deterioration of Air Quality (PSD) provisions of the Federal Clean Air Act. These provisions are designed to insure that air quality standards are achieved and maintained with an adequate margin of safety.

The noise issues surrounding the construction and operation of power generation facilities are not unique to peaker plants and similar issues will arise with respect to any proposed industrial facility. In fact, Illinois has stricter and more comprehensive noise regulations than do most other states or local jurisdictions. The Illinois regulations limit the noise impacts of each octave band separately during the day and at night, and also are specific as to the sensitivity of the noise receptor (i.e., residential, commercial, or industrial). It is incumbent on the owner of a facility to demonstrate compliance with the Illinois noise regulations. Many other states have no specific noise requirements except for any requirements that may be imposed at the local level. In those states, a noise complaint would have to be proven to be a 'nuisance' in a court of law instead of a violation of an stated standard.

While water usage will vary depending upon the specifics of the plant involved, the simple cycle technology currently used for peaker facilities typically places a small demand on water resources. For example, the owner of one peaker plant located in Kane County advises that the plant consumes no more than 2.5 million gallons of water in a year. In comparison, the average golf course in the Great Lakes region consumer almost 31,000,000 gallons of water in a year. (Weathermetrics, Inc. 1999 website) MWIPS recommends that the Pollution Control Board defer its consideration of the impact of peaker plants on water resources so as to consider the report the impact of peaker plants on water supply which will be issued by Governor Ryan's Water Resources Advisory Committee.

IV. Should new or expanding peaker plants be subjected to siting requirements beyond applicable local zoning requirements?

No, the existing combination of state environmental regulation and local land use permitting processes is adequate to protect the public interest. Siting requirements should, and in Illinois do, allow for consideration of the impacts of plant siting and for public input. Further, recent experience in Illinois demonstrates that neighbors who believe they will be adversely affected by the proposed location of a peaker plant do not hesitate to express their views when local hearings are held. Illinois should be very cautious about imposing even stricter siting requirements in order to avoid a situation where needed new generation cannot be built in a timely fashion. In such event, Illinois would risk a power shortage which will be accompanied by increases in the cost of electricity and possible reliability problems. This is just the situation that has occurred in California. In response, California is now seeking ways to streamline and expedite the plant siting process in order to obtain needed electric supply.

V. If the Board determines that peaker plants should be more strictly regulated or restricted, should additional regulations or restrictions apply to currently permitted facilities or only to new facilities and expansions?

New regulations should apply only to new plants, or to expansions of existing plants. Projects that already have received local and state authorizations should not be required to retroactively comply with new, potentially burdensome requirements except

to the extent an expansion or modification would modify the plant's impact on the environment. In that event, standards applicable at the time the new permit is obtained would be applicable.

VI. How do other states regulate or restrict peaker plants?

Most states have a regulatory regime comparable to that of Illinois with respect to environmental standards applicable to peaker plants. All states use federal environmental standards as the minimum requirement. A number of states (i.e., IN, TX, MS, AL, KY, TN, NC, SC, GA, NM, CO, MI, OK, AR, LA) have approval processes for peak power plants that are essentially the same as the Illinois process. Such a process requires developers of peaker plants to obtain necessary environmental approvals from the appropriate agency as well as any necessary zoning approval and does not include participation by the state public utility commission.

A smaller number of states (i.e., OH, CA, NY, NJ, WI, and AZ) have adopted a process for siting and permitting new peaker facilities that is administered by the state public utility commission or by a siting authority. This latter type of process generally is the process that is used to approve ratebased generation proposed by utilities. In the case of utility-owned generation, the process considers the extent to which the proposed plant meets the utility's need for new capacity, to ensure that ratepayers do not pay for unnecessary capacity. In the case of a merchant plant, the merchant plant owner rather than the rate payer will bear the financial risk if new capacity is not needed. Therefore a siting analysis that considers the traditional concept of utility need is inapplicable.

California is currently experiencing the consequences of a highly bureaucratic and time consuming process for siting power plants. Any power plant of 50 MWs or greater must obtain approval from the California Energy Commission. Many proposals have taken well over a year to make their way through this process. The result has been that California has not added generation resources at anywhere near its growth in electrical demand.

Currently over \$10 billion in new electric generation remains in the queue in California. According to statistics in a report presented last week to Governor Davis by the President of the California Public Utility Commission and the Chairman of the Oversight Board, between 1996 and 1999, 672 MW of new generation were added to the California system. During that same time, peak period demand jumped more than 5,500 MW. Recognizing this fact, California Governor Gray Davis issued an Executive Order (D-14-00) earlier this month, directing all state agencies involved in the licensing of proposed electric power plants in California to review and respond to applications within 100 days of the submittal of a complete application.

VII. CONCLUSION

In conclusion, a merchant power producer typically does not wish to build and operate a plant in an area where the plant will not be accepted by the local community. Communities which welcome peaker plants recognize the benefits and positive impacts that such development will have on their community. This includes new jobs, increased tax base and possible attraction of additional economic development to the area. Such a community also understands that a peaker has relatively few negative impacts on the

community. A peaker is not a big user of community infrastructure, such as schools, roads, housing, police and fire services and is not a significant intrusion on community lifestyle. Peaking power facilities provide a necessary service to the community and benefit the public welfare by contributing to the maintenance of a dependable local and regional electric power system which, in turn, enhances the community's quality of life.

MWIPS appreciates the opportunity to present these comments and would be pleased to respond to any additional questions posed by the Pollution Control Board.

Respectfully submitted,

Midwest Independent Power Suppliers
Coordination Group
Freddi L. Greenberg
Executive Director and General Counsel
1603 Orrington Avenue, Suite 1050
Evanston, Illinois 60201
(847) 864-4010
Fax: (847) 864-4037

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