

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

**COMMENTS OF THE ILLINOIS ENERGY ASSOCIATION**

The Illinois Energy Association appreciates the opportunity provided by the Board to submit final comments in the above-described proceeding. The Energy Association is a trade organization representing investor-owned electricity and combination electricity and natural gas companies serving customers in the state of Illinois. The Association was founded in 1994 and consists of the following member companies: Alliant Energy, based in Dubuque, Iowa; AmerenCIPS of Springfield; AmerenUE, headquartered in St. Louis; Central Illinois Light Company (CILCO) of Peoria; Commonwealth Edison Company of Chicago; Illinois Power Company, based in Decatur; MidAmerican Energy Company, headquartered in Des Moines, Iowa; and Mt. Carmel Public Utility Company of Mt. Carmel. The Energy Association serves as a vehicle to develop industry positions and policies on public policy issues.

## THE GOVERNOR'S CHARGE

In his letter to Chairman Manning dated July 6, 2000, Governor Ryan charged the Board with holding public hearings and requesting public comment on five specific issues. Below, IEA discusses each of those five inquiries and how testimony presented at trial responded to each.

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

The weight of the evidence of record in this inquiry clearly provides that the answer to the Governor's question is "No." Both in terms of air quality and noise regulations, no credible evidence has been presented that would justify more restrictive statutes or regulations for peaker plants than is already imposed on such plants. Existing and newly proposed rules and regulations regarding nitrogen oxide emissions provide stringent emission control requirements to safeguard the health and welfare of Illinois citizens. In fact, because the proposed rules would establish an ozone season cap on the tons of NO<sub>x</sub> that can be emitted from all sources: existing and new combustion turbines, the same total quantity of NO<sub>x</sub> will be emitted regardless of whether new peaker plants must meet more stringent requirements. We gain nothing in terms of overall NO<sub>x</sub> reduction by imposing stricter standards on peakers. The permitting process, which reviews each proposed project for compliance with all applicable federal and state air pollution control requirements, sufficiently guarantees that these plants will not pose air quality problems for the localities in which they are operated. Also, not only are the State's noise standards among the most protective in the nation but Illinois regulators

have yet to receive even the first noise-related complaint regarding those peaker plants that have already been constructed and are operating under approved permits.

2. 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?

Again, the answer to Governor Ryan's question is "No." These plants are an environmentally responsible method of meeting the state's short-term energy needs. They do not pose a "unique" or greater threat than other types of similar facilities. If anything, they are "unique" in that they pose less of an environmental threat than other such facilities. This is especially true of single-cycle peaker plants that create little in the way of nitrogen oxide emissions or noise and use very small amounts of water. Larger combined-cycle plants are already held to higher standards under existing rules and regulations.

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

If one examines the recent record regarding local zoning approvals for construction and operation of peaker plants in suburban Chicago, it is evident that the answer to this question is also "No." The plain fact is that local zoning authorities are on top of this situation and are exercising their extensive power, which includes being able to delay and/or prevent the construction of a facility in their jurisdiction. They are taking their responsibilities very seriously and making balanced public policy decisions based on the individual circumstances inherent in their communities. In short, those who have

consistently argued for local control over local issues should be pleased and proud of the performance to date of local officials who maintain the ultimate power over whether peaker plant facilities will be sited in their jurisdictions. The State of Illinois contributes its expertise on air quality and noise reduction issues through operation of its permitting process but the State does not know and should not attempt to tell local zoning authorities what is best for their respective communities in the form of new state siting requirements.

4. 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?

It would be patently unfair to apply any new, stricter rules or regulations to those facilities that have already been approved through the existing permitting process. Owners of these facilities made important and expensive economic decisions on behalf of themselves and their investors based on existing rules. To change those rules after the fact could have a tremendous chilling effect on possible new investment to meet the state's growing demand for electricity. Such actions could also be perceived by potential investors in other similar industries as a sign of uncertainty in Illinois public policy that could cause them to look elsewhere to locate projects that might otherwise be sited here in our state. As a matter of fact, owners and applicants for current peaker plant projects have gone out of their way to be a positive part of the existing process, to the point of voluntarily complying with requests for information and data that they are not required to provide.

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

While there is some testimony in the record in response to this question, no patterns have emerged in other states in this regard. What is clear, however, is that Illinois does have a unique set of circumstances regarding peaker plants compared to other Midwestern states. In order to be economic, peaker plants should be constructed in the vicinity of both a natural gas supply source and a viable connection to the high-voltage electricity transmission system. Illinois, and specifically the Chicago area, provides some of the best opportunities in the Midwest for the confluence of these two necessities. That is one of the reasons why so many companies are interested in investing in our state. The second major reason for this phenomenon is that Illinois is the only state in our area to begin to deregulate its electricity marketplace. We are leading the way in creating a competitive electricity market that will result in more affordable electricity prices for our citizens. Thus, while we certainly should not ignore how other states deal with the peaker plant construction issue, we should not place too much emphasis on those states because they are not similarly situated in this regard.

## GENERAL COMMENTS

As the Illinois Energy Association has indicated through previous testimony provided by its president, peaker plants cannot and should not be viewed only in the context of the environmental issues that are the crux of this inquiry. Whether or not to adopt rules, regulations and restrictions that would negatively impact the construction of peaker plants in the State of Illinois must be part of the broader public policy issue of how to supply safe, reliable, and affordable energy for the citizens of our state. We need to maintain the same public policy balance that led to passage of the state's landmark electricity industry deregulation and restructuring law in 1997. We need to avoid the kind of unbalanced public policy on power supply issues that has arisen in other states, most notably the State of California.

Reliable electricity and affordable electricity are inextricably linked in our new deregulated power supply industry. If we have sufficient capacity to make sure that the lights stay on even at times of peak demand, then we will also have sufficient supply to meet the overriding goal of deregulation – affordable electricity prices. The plain truth for the State of Illinois is that the only way to meet these twin goals in the near future is through the additional electricity capacity supplied by peaker plants. If we act to impede the development of this new capacity, we will be placing ourselves and our fellow citizens at the mercy of forces that are beyond our control or influence. In our industry such forces usually mean the weather or equipment difficulties and we have a long history of dealing with such unknowns. However, to voluntarily disrupt our current

balance between nature supply and imported power could be a recipe for the type of economic chaos seen in Southern California only a few weeks ago.

## CONCLUSION

The Illinois Energy Association believes that the record in this inquiry shows that there is no necessity for more strict regulation of peaker plants in our state. Existing federal and state laws, rules and regulations are working properly. Local government authorities are properly exercising their zoning powers when deciding whether to approve construction and operation of these plants. In short, the current system is working; it is not broken; it does not need to be fixed.

Thank you again for the opportunity to comment in this regard.

Respectfully submitted,

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