BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
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PROPOSED NEW 35 ILL. ADM. CODE 217 SUBPART W, THE NO_x TRADING PROGRAM FOR ELECTRICAL GENERATING UNITS, AND AMENDMENTS TO 35 ILL. ADM. CODE 211 AND 217	)	R01-9 (Rulemaking- Air)

TESTIMONY OF JOSEPH N. DARGUZAS

My name is Joseph N. Darguzas. I am Vice President of EnviroPower, L.L.C., a company formed in 2000 to develop, own and operate independent electrical generation facilities fueled by coal or coal tailings.

Our company has recently announced our intention to construct a 500 MW plant at a site near Benton, in Franklin County, Illinois. This plant will include two 250 MW circulating fluidized bed boilers which will burn coal tailings - i.e. recovered carbon from coal refuse piles and slurry ponds located at coal mines and preparation plants in southern Illinois. Our proposed NO_x emission rate will not exceed 0.125 lb/million Btu, and may be less than 0.07 lb/million Btu after optimal performance of our SNCR NO_x control system is achieved. We expect seasonal NO_x emission during the May 1 through September 30 control period to be about 1,100 tons, beginning in the early part of 2004. Therefore our facility will be considered a "new" budget EGU beginning in 2004 under the Agency's proposal.

While there are many troublesome details in the Agency's proposal due to its complexity, I wish to comment today on three aspects of the proposal:

1. Inadequacy of the new source set-aside. We recognize that the new source set-aside may not exceed 5% of the total trading budget, due to the restrictive language of Section 9.9(d)(5) of the Environmental Protection Act. It is obvious, though, from the previous testimony of Agency witnesses that they do not expect the 1,535 allowances set aside for the years 2003, 2004, and 2005 to be sufficient to meet the demand by new sources which have already received or applied for construction permits. Indeed, the EnviroPower project alone would consume about 72% of this total in 2004 and 2005. Why does the Agency believe it appropriate

to reduce the new source set aside from 5% to 2%, or 614 allowances, for the year 2006 and thereafter? The explanation of how growth projections were incorporated into the allocation scheme seems to me to be murky and to reflect assumptions that utilization of existing EGU's during the control period can be increased at will by their operators to meet demand.

A better approach for the new source set-aside is to keep it at its statutory 5% maximum each year indefinitely, with a provision that any allowances not allocated to new sources be distributed to existing EGU's on a pro rata basis.

As a life long Illinois citizen, I want to see our economy continue to prosper in all regions of our state and our tax base increase. Limiting new growth, new economic development and new jobs by hurting new businesses will not be good for Illinois.

2. Fee for new source set-aside allowances. As previously stated, our facility will be a new budget EGU in 2004, and therefore we will be required to pay for whatever allowances may be available to us from the new source set-aside in accordance with the market-driven price specified in Section 217.768(k)(2) of the Agency's proposal. Recent NO_x allowance trades in the Ozone Transport Region have been reported to have been in the $500 - $700/ton range. Consequently, if these prices are indicative of future prices, our costs for allowances from the new source set-aside for the years 2004 - 2007 will be in the range of $2.2 - $3.1 million (assuming sufficient allowances are available). This is a cost that will be imposed on us despite the fact we will be emitting NO_x at a rate far below the 0.15 lb/million Btu target level. This cost will not be imposed on competing existing EGU's that may be emitting at substantially higher rates. We believe this is fundamentally unfair.

Furthermore, if all new source set-aside allowances for the first five years of the program (through 2007) are allocated by the Agency for a fee of around $600/ton, the revenue generated will be nearly $3.5 million. This will vastly exceed the Agency's administrative costs for this period, and will therefore result in a multi-million dollar windfall for existing EGU's who will have done nothing to earn this redistribution of wealth. EnviroPower urges the Board to limit the fee charged for new source set-aside allowances to the level necessary to recover only the Agency's administrative costs for the program.

3. Absence of incentive for energy efficiency. We believe the Agency's proposal could be greatly improved by incorporating into the methodology for allocating NO_x allowances an incentive for use of generating units having relatively higher thermal efficiency, as this will result in less fuel consumption, and thus less emissions of all pollutants, per megawatt-hour of net electrical output. This could be done by use of a simple multiplier for each budget EGU consisting of the ratio of the weighted average net heat rate for all budget EGU's (i.e. Btu gross heat input/MW-hr net electrical output) to the net heat rate for that particular budget EGU. Such heat rate information should be readily obtainable for each budget EGU and could be made a required reporting item. The result of using such a factor would be that relatively high heat rate (low efficiency) units would receive proportionately fewer allowances, which would discourage their use, while relatively low heat rate (high efficiency) units would receive more allowances, and this would create an incentive for greater reliance on such superior equipment. The environment would see substantial benefits from use of such an incentive system.

In conclusion, we believe that the fundamentally unfair treatment of new sources relative to existing sources found in the Agency's proposal can be partially alleviated by making the first two changes we have proposed. Also the proposed allowance allocation scheme can be made much more environmentally friendly by introduction of a thermal efficiency factor such as that we have suggested.