

ILLINOIS POLLUTION CONTROL BOARD

January 22, 2004

GENERAL ELECTRIC COMPANY d/b/a	)	
GE PLASTICS,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 04-115
	)	(CAAPP Permit Appeal – Air)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by G.T. Girard):

On January 6, 2004, General Electric Company (GE) timely filed a petition asking the Board to review a November 25, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40.2(a) (2002); 35 Ill. Adm. Code 105.302(e). The Agency imposed certain conditions on a Clean Air Act Permit Program (CAAPP) permit issued to GE under Section 39.5 of the Environmental Protection Act (Act) (415 ILCS 5/39.5 (2002)). The CAAPP permit application concerns GE's plastics manufacturing facility at 2148 North 2753rd Road in Ottawa, LaSalle County.

Section 40.2(a) of the Act (415 ILCS 5/40.2(a) (2002)) allows several persons to appeal Agency CAAPP permit determinations: permit applicants; persons who participated in the Agency's public comment process under Section 39.5(8) of the Act (415 ILCS 5/39.5(8) (2002)); and persons who could obtain judicial review under Section 41(a) of the Act (415 ILCS 5/41(a) (2002)). 415 ILCS 5/40.2(a) (2002); *see also* 35 Ill. Adm. Code 105.302(c). GE is the CAAPP permit applicant. GE appeals on several grounds including that the Agency failed to reference the origin and authority for certain conditions, language not included in an underlying construction permit was added to this permit, and the Agency removed non-applicability determinations that were in the draft permit. The Board accepts the petition for hearing.

Also on January 6, 2004, Alphonse McMahon and Shannon S. Broome filed motions to appear *pro hoc vice* on behalf of GE. Alphonse McMahon is a member in good standing of the Indiana bar and Shannon S. Broome is a member in good standing of the California Bar. The Board grants the motions to appear *pro hoc vice*.

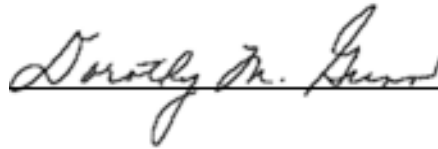
GE has the burden of proof. 415 ILCS 5/40.2(a) (2002); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40.2(c) (2002)), which only GE may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, "the permit shall not be deemed issued; rather, the petitioner shall be entitled to an Appellate Court order pursuant to Section 41(d) of this Act [415 ILCS 5/41(d) (2002)]." 415 ILCS 5/40.2(c)

(2002). Currently, the decision deadline is May 5, 2004 (the 120th day after January 6, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for April 15, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file an answer, including the entire record of the determination within 30 days after the Agency is served with the petition. 35 Ill. Adm. Code 105.302(f). If the Agency wishes to seek additional time to file the record, the Agency must file a request for extension before the date on which the record is due to be filed. 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.302(f).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 22, 2004, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board