

ILLINOIS POLLUTION CONTROL BOARD

January 19, 2006

AMERENENERGY GENERATING	)	
COMPANY, EDWARDS POWER STATION,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 06-126
	)	(Permit Appeal – Air)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

On January 11 2006, AmerenEnergy Generating Company (Edwards Power Station) (AmerenEnergy) timely filed a petition asking the Board to review a December 9, 2005 Illinois Environmental Protection Agency (Agency) letter refusing to take action on a September 14, 2005 request to revise a state air operating permit. *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 105.206(a). The revision request concerns the permit for AmerenEnergy’s coal-fired power plant known as the E.D. Edwards Station at 7800 South CILCO Lane in Bartonville, Peoria County.

The Agency letter said the Agency refused to take action on AmerenEnergy’s request because (1) the state permit was superseded by a Clean Air Act Permit Program (CAAPP) permit with conditions the Agency issued September 29, 2005; and (2) that CAAPP permit “provides the requested flexibility in the coal supply to the boilers that you have requested.” The letter concluded that the refusal to act “may be considered a denial for the purposes of appeal to the Pollution Control Board.” Pet. Exh. 3.

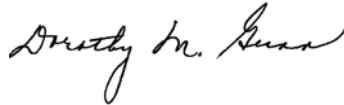
AmerenEnergy alleges the Agency’s failure to act on the request to burn sub-bituminous coal (in addition to bituminous coal as permitted) is “incorrect, [and] without basis in law”. Pet. at 3. AmerenEnergy agrees that the Agency issued a CAAPP permit on September 29, 2005, but notes that a petition for review of that permit was filed on November 18, 2005. *See AmerenEnergy Resources Generating Company (Edwards Power Plant) v. IEPA*, PCB 06-67 (accepted for hearing November 18, 2005). AmerenEnergy contends that the pendency of PCB 06-67 “stays the effect of the CAAPP permit” and that “[p]ending the decision of the Board, the prior state operating permit [whose revision is at issue in PCB 06-126] remains in full force and effect.” Pet at 3.

AmerenEnergy’s petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing. But, in so finding, the Board makes no ruling on the merits of the November 18, 2005 motion for stay in PCB 06-67. The Board is still deliberating the merits of this motion, and the motions for stay in other pending CAAPP permit appeals filed in November 2005.

AmerenEnergy has the burden of proof. 415 ILCS 5/40(a)(1) (2004); *see also* 35 Ill. Adm. Code 105.112(a). Hearings “will be based exclusively on the record before the Agency at the time the permit or decision was issued.” 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2004)), which only AmerenEnergy may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, AmerenEnergy “shall be entitled to an Appellate Court order pursuant to Section 41(d) of this Act [415 ILCS 5/41(d) (2004)].” 415 ILCS 5/40.2(c) (2004). Currently, the decision deadline is May 11, 2006 (the 120th day after January 11, 2006). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for May 11, 2006.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by February 10, 2006, which is 30 days after AmerenEnergy filed the petition. 35 Ill. Adm. Code 105.212(a). If the Agency wishes to seek additional time to file the record, it 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 105.212(b).

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 19, 2006, by a vote of 4-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board