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ILLINOIS POLLUTION CONTROL BOARD

August 2, 2006

AUG 04 2006

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
PROPOSED NEW CAIR SO₂, CAIR NO_x) R06-26
ANNUAL AND CAIR NO_x OZONE SEASON) (Rulemaking – Air)
TRADING PROGRAMS, 35 ILL. ADM.)
CODE 225, CONTROL OF EMISSIONS
FROM LARGE COMBUSTION SOURCES,
SUBPARTS A,C,D and E

NOTICE OF HEARING

DATES, TIMES, AND PLACES:

FIRST HEARING: OCTOBER 10, 2006
TO BE CONTINUED DAY TO DAY UNTIL COMPLETED OR
UNTIL OCTOBER 20, 2006

9:00 a.m.
Illinois Environmental Protection Agency Office Building
Training Room, 1214 West
1021 North Grand Avenue East, North Entrance
Springfield, Illinois

SECOND HEARING: NOVEMBER 28, 2006
TO BE CONTINUED DAY TO DAY UNTIL COMPLETED OR
UNTIL DECEMBER 8, 2006

9:00 a.m.
James R. Thompson Center
Room 2-025
100 West Randolph Street
Chicago, Illinois

PURPOSE OF HEARING: Merit and Economic

ATTENDING BOARD MEMBER: Thomas E. Johnson

HEARING OFFICER: John Knittle

In compliance with the Americans with Disabilities Act and other applicable federal and State laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact Dorothy Gunn, Clerk of the Board, at 100 West Randolph St., Suite 11-500, Chicago, Illinois 60601, at telephone number 312/814-6931, fax number 312/814-3669, or TDD number 312/814-6032, five days prior to the hearing.

HEARING OFFICER ORDER

Background

On May 30, 2006, the Board received a rulemaking proposal submitted by the Illinois Environmental Protection Agency (Agency) that proposes a new Part 225 to reduce intrastate and interstate transport of sulfur dioxide (SO₂) and nitrogen oxide (NO_x) emissions from fossil fuel-fired electric generating units (affected units), on an annual basis and on an ozone season basis of each calendar year. The Agency proposes the adoption of the Clean Air Interstate Rule (CAIR) SO₂ trading program, the CAIR NO_x Annual trading program and the CAIR NO_x Ozone Season trading program to accomplish this objective.

On July 20, 2006, the Board issued an order that granted, in part, an Agency motion to expedite, denied the Agency's motion to hold the hearings in Springfield and Collinsville, and granted the motion to waive certain filing requirements. In that order, the Board directed that hearings be scheduled in Chicago and either Springfield or Collinsville, after consultation with the Agency and other interested parties.

On July 24, 2006, a status conference was held with the Agency and interested parties. A number of hearing dates were considered. As a result of that status conference, this order will set two hearings beginning on October 10, 2006 and November 28, 2006, as noted above.

Schedule of Hearings

At the status conference, the Agency asserted that it could prefile its testimony as early as September 11, 2006, if necessary. In addition, the Agency asserted that it intends to present eight witnesses at the first hearing and expects its case, including providing answers to questions from interested parties, will take four days to complete.

The Agency and any other persons wishing to testify at the first hearing must prefile the testimony and any related exhibits with the Board, and serve the hearing officer and all persons on the service list no later than September 22, 2006. Persons may receive a copy of the service list by contacting the hearing officer or Nancy Miller at (217) 278-3109. A prefiling deadline for the second hearing will be set after the first hearing is completed.

Anyone wishing to testify or submit an oral public comment is urged to prefile testimony to ensure the ability to testify. Persons who do not prefile, and those seeking to provide an oral public comment, will only be allowed to do so at the close of the prefiled testimony, if time permits. As always, anyone may file a written public comment with the Board.

The hearings will begin at 9:00 a.m. each day and proceed until approximately 5:00 p.m., unless otherwise specified by the hearing officer. The hearing scheduled to begin on October 10, 2006, *will commence with the presentation by the Agency of its case.* After the Agency has answered all questions regarding its case, other persons who have prefiled testimony may testify.

The Board has reserved nine days for each hearing and it is anticipated that any person wishing to testify will have ample opportunity.

The November 28, 2006 hearing will be reserved for any person who prefiles testimony for the October 10, 2006 hearing and was not able to testify, and for those who oppose the Agency's proposal in whole or in part. As stated, a deadline for prefiled testimony for the second hearing will be set after the first hearing.

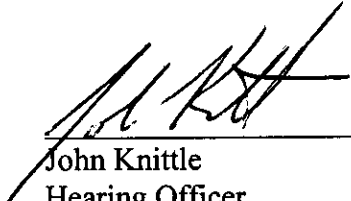
Additional Considerations

The parties are directed to participate in a final pre-hearing telephone status conference on September 29, 2006, at 10:00 a.m. The Agency shall initiate the call. At that time, the parties must be prepared to address any final pre-hearing issues.

This hearing will also be held to fulfill the requirements of Section 27(b) of the Environmental Protection Act (Act) (415 ILCS 5/27(b) (2004)). Section 27(b) of the Act requires the Board to request the Department of Commerce and Economic Opportunities (DCEO) (formerly Department of Commerce and Community Affairs) to conduct an economic impact study (EcIS) on certain proposed rules prior to adoption of those rules. If DCEO chooses to conduct the EcIS, they have 30 to 45 days after such request to produce a study of the economic impact of the proposed rules. The Board must then make the EcIS, or DCEO's explanation for not conducting the study, available to the public at least 20 days before a public hearing on the economic impact of the proposed rules.

On June 28, 2006, the Board requested that DCEO conduct an economic impact study for the above-referenced rulemakings. To date, the DCEO has not responded to the Board's request. In a letter dated April 17, 2003, DCEO stated that it does not have the financial resources to perform such analyses or contract a private vendor for their completion. DCEO offered the April 17, 2003 letter as its formal response to all current and future proposed Board rulemakings and DCEO's statutory obligation to perform an EcIS. Both letters are available for review at the Board's Chicago Office, James R. Thompson Center, 100 West Randolph, Suite 11-500, Chicago, Illinois.

IT IS SO ORDERED.



John Knittle
Hearing Officer
Illinois Pollution Control Board
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Pollution Control Board

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