

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

**PROPOSED NEW CAIR SO₂, CAIR NO_x
ANNUAL TRADING PROGRAMS,
35 ILL.ADM.CODE 225,
CONTROL OF EMISSIONS FROM LARGE
COMBUSTION SOURCES,
SUBPARTS A, C, D, AND E**

**R06-26
(Rulemaking – Air)**

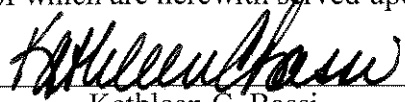
NOTICE OF FILING

To:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601

Persons included on the
ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that, on behalf of Dynegy Midwest Generation, Inc., and the Illinois Environmental Protection Agency, we have today filed with the Office of the Clerk of the Pollution Control Board **JOINT MOTION TO AMEND PROPOSED RULEMAKING**, copies of which are herewith served upon you.


Kathleen C. Bassi

Dated: March 13, 2007

Sheldon A. Zabel
Kathleen C. Bassi
Stephen J. Bonebrake
SCHIFF HARDIN, LLP
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
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JOINT MOTION TO AMEND PROPOSED RULEMAKING

NOW COME Participant DYNEGY MIDWEST GENERATION, INC. (“Dynergy”), by and through its attorneys, SCHIFF HARDIN LLP, and Proponent ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Agency”), by and through its attorneys, and, pursuant to 35 Ill.Adm.Code § 101.500, jointly move the Board to amend Section 225.465(b)(4)(B) of the proposed rule. In support of their Motion, Dynergy and the Agency state as follows:

1. On May 30, 2006, the Agency submitted the above-captioned rulemaking to the Board.
2. The Board held hearings in this matter commencing October 10, 2006, in Springfield, Illinois, and commencing November 28, 2006, in Chicago, Illinois.
3. Dynergy filed a Motion to Dismiss this rulemaking on November 30, 2006.
4. Dynergy submitted substantial substantive comments on this proposed rule on January 5, 2007.
5. Since that time, Dynergy and the Agency have engaged in discussions regarding certain aspects of Dynergy’s comments and concerns with the proposed rule.

6. As a result of those discussions, Dynegy and the Agency agree that Section 225.465(b)(4)(B) of the proposed rule should be amended, as follows:

Section 225.465 CASA Allowances

* * *

Section 225.465(b)(4)(B):

B) For a baghouse project:

$$A = (\text{MWh}_g) \times (Q \text{ lb/MWh}) / 2000 \text{ lb}$$

Where:

A= The number of allowances for a particular project.

MWh_g=The number of MWh of electricity generated during a control period or the portion of a control period that the units were controlled by the baghouse.

~~Q=0.2, unless installed pursuant to a court order or consent decree which does not specify a factor, then Q=0.05; or if installed pursuant to a consent decree or court order that does specify a factor, then Q equals the factor in the consent decree or court order, not to exceed 0.2.~~

Q =

1) If a baghouse was not installed pursuant to a consent decree or court order, Q shall equal 0.2.

2) If a baghouse was installed pursuant to a consent decree or court order which assigns a Q factor, then Q equals the factor established in the consent decree or court order but must not exceed a factor of greater than 0.2.

3) If a baghouse was installed pursuant to a consent decree or court order which does not assign a Q factor, then Q shall equal:

$$Q = 0.25 - (P \times ER_q)$$

Where:

P = If the most recent control period's average PM emission rate was based on PM CEMS data, P equals 1.0; otherwise P equals = 1.1.

ER_q = The magnitude of most recent control period's average PM emission rate in lb/MWh exiting the baghouse, subject to the following limits:

If P = 1.0 then $1/10 \leq ER_q \leq 2/10$

If P = 1.1 then $1/11 \leq ER_q \leq 2/11$

If ER_q is less than the lower limit, the lower limit shall be used. If ER_q is greater than upper limit, the upper limit shall be used. If ER_q is not expressed in lb/MWh, the number must be converted into lb/MWh using a heat rate of 10 mmBtu/1 MW.

7. Amendment of the proposed rule as set forth above addresses Dynegy's concerns regarding the manner in which the Clean Air Set-Aside ("CASA") provisions penalized sources with consent decrees relative to their baghouse projects, as expressed in its Comments filed January 5, 2007.

8. The Agency initially determined the appropriate number of CASA allowances for which a baghouse installed pursuant to a consent order or decree should be eligible based on two principles: (1) the baghouse should not be eligible for as large a number of allowances as a baghouse installed for reasons other than those required by a consent order or decree, and (2) the

number of eligible allowances should be consistent with allowances available for SO₂ and NO_x controls in recognition that the CAIR is designed to reduce particulate matter, the primary pollutant targeted for reduction by a baghouse.

9. After further consideration, the Agency has determined that, consistent with the principle to seek the greatest emissions reductions possible, it is appropriate to revise the number of allowances for which a baghouse installed pursuant to a consent order or decree is eligible. Specifically, the Illinois EPA agrees that the CASA equation should be revised to provide an incentive for such baghouses to control particulate matter beyond the level required by the consent order or decree. This is similar to provisions the Illinois EPA developed relative to the multi-pollutant standard ("MPS") in the mercury rule to provide an incentive for companies to control beyond the level required by the MPS. This revision will provide an incentive to reduce particulate matter emissions to the greatest extent practicable and result in an even greater benefit to the environment and public health.

10. In order to expedite the Board's action on the proposed rule, Dynegy hereby suggests that the Board stay action on Dynegy's Motion to Dismiss. Dynegy and the Agency have agreed that, if the Board grants this Motion and includes the language in this Joint Motion to Amend in the Board's First Notice of the Illinois Clean Air Interstate Rule, Dynegy will withdraw its Motion to Dismiss.

WHEREFORE, for the reasons set forth above, Dynegy Midwest Generation, Inc., and the Illinois Environmental Protection Agency move that the Board amend the Proposed Rulemaking as set forth in Paragraph 6 herein.

Respectfully submitted,

DYNEGY MIDWEST
GENERATION, INC.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

by:

by:



One of Its Attorneys

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Dated: March 13, 2007

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CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 13th day of March, 2007, I have, on behalf of Dynegy Midwest Generation, Inc., and the Illinois Environmental Protection Agency, served electronically the attached **JOINT MOTION TO AMEND PROPOSED RULEMAKING** upon the following persons:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601

and electronically and by first-class mail with postage thereon fully prepaid and affixed to the persons listed on the **ATTACHED SERVICE LIST**.


Kathleen C. Bassi

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