

ILLINOIS POLLUTION CONTROL BOARD
August 27, 2007

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
SECTION 27 PROPOSED RULES FOR) R07-19
NITROGEN OXIDE (NO_x) EMISSIONS) (Rulemaking - Air)
FROM STATIONARY RECIPROCATING)
INTERNAL COMBUSTION ENGINES AND)
TURBINES: AMENDMENTS TO 35 ILL.)
ADM. CODE PARTS 211 AND 217)

HEARING OFFICER ORDER

On August 23, 2007, the Illinois Environmental Protection Agency (Agency) filed a "Motion for Cancelling Prefiling Deadlines and Scheduled Hearings" (Mot.), accompanied by the affidavit of Robert Kaleel. Specifically, the Agency seeks to cancel "all testimony and questions prefiling deadlines and hearings" (Mot. at 1) scheduled in this matter pursuant to a hearing officer order issued June 15, 2007.

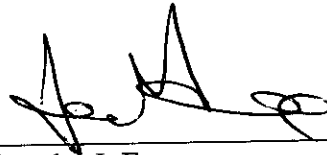
The Agency states that it intends to rely upon the testimony of Michael Koerber, Director of the Lake Michigan Air Directors Consortium (LADCO), in support of its rulemaking proposal. Mot. at 1. The Agency further states that Mr. Koerber's testimony is based largely upon modeling performed by LADCO to determine the effect of emission controls on air quality and the need for additional emissions controls to meet air quality standards. *Id.*

The Agency expected new modeling data to be available in August 2007 before the deadlines established in the June 15, 2007 hearing officer order. But, the Agency on August 21, 2007 "learned that the modeling would not be completed and shared with the public until October 2007." Mot. at 4. The Agency expresses its belief that "this new modeling might substantially change the Illinois EPA's regulatory proposal, but it is not certain and cannot be determined until the Illinois EPA has had an opportunity to review the results." *Id.* Consequently, the Agency argues that proceeding with scheduled filing deadlines and hearings "could represent a significant waste of resources for all participants in this matter, as the Illinois EPA would have to present all testimony as tentative and qualify that statements could be impacted by the results of modeling that will not be available until October 10, 2007." *Id.* at 5.

On August 24, 2007, ANR Pipeline Company, Natural Gas Pipeline Company, Trunkline Gas Company, and Panhandle Eastern Pipeline Company (collectively, the Pipeline Consortium) filed their "Response to the Agency's Motion for Cancelling Prefiling Deadlines and Scheduled Hearings" (Pipeline Resp.). The Pipeline Consortium states that, subject to four specific conditions, it does not object to the Agency's motion. Pipeline Resp. at 2. Also on August 24, 2007, the Illinois Environmental Regulatory Group (IERG) filed a response to the Agency's motion (IERG Repls.). IERG "states that it does not object to the Illinois Environmental Protection Agency's request as stated in the Motion." IERG Resp. at 1.

The Agency's motion is granted, and the schedule of hearings and pre-filing deadlines established in the hearing officer order of June 15, 2007 is cancelled. No later than October 31, 2007, the Agency is directed to file a status report stating whether the modeling data is available or when it is expected to become available. Following the filing of that status report, the hearing officer will issue an order scheduling a telephonic status conference among the participants. The sole purpose of that status conference will be having the Agency as proponent and the other participants report on their readiness to schedule and proceed to hearings. Only questions and comments related to the procedural purpose of this status conference will be allowed during the call. The status conference will therefore not be used to discuss the substantive merits of any issue relating to the proposal or to receive evidence. Finally, the hearing officer notes that the conditions raised by the Pipeline Consortium as bases for their lack of objection to the Agency's motion either can be addressed during the telephonic status conference or are premature in the absence of new modeling data to be provided from LADCO.

IT IS SO ORDERED.



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