

ILLINOIS POLLUTION CONTROL BOARD
July 21, 2011

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|--|---|---------------------------|
| AMEREN ENERGY GENERATING |) | |
| COMPANY (Property Identification Number |) | |
| 04-000-172-00) (Wet Flue Gas Desulfurization |) | |
| Scrubber on Coffeen Unit No. 1), |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 12-2 |
| |) | (Tax Certification - Air) |
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Respondent. |) | |

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

On July 6, 2011, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify a certain facility of Ameren Energy Generating Company (Amerem) as a “pollution control facility” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2010); 35 Ill. Adm. Code 125. Ameren’s electrical generating station is located 314 CIPS Lane, Coffeen, Montgomery County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Ameren’s Wet Flue Gas Desulfurization Scrubber on the Coffeen Unit No. 1 electrical generating turbine is a pollution control facility.

LEGAL FRAMEWORK

Under the Property Tax Code, “[i]t is the policy of this State that pollution control facilities should be valued, at 33 1/3% of the fair cash value of their economic productivity to their owners.” 35 ILCS 200/11-5 (2010); *see also* 35 Ill. Adm. Code 125.200(a)(2). “For tax purposes, pollution control facilities shall be certified as such by the Pollution Control Board and shall be assessed by the Department [of Revenue].” 35 ILCS 200/11-20 (2010); *see also* 35 Ill. Adm. Code 125.200(a).

Under Section 125.202 of the Board’s procedural rules, a person may submit an application for tax certification to the Agency. *See* 35 Ill. Adm. Code 125.202. If the Agency receives a tax certification application, the Agency must file with the Board a recommendation on the application, unless the applicant withdraws the application. *See* 35 Ill. Adm. Code 125.204(a). Among other things, the Agency’s filing must recommend that the Board issue or deny tax certification. *See* 35 Ill. Adm. Code 125.204(a)(4). If the Board finds “that the claimed facility or relevant portion thereof is a pollution control facility . . . , the Pollution Control Board . . . shall enter a finding and issue a certificate to that effect.” 35 ILCS 200/11-25 (2010); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Ameren on May 21, 2010.¹ Rec. at 1. On July 6, 2011, the Agency filed a recommendation on the application with the Board, attaching the application. The Agency's recommendation identifies the purpose of the facility at issue: the Wet Flue Gas Desulfurization Scrubber serves "as a means of controlling sulfur dioxide emissions from the flue gases of its conventional, fossil fuel-fired power plant." *Id.* at 2. The Agency's recommendation further describes the facility: the scrubber "makes use of crushed limestone as a reagent, while the resulting gypsum produced from the control process is collected and stored in a collection pond." *Id.*

The Agency recommends that the Board certify that the identified facility is a pollution control facility as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2010)) with the primary purpose to "prevent, eliminate or reduce air pollution ... in accordance with the statutory definition and consistent with the Board's regulations at 35 Ill. Adm. Code 125.200." *Id.* at 3.

TAX CERTIFICATE

Based on the Agency's recommendation and Ameren's application, the Board finds and certifies that Ameren's facility identified in this order is a pollution control facility under the Property Tax Code (35 ILCS 200/11-10 (2010)). Under Section 11-25 of the Property Tax Code, the effective date of this certificate is "the date of application for the certificate or the date of the construction of the facility, which ever is later." 35 ILCS 200/11-25 (2010); *see also* 35 Ill. Adm. Code 125.216(a). Section 125.216(d) of the Board's procedural rules states that the Clerk "will provide the applicant and the Agency with a copy of the Board's order setting forth *the Board's findings and certificate, if any.*" 35 Ill. Adm. Code 125.216(d) (quoting in italics 35 ILCS 200/11-30 (2010)). The Clerk therefore will provide Ameren and the Agency with a copy of this order.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2010); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

¹ The Agency's recommendation is cited as "Rec. at _."

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 21, 2011, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

John Therriault, Assistant Clerk
Illinois Pollution Control Board