

ILLINOIS POLLUTION CONTROL BOARD

March 26, 2014

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)	
)	
WATER QUALITY STANDARDS AND)	R08-9 (D)
EFFLUENT LIMITATIONS FOR THE)	(Rulemaking - Water)
CHICAGO AREA WATERWAY SYSTEM)	
AND LOWER DES PLAINES RIVER)	
PROPOSED AMENDMENTS TO 35 ILL.)	
ADM. CODE 301, 302, 303, and 304)	

HEARING OFFICER ORDER

On March 6, 2014, the Board directed the hearing officer to establish a comment period to allow participants to provide final pre-first notice comments on the Illinois Environmental Protection Agency's (IEPA) proposed water quality standards for the Chicago Area Waterways and Lower Des Plaines River. On that same day the hearing officer ordered that pre-first notice comments be filed with the Board by April 7, 2014. The hearing officer also allowed responsive comments to be filed by April 21, 2014.


On March 21, 2014, Midwest Generation, LLC filed a request to extend the deadline for filing comments until April 30, 2014, and to allow responsive comments to be filed by May 14, 2014. Midwest Generation asks for this extension due to the pending change in management, which will take place April 1, 2014. Midwest Generation cannot take direction from the new management until after the April 1 closing and the April 7 comment deadline does not provide sufficient time for Midwest Generation to implement any new direction from management. Midwest Generation contacted IEPA and other interested parties, including counsel for the environmental groups, Citgo Petroleum Corporation and PDV Midwest LLC (Citgo/PDV), ExxonMobil Corporation (ExxonMobil), the Illinois Environmental Regulatory Group, and Stepan Company (Stepan). Midwest Generation indicates that there is no objection from these groups to the extension.

On March 25, 2014, the IEPA also filed a motion for extension of the comment deadline. IEPA is seeking an extension until April 30, 2014. IEPA asks for additional time "due to schedules and follow-up conversations with USEPA". IEPA also reached out to several participants including Midwest Generation, environmental groups, Citgo/PDV, ExxonMobil, and the Metropolitan Water Reclamation District of Greater Chicago (District). IEPA indicates that there is no objection from these groups to the extension.

Pursuant to Section 101.500(d) of the Board's procedural rules, a party has 14 days to file a response to a motion and unless undue delay or material prejudice would result, the hearing officer will not grant any motion before expiration of the 14 day response period. 35 Ill. Adm. Code 101.500(d). As the deadline for filing comments is before the expiration of the 14-day response period to the IEPA's motion, material prejudice could result if the hearing officer waits for the response time to run before ruling on the motions.

The motions are granted and the hearing officer's deadlines of April 7, 2014 and April 21, 2014 are rescinded. Pre-first notice comments must be filed with the Board by April 30, 2014. If participants wish to respond to the comments filed on April 30, 2014, responses must be filed by May 14, 2014. The mailbox rule does not apply to the filing of the comments and responses. *See* 35 Ill. Adm. Code 101.300.

IT IS SO ORDERED.


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