

ILLINOIS POLLUTION CONTROL BOARD
September 23, 2020

IN THE MATTER OF:)
)
STANDARDS FOR THE DISPOSAL OF) R 20-19
COAL COMBUSTION RESIDUALS IN) (Rulemaking – Land)
SURFACE IMPOUNDMENTS: PROPOSED)
NEW 35 ILL. ADM. CODE 845

HEARING OFFICER ORDER

The second set of hearings for R20-19 will include two designated public comment portions. Those portions are scheduled for September 30, 2020, from 12:00 p.m. to 1:30 p.m. and October 1, 2020, from 5:30 p.m. to 7:00 p.m. Hearing Officer order, Aug. 17, 2020.

MOTION TO LIVE STREAM PUBLIC COMMENTS

On September 15, 2020, participant Sierra Club filed a motion (Mot.) to the hearing officer requesting the ability to live stream the public comment portion of the upcoming hearings in this matter, R20-19. Sierra Club indicates that it has the ability to project the video stream of WebEx on to Sierra Club’s Facebook page. Also, Sierra Club states that the streaming of the WebEx video of public comments on Facebook is intended to “provide for increased public viewing of the public comments provided at the hearings.” Mot. at 2.

On September 17, 2020, participant Dynegey filed a motion indicating it does not oppose Sierra’s motion to livestream. On September 18, 2020, the Illinois EPA filed a motion stating it does not object to live streaming public comments on social media “as long as such streaming can be conducted efficiently and in a manner which protects the integrity of the public comment process, *i.e.*, allows everyone to hear the comments and participate in the hearing when necessary.” IEPA Mot. at 1.

35 Ill. Adm. Code 101.606 provides the framework for informal recordings of Board proceedings:

Informal recording of Board proceedings is allowed as provided for in this Section. The hearing officer may prohibit audio or video recording at hearing if a witness refuses to testify on the grounds that the witness must not be compelled to testify if any portion of the testimony is to be broadcast or televised. If the hearing officer determines that the recording is disruptive or detrimental to proper development of the record, the hearing officer may limit or prohibit audio and video recording.

The hearing officer grants Sierra Club’s motion to livestream the public comment portion only of the second hearing subject to the following requirements.


First, the process for providing oral public comments remains the same. The hearing officer order of June 29, 2020, describes the procedure for oral public comments in detail. All members of the public wishing to make a public comment must provide their comments either in person, via WebEx video or by telephone. This is the same manner in which oral public comments were allowed during the first hearing. Any public commenter must, as before, appear in person, download the WebEx app to comment via video or call in through the telephone number provided in the hearing notice.

Second, the Board does not have an active Facebook page nor the technical capabilities to manage a feed or interact on Facebook. Therefore, the hearing officer will not accept oral or written comments submitted through Facebook.

Third, the hearing officer will not interact with the Facebook stream or facilitate it in any way. No one at the Board will be responsible for monitoring the Facebook feed. Should there be any problems with the video feed in Facebook, the hearing officer will not pause the public comment portion and will not be responsible for correcting problems with the Facebook video feed.

Finally, in accordance with Section 101.606 of the Board's rules, the hearing officer will advise each public commenter prior to their comment that the proceeding is being livestreamed both via WebEx and via Facebook.

IT IS SO ORDERED.



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