

ILLINOIS POLLUTION CONTROL BOARD

November 20, 2014

NRG WHOLESALE GENERATION LP,)	
)	
Petitioner,)	
)	
v.)	PCB 15-85
)	(CAAPP Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by D. Glosser):

On October 29, 2014, NRG Wholesale Generation LP (NRG) timely filed a petition asking the Board to review a September 25, 2014 determination of the Illinois Environmental Protection Agency (Agency) along with a motion to stay certain conditions (Mot.). *See* 415 ILCS 5/40.2(a) (2012); 35 Ill. Adm. Code 101.300(b), 105.302(e). The Agency's determination concerns NRG's Aurora Generating Station (Aurora Station) located at 2909 North Eola Road, Aurora, DuPage County. On November 6, 2014, the Board accepted NRG's petition for hearing, but reserved ruling on NRG's request for stay. For the reasons stated below the Board grants NRG's request for stay.

NRG requests that the Board stay the effectiveness of certain contested conditions within the permit as those conditions are set forth in the motion for stay. Mot at 1-2. NRG's petition argues that the Agency's determination was arbitrary, capricious, and inconsistent with applicable law, including the Act and Board regulations. Pet. at 9. NRG requests a stay of the multiple conditions during the pendency of the review process until final action is taken by the Board pursuant to Section 40.2 of the Act. Pet. at 9; *see* 415 ILCS 5/40.2 (2012).

On November 6, 2014, the Board accepted NRG's petition for hearing but reserved ruling on the request for a stay. *See* 35 Ill. Adm. Code 101.500(d). The Agency has not responded to NRG's request. The Agency is therefore deemed to have waived any objection to granting the motion. 35 Ill. Adm. Code 101.500(d).

Section 40.2(a) of the Act makes it clear that CAAPP permit denials may be stayed during the pendency of the review process at the request of the applicant. 415 ILCS 5/40.2(f) (2012). Having reviewed the request and in the absence of any objection by the Agency, the Board grants NRG's request to stay the effectiveness of **multiple contested conditions as those conditions are set forth in the motion for stay**. This stay will remain in effect until the Board takes final action in this matter or the Board orders otherwise.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 20, 2014, by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is fluid and cursive, with a long horizontal stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board