

BEFORE THE ADMINISTRATOR

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

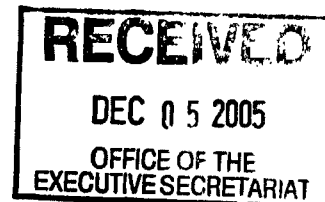
**PETITION REQUESTING THAT THE ADMINISTRATOR OBJECT TO
ISSUANCE OF THE FINAL TITLE V OPERATING PERMITS FOR THE
AMEREN ENERGY GENERATING COMPANY COFFEEN, HUTSONVILLE,
MEREDOSIA AND NEWTON GENERATING STATIONS, THE
AMERENENERGY RESOURCES GENERATING COMPANY BARTONVILLE
AND CANTON GENERATING STATIONS, THE DYNEGY ALTON, BALDWIN,
HAVANA, HENEPIN AND OAK WOOD GENERATING STATIONS, THE
ELECTRIC ENERGY JOPPA GENERATING STATION, THE KINCAID
GENERATING STATION, THE MIDWEST GENERATION CHICAGO-
CRAWFORD, CHICAGO-FISK, JOLIET, PEKIN AND WILL COUNTY
GENERATING STATIONS, AND THE CITY OF SPRINGFIELD GENERATING
STATION**

On behalf of:

Keith Harley
CHICAGO LEGAL CLINIC, INC.
205 West Monroe Street, 4th Floor
Chicago, Illinois 60606
(312) 726-2938

LAKE COUNTY CONSERVATION
ALLIANCE

Date: November 28, 2005



Pursuant to Clean Air Act § 505(b)(2) and 40 C.F.R. § 70.8(d), the Lake County Conservation Alliance hereby petitions the Administrator (“the Administrator”) of the United States Environmental Protection Agency (“U.S. EPA”) to object to the final Title V Operating Permits for the following facilities, all coal-fired power plants:

Ameren Energy Generating Company:

Coffeen	95090009	135803AAA
Hutsonville	95080105	033801AAA
Meredosia	95090010	137805AAA
Newton	95090066	079808AAA

AmerenEnergy Resources Generating Company:

Bartonville	95070026	143805AAG
Canton	95070025	057801AAA

Dynegy Midwest Generation:

Alton	95090096	119020AAE
Baldwin	95090026	157851AAA
Havana	95090053	125804AAB
Hennepin	95090052	155010AAA
Oak Wood	95090050	183814AAA

Electric Energy:

Joppa	95090120	127855AAC
-------	----------	-----------

Kincaid:

Kincaid	95090078	127855AAC
---------	----------	-----------

Midwest Generation:

Chicago-Crawford	95090076	031600AIN
Chicago-Fisk	95090081	031600AMI
Joliet	95090046	197809AAO
Pekin	95090074	179801AAA
Will County	95090080	197810AAK

City of Springfield

Springfield	95090091	167120AAO
-------------	----------	-----------

The petitioning organization provided comments to the Illinois Environmental Protection Agency on the draft permits for these facilities (collectively, the "Illinois facilities"). A true and accurate copy of those comments is attached. At the time of submitting these comments, the Petitioner indicated that "We submit these comments with the understanding that they will be considered for all the recently issued CAAPP permits for Illinois coal plants...", and listed 21 specific facilities, including their operators and permit numbers. In the comments, the Petitioner specifically questioned the practical enforceability of particulate matter emission limits in these permits because of deficiencies in monitoring, and requested "...that Midwest Generation and all other companies that operate coal fired power plants in Illinois, have to install PM Continuous Emission Monitors (CEMs) on all plants."

The permits for twenty-two coal-fired power plants were proposed to U.S. EPA by the Illinois Environmental Protection Agency for a 45-day review period that concluded on September 29, 2005. This petition is filed within the sixty-day period following the end of U.S. EPA's 45-day review period as required by Clean Air Act §

505(b)(2). The Administrator must grant or deny this petition within sixty days after it is filed.

If the U.S. EPA Administrator determines that these permits do not comply with the requirements of the Clean Air Act (“CAA”) or 40 C.F.R. Part 70, he must object to issuance of the permits. *See* 40 C.F.R. § 70.8(c)(1) (“The [U.S. EPA] Administrator will object to the issuance of any permit determined by the Administrator not to be in compliance with applicable requirements or requirements of this part.”).

LCCA asserts these permits do not contain legally adequate provisions to ensure compliance with all periodic monitoring requirements. The permits should, but do not, require stack testing if electrostatic precipitators (ESPs) fail to operate within established parameters. The permits should, but do not, require at least annual stack and parametric monitoring testing to ensure there is an ongoing correlation between parametric monitoring and actual emissions. The first post-permit stack testing should be completed as soon as possible for all facilities. The permits should require ESP-performance record keeping on a greater than once per day or once per shift basis, and all permits should impose reporting requirements that are not discretionary with the permittee.

In making these assertions, LCCA notes the Administrator addressed the critical importance of a credible monitoring protocol in the July 31, 2003 responses to Petitions by the New York Public Interest Research group on Title V Permits issued to Dunkirk Power LLC and Huntley Generating Station. The Administrator also addressed this issue in the September 22, 2005 response to the Lake County Conservation Alliance Petition regarding the Waukegan Generating Station. In these responses, the Administrator remanded the permits to the permitting authority in part because they did not include

proper operating ranges for each of the ESP parameters and therefore did not provide the means to determine compliance.

Two provisions of Part 70 require that Title V permits contain monitoring requirements. The “periodic monitoring rule,” 40 CFR 70.69(a)(3)(i)(B), requires that “where the applicable requirements does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of record keeping designed to serve as monitoring), [each Title V permit must contain] periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit...Such monitoring requirements shall assure use of terms, test methods, averaging periods, and other statistical conventions consistent with the applicable requirement. Record keeping provisions may be sufficient to meet the requirements of [40 C.F.R. 70.69a)(3)(i)(B)].” The “umbrella monitoring” rule, 40 C.F.R. 70.6(c)(1), requires that each Title V permit contain, “consistent with [section 70.6(a)(3)], ...monitoring...requirements sufficient to assure compliance with the terms and conditions of the permit.” EPA has interpreted section 70.6(c)(1) as requiring that Title V permits contain monitoring required by applicable requirements under the Act (e.g. monitoring required under federal rules required under 40 C.F.R. 70.6(a)(3)(i)(B). 69 Fed. Reg. At 3202, 3204 (January 22, 2004); see also *Appalachian Power Co. v. EPA*, 208 F. 3d 1015 (D.C. Cir. 2000).

The Illinois permits rely on a combination of initial stack tests, continuous opacity monitors (COMs) and ESP monitors to determine compliance with PM emission limitations. Consequently, these testing and monitoring systems must operate according to a credible, legally adequate protocol to serve as meaningful indicators of PM

emissions. Moreover, through testing, these indicators must be demonstrated in combination to correlate to PM emissions. The appropriate operating ranges, correlated with emissions, are particularly important to determine proper ESP operation. Because of this, the Petitioner contends the Illinois permits must be altered in the following, specific ways:

1. The Petitioner contends there is need for a more targeted, rigorous stack testing protocol than in the existing Illinois permits. While all of the permits require some stack testing for particulate matter, it appears none of the permits require stack testing if ESP operations fall out of range. This is true even if ESP operations experience recurrent, chronic problems. Because ESP performance is being used to correlate to PM emissions, it is entirely appropriate to establish a threshold for ESP "out-of-range" operations that will trigger PM stack testing. In the absence of such a trigger and subsequent stack testing, it will be difficult if not impossible to detect the nature and extent of PM exceedances, and to develop appropriately scaled corrective actions.

2. The permits should include a defined schedule for regular stack and parametric monitoring testing. Under the present permits, Illinois facilities are given discretion based "on prior performance" to schedule subsequent stack testing. There are no provisions related to ongoing testing of parametric monitors. Notably, following remand, the Dunkirk Power LLC permit was revised to include annual stack testing. The Petitioner in the present case contends that because PM emissions will be determined through the correlation of ESP performance, COM and stack testing, it is entirely appropriate to require targeted stack and parametric monitoring testing to demonstrate (and, if necessary, correct) this correlation on a regular basis, no less than annually. In

the absence of ongoing, targeted testing, it will be difficult if not impossible to determine if the initial correlation between systems that established PM compliance remains valid over time.

3. The Petitioner contends that in order to demonstrate the necessary correlation between opacity monitoring, ESP parametric measures and PM emissions, the permits should impose the earliest, specific time period for stack testing to acquire "reliable data from the relevant time period that are representative of the source's compliance with the permit." This is consistent with the Administrator's remand in the Waukegan Petition. The Administrator stated in the Waukegan decision that "...the permit relies on PM testing for establishing opacity monitoring and ESP parametric measures to assure compliance with PM emissions limitations. The PM testing will not be sufficient to assure compliance until such testing occurs." The Petitioner contends all permits should require initial, post-permit testing within six months.

4. The Illinois permits should be remanded and revised to require more frequent record keeping for ESP performance. Again, this is necessary because ESP performance, correlated with COM and stack testing, is being used as a surrogate for actual, ongoing PM monitoring and compliance. Under the existing Illinois permits, ESP performance is recorded on a once-per-shift or once-per-day basis. Permittees are required to record ESP fields that are in service, the primary voltages and currents, the secondary voltages and currents as parametric measurements for the operating condition of the ESP. However, the permits do not include an adequate protocol to ensure that these once-per-shift snapshots of parametric measurements are representative of the full range of ESP operations during the shift. The Dunkirk permit, issued after remand, resolved this issue

by requiring twice-per-shift record keeping. While still imperfect, this protocol is more likely to represent actual ESP operations over a range of conditions, to identify any out-of-range operations, and to enable a credible correlation with PM emissions. The twice-per-shift protocol should be required in Illinois permits.

By way of conclusion, in order to establish that the listed facilities operate in compliance with PM emission limitations, the Petitioner respectfully requests the Administrator to grant this Petition and to remand the listed permits to address the deficiencies described in this Petition.

Respectfully Submitted,



Keith Harley
Attorney at Law
Chicago Legal Clinic, Inc.
205 W. Monroe, 4th Floor
Chicago, IL 60606
(312) 726-2938
(312) 726-5206 (fax)
kharley@kentlaw.edu

on behalf of

Lake County Conservation Alliance