

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
) AS 2021-001
PETITION OF MIDWEST)
GENERATION, LLC FOR AN)
ADJUSTED STANDARD FROM) (Adjusted Standard)
845.740(a) AND FINDING OF)
INAPPLICABILITY OF PART 845)
(JOLIET 29 STATION))

NOTICE OF FILING

To: See attached Service List

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Pollution Control Board Petitioner Midwest Generation, LLC's Voluntary Withdrawal of Petition for Adjusted Standard from 845.740(a) for Pond 2 at Joliet 29 Station, a copy of which is herewith served upon you.

Dated: August 11, 2023

MIDWEST GENERATION, LLC

By: /s/Kristen L. Gale

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true copy of the foregoing Notice of Filing, and Midwest Generation, LLC's Voluntary Withdrawal of Petition for Adjusted Standard from 845.740(a) for Pond 2 at Joliet 29 Station, was electronically filed on August 11, 2023 with the following:

Don Brown, Clerk of the Board
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Chicago, IL 60605
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and that copies were sent via e-mail on August 11, 2023 to the parties on the service list.

Dated: August 11, 2023

/s/Kristen L. Gale

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
Midwest Generation, LLC's Petition for an Adjusted) AS 2021-001
Standard from 845.740(a) and Finding of Inapplicability)
from 35 Ill. Adm Code 845 (Joliet 29 Station))

MIDWEST GENERATION LLC'S VOLUNTARY WITHDRAWAL OF PETITION FOR ADJUSTED STANDARD FROM 845.740(a) FOR POND 2 AT JOLIET 29 STATION

Respondent Midwest Generation, LLC ("MWG"), by its undersigned counsel, requests that the Illinois Pollution Control Board ("Board") grant its Motion to Voluntarily Withdraw Petition for Adjusted Standard from Section 845.740(a) of the Board's Rules (35 Ill. Adm. Code 845.740(a) for Pond 2 at the Joliet 29 Station, stating as follows:

1. On May 11, 2021, MWG filed a Petition for Adjusted Standard from the Part 845 Illinois Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments at 35 Ill. Adm. Code 845 ("Illinois CCR Rule") for three ponds at the Joliet 29 Station in Joliet, Will County, Illinois ("Joliet 29"). MWG sought two forms of relief (1) a finding that the Illinois CCR Rule was not applicable to Ponds 1 and 3 and (2) allowing the decontamination and retention of the existing liner in Pond 2 rather than the liner's removal as provided in the Illinois CCR Rule.

2. On September 22, 2021, Illinois Environmental Protection Agency ("Illinois EPA" or "Agency") filed a partial Recommendation agreeing that Ponds 1 and 3 at Joliet 29 are not CCR surface impoundments subject to Part 845's requirements. Illinois EPA did not object to the Board granting MWG's request for Ponds 1 and 3.

3. On February 4, 2022, Illinois EPA filed a second partial Recommendation requesting that the Board deny MWG's request for an adjusted standard from Section 845.740(a) of the Board Rules for Pond 2 at Joliet 29.

4. On March 24, 2022, MWG filed a Response to Illinois EPA's Recommendation, including expert reports, disputing the Agency's assertions and conclusion regarding Pond 2.

5. On June 9, 2022, the Board granted MWG's request to withdraw its request for a hearing on Ponds 1 and 3 because Illinois EPA stipulated that Ponds 1 and 3 are no CCR Surface Impoundments and did not object to the Board granting MWG's request.

6. On June 28 and 29, 2022, the Board held two days of hearing on MWG's request for an adjusted standard to allow it to decontaminate and retain the existing liner in Pond 2.

7. On May 4, 2023, the Board issued an interim order requiring additional testing is required before making a determination on the adjusted standard for Pond 2 and requested MWG to file the testing results by September 4, 2023.

8. On May 18, 2023, the Board held that Ponds 1 and 3 are not subject to the provisions of Part 845, provided the ponds are not used in the future for the treatment, storage, or disposal of CCR.

9. MWG has determined it is no longer necessary to reuse the liner in Pond 2. Accordingly, MWG seeks to withdraw its Petition for Adjusted Standard from Section 845.740(a) for Pond 2.

WHEREFORE, MWG requests that the Board grant its request to withdraw the Petition for an Adjusted Standard from Section 845.740(a) for Pond 2. Because the Board has entered a final order regarding Ponds 1 and 3, if the Board grants this request to withdraw the Petition for Pond 2, then there are no other requests before the Board and it may proceed to close the docket in this matter.

Respectfully submitted,
MIDWEST GENERATION, LLC
By: _____/s/Kristen L. Gale
One of Its Attorneys

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