

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
 ) AS 2021-003  
PETITION OF MIDWEST )  
GENERATION, LLC FOR AN )  
ADJUSTED STANDARD FROM ) (Adjusted Standard)  
845.740(a) AND FINDING OF )  
INAPPLICABILITY OF PART 845 FOR )  
THE WAUKEGAN 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 Midwest Generation, LLC's Motion for Extension of Time to File Interlocutory Appeal, a copy of which is herewith served upon you.

Dated: February 7, 2024

MIDWEST GENERATION, LLC

By:     /s/Kristen L. Gale    

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**SERVICE LIST**

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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 Motion for Extension of Time to File Interlocutory Appeal was electronically filed on February 7, 2024 with the following:

Don Brown, Clerk of the Board  
Illinois Pollution Control Board  
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Chicago, IL 60605  
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and that copies were sent via e-mail on February 7, 2024 to the parties on the service list.

Dated: February 7, 2024

/s/Kristen L. Gale

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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 )  
Petition of Midwest Generation, LLC for an ) PCB AS 2021-003  
Adjusted Standard from 845.740(a) )  
and Finding of Inapplicability of Part 845 )  
for the Waukegan Station )

**MOTION FOR EXTENSION OF TIME TO FILE INTERLOCUTORY APPEAL**

Midwest Generation, LLC (“MWG”) by and through its attorney, submits this Motion for Extension of Time to file an interlocutory appeal of the Hearing Officer’s February 5, 2024 Decision on MWG’s Motions in *Limine* to Exclude and Strike certain Illinois Environmental Protection Agency’s (“Agency”) exhibits. In support, MWG states as follows:

1. On November 16, 2023, MWG filed a Motion *in Limine* to exclude and strike from the record certain Agency exhibits (exhibits 37, 40, 42, 43, 44, 50) and a Motion *in Limine* to exclude and strike from the record Agency exhibits 1-5, 13-26 and 50 (collectively “Motions”).
2. On February 5, 2024, the Hearing Officer denied MWG’s Motions.
3. Pursuant to Section 101.518 of the Illinois Pollution Control Board (“Board”) Rules, MWG must file an interlocutory appeal of the Hearing Officer’s decision within 14 days after receiving the Hearing Officer’s written order. 35 Ill. Adm. Code 101.518. The rule also states that if the hearing officer makes a ruling on the record at hearing, any motion for interlocutory appeal must be filed within 14 days after the Board receives the hearing transcript. *Id.*
4. The hearing on this matter is scheduled to begin on February 13, 2024 and continue as needed to February 14, 2024. At the hearing, the Agency will presumably present its exhibits 1-5, 13-26, 37, 40, 42, 43, 44, and 50 to the Board. If the Agency presents those exhibits to the Board,

MWG will reassert its objections to the Agency's exhibits for virtually identical reasons as stated in its Motions.

5. Because MWG's objections to the Agency's exhibits in its Motions are the same objections that MWG will have to admission and consideration of the exhibits at the hearing, MWG requests to extend the date to file an interlocutory appeal of the Hearing Officer's February 5, 2024 written decision to 14 days after the Board receives the hearing transcripts for the hearing scheduled to begin on February 13, 2024.

6. Counsel for MWG contacted the Agency's counsel, who stated it does not object to MWG's motion to extend.

WHEREFORE, Midwest Generation, LLC requests that the Hearing Officer grant its Motion for Extension of Time to file its interlocutory appeal of the Hearing Officer's February 5, 2024 decision to 14 days after the Board receives the hearing transcripts for hearing scheduled to begin on February 13, 2024.

Respectfully submitted,

MIDWEST GENERATION, LLC

Petitioner,

By: /s/ Kristen L. Gale  
One of its Attorneys

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