

ILLINOIS POLLUTION CONTROL BOARD

DEC 21 2004

STATE OF ILLINOIS
Pollution Control Board

MIDWEST GENERATION EME, LLC

Petitioner,

v.

ILLINOIS ENVIRONMENTAL

PROTECTION AGENCY,

Respondent.

PCB 04-185

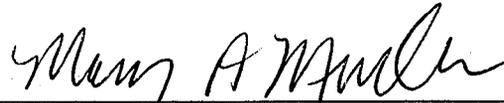
(Trade Secret Appeal)

NOTICE OF FILING

To: Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, IL 60601

Lisa Madigan
Matthew Dunn
Ann Alexander
Paula Becker Wheeler
Office of the Attorney General
188 West Randolph Street, Suite 2000
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Petitioner and Respondent's Joint Motion for an Extension of Time to File Certain Pleadings, a copy of which is herewith served upon you.



Mary Ann Mullin

Dated: December 21, 2004

Schiff Hardin LLP
6600 Sears Tower
Chicago, IL 60606
(312) 258-5687

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DEC 21 2004

STATE OF ILLINOIS
Pollution Control Board

Midwest Generation EME, LLC)
Petitioner,)
)
v.)
)
)
Illinois Environmental Protection Agency,)
Respondent.)

PCB 04-185
Trade Secret Appeal

**PETITIONER AND RESPONDENT'S JOINT MOTION FOR AN EXTENSION OF
TIME TO FILE CERTAIN PLEADINGS**

Petitioner, Midwest Generation EME, LLC ("Midwest Generation") and Respondent, Illinois Environmental Protection Agency ("IEPA"), jointly move the Hearing Officer, pursuant to Illinois Pollution Control Board (the "Board") Procedural Rules 101.502 and 101.522 to grant an extension of time for Respondent to file its Response to Midwest Generation's Motion to Strike and an extension of time for Petitioner to file its Response to IEPA's Clarification. In support of this Motion, Petitioner and Respondent state as follows:

1. On November 4, 2004, the Board ordered IEPA to file a Clarification of IEPA's March 10, 2004 denial of trade secret protection to certain documents Midwest Generation provided IEPA ("Clarification"). The Board ordered Midwest Generation to file a pleading responsive to the Clarification by December 31, 2004 ("Response to Clarification").
2. On November 30, 2004, IEPA filed its Clarification. On December 9, 2004, Midwest Generation moved to strike the Clarification. IEPA's Response to the Motion to Strike is due December 24, 2004.

3. Respondent is in need of an extension until January 10, 2004 to file its Response to the Motion to Strike due in part to counsel's vacation schedule during this holiday season. In addition, primary counsel for this case is on maternity leave. Midwest Generation has waived the decision deadline in this case until October 14, 2005, therefore this extension should not inconvenience the Board. Petitioner has no objection to this extension.
4. Pursuant to the Board's November 4, 2004 order, Petitioner is required to file a Response to the Clarification by December 31, 2004. Petitioner is in need of an extension of time to file this pleading because its Motion to Strike the Clarification is pending. Responding to the Clarification before the Motion to Strike the Clarification is resolved appears premature. If the Clarification is stricken, for example, Petitioners would have no need to file a Response to the Clarification.
5. Further, if Respondent is granted an extension to file a Response to the Motion to Strike, Petitioner could be prejudiced if it is not given extra time to file a Response to the Clarification. The current schedule provides that Respondent's Response to the Motion to Strike is due December 24, 2004 and Petitioner's Response to the Clarification is due one week later on December 31, 2004. If Respondent is granted an extension and Petitioner is not, Petitioner would be required to file its Response to the Clarification before receiving the Response to the Motion to Strike. Respondent has no objection to this request for an extension.

Accordingly, Petitioner and Respondent respectfully request that Respondent be granted until January 10, 2005 to file its Response to Midwest Generation's Motion to Strike and that Petitioner's time to file a Response to IEPA's Clarification be extended until 7 days after service of the Board's Decision on Midwest Generation's Motion to Strike.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
Attorney General of the State of Illinois

By: *Paula Becker Wheeler*

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MIDWEST GENERATION EME, LLC

By: *Mary Ann Mullin*

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One of the Attorneys for
Midwest Generation EME, LLC

Dated: Chicago, Illinois
December 21, 2004

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached Petitioner and Respondent's Joint Motion for an Extension of Time to File Certain Pleadings by U.S. Mail, upon the following persons:

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, IL 60601

Lisa Madigan
Matthew Dunn
Ann Alexander
Paula Becker Wheeler
Office of the Attorney General
188 West Randolph Street, Suite 2000
Chicago, Illinois 60601

Dated: December 21, 2004

Respectfully submitted,

MIDWEST GENERATION EME, LLC

By: 
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