

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM. CODE) R15-21
PART 214, SULFUR LIMITATIONS, PART) (Rulemaking - Air)
217, NITROGEN OXIDES EMISSIONS, AND)
PART 225, CONTROL OF EMISSIONS)
FROM LARGE COMBUSTION SOURCES)

NOTICE

TO: John Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board MIDWEST GENERATION, LLC'S COMMENTS IN SUPPORT OF ILLINOIS EPA'S PROPOSED RULE CHANGES, a copy of which is herewith served upon you.

Dated: August 28, 2015

Respectfully submitted,

MIDWEST GENERATION, LLC

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**MIDWEST GENERATION, LLC’S COMMENTS
IN SUPPORT OF ILLINOIS EPA’S PROPOSED RULE CHANGES.**

Midwest Generation, LLC (“MWG”) respectfully submits these comments in support of the rule changes proposed by Illinois EPA (“IEPA”) in this proceeding. IEPA has proposed changes to the Illinois sulfur dioxide (“SO₂”) emission rules found in 35 IAC Part 214, as well as necessary related changes to 35 IAC Part 217 and 35 IAC Part 225, including the Combined Pollutant Standards (“CPS”) found at 35 IAC §§ 225.291 through 225.298. The rule changes as proposed by IEPA to the Board prior to these comments (the “Proposal”), including IEPA’s proposed amendments to its initially proposed rule changes, form a comprehensive plan with interrelated components that resulted from significant analyses and public outreach by IEPA. That plan is designed to allow Illinois to meet its requirements for the Lemont and Pekin nonattainment areas with respect to the recently adopted SO₂ 1-hour National Ambient Air Quality Standard (the “SO₂ NAAQS”).

The substantial record compiled in this proceeding, elements of which are highlighted below, overwhelmingly demonstrates that the Board should expeditiously adopt the Proposal. IEPA has conducted extensive modeling, analyses and outreach with respect to the Proposal. IEPA has modeled the Lemont area as attainment with the SO₂ NAAQS with the CPS FGD requirement at Will County 4 eliminated and the Joliet units and Will County 3 ceasing the

combustion of coal. IEPA has also modeled the Pekin area as attainment with IEPA's proposed 30-day rolling average emission rate for the Powerton station. The evidence presented shows that the Proposal will, if adopted, generate emission reductions beyond those required for Illinois to satisfy its requirements with respect to the SO₂ NAAQS in the Lemont and Pekin nonattainment areas. As it applies to MWG, the Proposal is projected to generate SO₂ emission reductions beyond those required by the existing CPS, as well as substantial reductions in other pollutant emissions, including greenhouse gases. In other words, IEPA's Proposal, including the proposed requirements in the CPS to cease combusting coal at four MWG units, will cause major emission reductions that would not occur but for IEPA's proposed rule amendments. IEPA has carefully considered the options and proposed a reasonable and comprehensive approach to further regulate SO₂ emissions from around 700 sources and 3,000 emission units.

Adopting different requirements as requested by certain non-governmental organizations ("NGOs") would impose unnecessary obligations and unwarranted costs. August 4, 2015 hearing transcript, page 183-184. Adopting different requirements as sought by the NGOs also would undermine IEPA's carefully crafted plan, IEPA's outreach to all affected sources and other stakeholders in advance of the rulemaking and the good faith reliance of MWG and other businesses (and their employees) upon the rule changes as proposed by IEPA after extensive discussion with them. Indeed, given the deadlines that would apply under the Proposal and in good faith reliance upon the Proposal and IEPA's outreach, MWG has already taken significant steps to comply with the rules as proposed by IEPA, including ceasing coal-combustion at Will County 3.

INTRODUCTION

MWG operates three plants with coal-fired electric generating units that would be subject to specific emission control requirements under the Proposal: the Powerton station in Pekin, Illinois, the Will County station in Romeoville, Illinois and the Joliet station in Joliet, Illinois. Under the Proposal, MWG will be required to cease combusting coal at all three coal-fired units at the Joliet station and at one of the coal-fired units (Unit 3) at the Will County station, and corresponding very low SO₂ emission rates are imposed by the Proposal on these four units. New, more stringent SO₂ emission rates are also proposed for Will County 4 and the Powerton station. MWG anticipates that it would comply with the proposed Powerton SO₂ emission rate through use of low sulfur coal, some Flue Gas Desulfurization (“FGD” or “trona injection” systems) that have already been installed and additional trona injection systems that are currently being constructed and are planned for completion by the end of 2016. The coal combustion cessation and other requirements proposed for MWG’s plants impose significant obligations on MWG and its plants. These are obligations that, as proposed by IEPA, MWG accepts in good faith reliance upon adoption of all of the other elements of the Proposal as they would apply to MWG.

It is important to recognize that MWG was under absolutely no obligation to offer the cessation of coal combustion at the three Joliet coal-fired units and Will County 3, and thus related significant emission reductions were offered voluntarily by MWG. July 29, 2015 hearing transcript, page 37-38; August 4, 2015 hearing transcript, pages 212-213. IEPA’s proposed changes to the CPS effectively accept this offer and make the cessation of coal combustion at these four units mandatory. August 4, 2015 hearing transcript, pages 192-193. The resulting emission reductions are necessary elements of IEPA’s comprehensive SO₂ attainment plan and could be a significant component of Illinois’ plans to comply with USEPA’s recently adopted

Clean Power Plan for greenhouse gases. *See* IEPA's Technical Support Document ("TSD") at 7, 10-11, 16-17; IEPA's Statement of Reasons ("SOR") at 9-12; August 4, 2015 hearing transcript, page 212. The cessation of coal combustion at these four MWG units and other Proposal requirements are also predicted by IEPA to yield expected SO₂ emission reductions greater than necessary to attain the SO₂ NAAQS and greater than required by the current CPS, as well as major reductions in the emission of other pollutants. August 4, 2015 hearing transcript, pages 189-192; IEPA's Responses to the Board's Third Set of Questions, Nos. 64, 66 and 67.

IEPA's Proposal reflects a delicate balance among competing concerns and interests, including the need to obtain SO₂ emission reductions from various sources in Illinois in amounts that collectively, and fairly, will allow Illinois to meet its NAAQS requirements. IEPA has carefully considered the options and proposed a reasonable and comprehensive approach to further regulate SO₂ emissions from around 700 sources and 3,000 emission units. July 29, 2015 hearing transcript, page 42; July 8, 2015 hearing transcript, pages 34-35.

MWG would be significantly affected by the Proposal, including major new obligations for its coal-fired power plants. For instance, up to \$350 million has been committed to comply with environmental requirements at Powerton and Joliet. This includes the planned Joliet unit conversions from coal to gas, as required by the Proposal, and the installation of trona injection systems at Powerton, which will provide the means to comply with the Proposal and current CPS requirements. Some of the trona injection systems have already been installed at Powerton, and MWG plans to install the remainder by December 31, 2016 to comply with the Proposal.

In comparison, most other sources are subject only to "paper reductions" in their allowable emissions under IEPA's proposed Part 214 SO₂ rules. IEPA's Responses to the Board's Third Set of Questions, No. 65(a); July 29, 2015 hearing transcript at 15-19. Such paper

reductions impose no control costs as they reduce allowable emission levels but do not force actual emission reductions. MWG, however, faces major reductions in its actual emissions with related costs. TSD at 10-11, 17, Table 4; IEPA's Responses to the Board's Third Set of Questions, Nos. 62, 65. Those actual emission reductions provide benefits to the state but come at a considerable cost to MWG. Contrary to Mr. Sahu's assertion in his testimony, if anything MWG carries much of the burden for attaining the SO₂ NAAQS under the Proposal.

While MWG has offered major emission reductions (including through the proposed elimination of coal-firing at four units) it asked for only one change to the CPS to facilitate those reductions – a transfer in the FGD exemption between units. In response to that request, and in recognition of the major emission reduction benefits voluntarily offered by MWG, IEPA is effectively proposing to substitute Will County 4 as the one operating unit under the current CPS not required to install “FGD” for Joliet Unit 6, which must convert from coal to another fuel under the Proposal. The net effect of this proposal is merely to transfer an emission control requirement from one unit to another unit that both affect the same nonattainment area. July 29, 2015 hearing transcript, pages 33-35, 37-38. From a broader environmental benefits perspective, the Proposal overall is expected to yield massive SO₂ emission reductions from the requirement to cease combusting coal at four MWG units. Indeed, as discussed further below, IEPA predicted that overall SO₂ emissions resulting from the Proposal are predicted to be lower than under the CPS, without the proposed changes, thus providing an environmental benefit to the area.

The proposed elimination of the FGD requirement at Will County 4 is an integral part of the Proposal. The Proposal, including this element, is predicted to yield SO₂ and other emission reductions. At the same time, the modest proposed FGD change to the CPS makes the overall

Proposal reasonable as applied to MWG. Thus, notwithstanding the significant compliance obligations and costs that would be imposed upon MWG by the Proposal, MWG supports the Proposal's carefully designed and interrelated requirements as applied to its fleet. MWG has designed and is even now implementing its compliance plans to comply with the Proposal, and NGO requested departures from IEPA's Proposal would impose unexpected costs, undermine MWG's carefully integrated plans and result in requirements that are wasteful, unreasonable and not feasible. More broadly, adjusting IEPA's Proposal could undermine IEPA's attainment plan, requiring more modeling and different proposed rules when the plan is already past due. IEPA's Responses to the Board's Third Set of Questions, No. 67. Adopting the emission reductions offered by MWG but rejecting the Will County 4 FGD exemption requested by MWG and proposed by IEPA could even have a chilling effect on the state's ability to obtain voluntary emission reductions in the future. August 4, 2015 hearing transcript, page 214.

I. THE BOARD SHOULD ADOPT THE RULES AS PROPOSED

The Board should reject the NGOs' general request to make the Proposal more stringent and their specific requests to: (1) modify the 30-day rolling average SO₂ emission rate proposed for the Powerton plant, (2) reject the proposed transfer of the CPS FGD exemption from Joliet Unit 6 to Will County Unit 4 and (3) reject the proposed CPS changes generally or pursue them in a different proceeding.

Substantial emission reductions are already required from MWG's fleet under the Proposal, but it has designed a plan to achieve those requirements in a reasonable and cost effective way. The NGO requested changes to IEPA's proposed requirements as they apply to MWG would undermine that carefully designed plan of interrelated components, could impose significant additional costs and jeopardize IEPA's carefully considered and comprehensive attainment plan. Further, time is already of the essence given the impending NAAQS deadlines

for rulemaking action, as IEPA noted in its Motion for Expedited Review, which the Board granted in its May 7, 2015 Order. Forcing significant changes to IEPA's plan could cause significant delay.

And there is no good reason to make the NGO requested changes. The NGO requests for more stringency or additional pollution controls or rates ignore the substantial SO₂ emission reductions that have already been accomplished in the state, the nature of an NAAQS standard, the limited goals of this rulemaking and the fact that IEPA's Proposal results in attainment of the SO₂ NAAQS.

As explained in the testimony of Dave Kolaz, Illinois has already made substantial reductions in SO₂ emissions, with an 87% reduction from 1981 to 2013. Prefiled Amended Testimony of Dave Kolaz on Behalf of IERG, page 4. During the period of just 2001 to 2010 Illinois benefited from a 53% reduction in SO₂ emissions. *Id.* This testimony was admitted into the record without objection at the July 29, 2015 hearing. July 29, 2015 hearing transcript, pages 78-79. Additional evidence presented by IEPA at the August 4, 2015 hearing graphically demonstrates the related very substantial reductions in SO₂ ambient air concentrations in the Pekin and Lemont areas from 1983 to 2014. IEPA's Exhibits H and I; August 4, 2015 hearing transcript, pages 203-205.

Given the substantial SO₂ emission reductions and related reductions in SO₂ ambient air concentrations over time, it is not surprising that three of the four areas in Illinois originally identified by IEPA in 2011 as nonattainment with the SO₂ NAAQS are now showing attainment based upon more recent SO₂ monitoring data. Prefiled Amended Testimony of Dave Kolaz, page 5 and Attachment A; July 29, 2015 hearing transcript, pages 48-49; August 4, 2015 hearing transcript, page 61. This includes the Lemont area, where the last three years of monitoring data

show a design value of 66 ppb, as compared to the 75 ppb SO₂ NAAQS. *Id.* USEPA used prior monitoring data to make the nonattainment designations at issue. July 29, 2015 hearing transcript, pages 48-49. Had those attainment designations been made today with the current monitoring data, the Lemont area would be designated attainment, not nonattainment. This rulemaking would not even include the Lemont area. This air quality improvement rebuts the NGO speculation that air quality is somehow getting worse in the Lemont area and, therefore, even more should be required in that area than proposed by IEPA.

As for the Pekin area, IEPA has identified a primary contributor to monitored nonattainment in that area. That source, Aventine Renewable Energy, is converting or has converted to gas from coal, substantially reducing SO₂ emissions in the Pekin area. July 29, 2015 hearing transcript, pages 154-155, 172-173.

All of the evidence presented shows substantial SO₂ emission reductions over time in Illinois and actual and expected improvement in the air quality in the Pekin and Lemont areas. Contrary to the anecdotal NGO oral comments at the hearings, air quality is vastly improved as compared to the past and it is steadily improving. From that already impressive trend, the Proposal would require still further emission reductions.

IEPA's Proposal is all that is required for Illinois to satisfy the goals of this rulemaking. As IEPA explained in its filings and testimony, its Proposal is adequate to satisfy Illinois' current SO₂ NAAQS requirements, and IEPA's proposed requirements for MWG's fleet yield massive emission reductions. *See, e.g.*, SOR at 6-8; TSD at 10-11, 16-17; August 4, 2015 hearing transcript, pages 189-192. Indeed, even the NGOs' modeling expert, Dr. Gray, conceded that IEPA's modeling demonstrated on its face that attainment in the Lemont area would be achieved by IEPA's Proposal, including without an FGD requirement at Will County 4. August 4, 2015

hearing transcript, page 145. And the proposed considerable emission reductions at the Joliet units and Will County 3 contribute to that attainment. July 29, 2015 hearing transcript, page 38; August 4, 2015 hearing transcript, pages 152-154, 161-163, 189-190. In turn, the NAAQS are designed to protect human health with an adequate margin of safety. August 4, 2015 hearing transcript, pages 209-210. Thus, IEPA's proposed rules protect human health with a margin for safety. In the words of one of the NGO's experts, it would be "foolish" to impose additional expensive emission control obligations when they are not required to attain the SO₂ NAAQS. August 4, 2015, hearing transcript, page 158.

For these reasons and the others set forth below, the Board should reject the unsupported NGO requests for still more emission reductions and controls. They are not necessary to satisfy the NAAQS requirements at issue, they would impose more costs without justification and they would undermine IEPA's rule outreach process and the interrelated elements of the Proposal. MWG respectfully requests that the Board adopt IEPA's Proposal.

A. No FGD Should Be Required at Will County 4

In conjunction with IEPA's outreach on the proposed rule changes MWG proposed to cease combusting coal at four of its coal-fired units. Specifically, MWG proposed to convert the three coal-fired units at the Joliet station to natural gas or another fuel and to cease combusting coal at Will County Unit 3. IEPA agreed with MWG that the cessation of coal combustion at these four units would provide significant reductions of not only SO₂ emissions, but also carbon dioxide, particulate matter and nitrogen oxides. August 4, 2015 hearing transcript, pages 189-192; TSD at 10; IEPA's Response to Third Set of Board Questions, No. 64. As IEPA explains, the reductions in other pollutants could help Illinois with its plans for other rules, including the Cross State Air Pollution Rule and USEPA's recently adopted carbon dioxide rule. August 4,

2015 hearing transcript, page 212; IEPA's Responses to the Board's Third Set of Questions, No. 64; TSD at 10-11; SOR at 10-11.

With respect to SO₂ emissions, IEPA calculated that the cessation of coal combustion at these four units conservatively would yield more than 6,000 tons of additional SO₂ emission reductions in 2017, and more than 4,500 tons annually in 2019 and thereafter. TSD, page 17, Table 4. In other words, these are SO₂ emission reductions that would be obtained by the Proposal beyond what is already required by the CPS. *Id.*

IEPA's proposed CPS and Part 217 revisions reflect a number of adjustments needed to accommodate the proposed conversions, with their collective significant benefit on emissions. For instance, IEPA's proposed CPS and Part 217 revisions clarify that the units remain in the CPS controlled fleet, and not subject to 35 IAC Part 217, Subpart M, regardless of whether they are converted to another fuel. *See* TSD at 11; SOR at 9-10. Similarly, while the converted units would remain subject to the CPS NO_x fleet limit, they would not be subject to the CPS SO₂ fleet limit. *Id.* at 11-12; TSD at 11. The net effect of the latter change is to make the CPS SO₂ system limit more stringent for the units that remain subject to that limit, including the Powerton units and Will County 4, because there are fewer units to average against the system limit. July 29, 2015 hearing transcript, pages 21-22. IEPA's proposed rule changes also transfer the CPS FGD exemption from Joliet 6 to Will County 4. The transfer aligns CPS requirements with MWG's business plan, including the conversion of the Joliet units, while ensuring the emission reductions that plan would provide.

1. IEPA's proposed rules yield SO₂ and other emission reductions

Some NGOs commenters have attacked the removal of the CPS FGD requirement for Will County 4 at the prior hearings and through questions. But these attacks are misguided and miss several key points.

Fundamentally, commenters object to the proposed elimination of the FGD requirement at Will County 4 because they claim that will increase emissions, including as compared to emissions expected under the current CPS. This is simply wrong. As discussed in more detail below, IEPA predicts that Will County 4 SO₂ emissions will not increase under the Proposal, while SO₂ emissions from the Will County station overall are predicted by IEPA to decrease as compared to the past and as compared to current CPS requirements. The same is true of the Joliet station. Moreover, other pollutant emissions from both stations are predicted to decrease very substantially from the past and from what would be required from the CPS without IEPA's proposed CPS amendments.

As a starting place for assessing emission reductions, it is important to note that the CPS SO₂ rate is not only a system rate, rather than a unit rate, but also an annual average, rather than an hourly SO₂ rate. The proposed Part 214 SO₂ rates for the Will County and Joliet units are hourly rates that apply to each unit individually. *See* Proposed 35 IAC § 214.603. Thus, unlike IEPA's proposed SO₂ emission rates for the Will County and Joliet units, the current CPS SO₂ rate requirement imposes no unit-specific rate requirements and the averaging period for the whole system is annual.

Further, the CPS SO₂ emission levels for any given unit are driven by the CPS SO₂ annual system rate, not any FGD requirement. IEPA's Responses to the Board's Second Set of Pre-filed Questions, No. 49. Section 225.296(b) of the current CPS requires the installation of

FGD, such as trona injection, at several units, including Will County 4. That rule, however, does not specify operation of the FGDs, let alone require operation at any particular level. 35 IAC § 225.296(b); IEPA's Responses to the Board's Third Set of Questions, No. 62(b). MWG may decide under the CPS how it employs SO₂ control strategies, such as low sulfur coal and trona injection, to meet CPS emission rate requirements. For instance, if it needs to operate a control at one unit at only a low level to meet the CPS system rate, given SO₂ emission reductions at the other CPS units, then operation at that low level is all that is required. That is how the CPS is designed. SO₂ emissions under the CPS are controlled by the SO₂ system rate. That will remain true after the Proposal is adopted. Under the Proposal, however, the SO₂ system rate requirements of the CPS will be effectively more stringent, not less, because there will be fewer units to average when the converted units no longer are included in the fleet average. *See* July 29, 2015 hearing transcript, pages 21-23. For these reasons IEPA conservatively estimated that emissions from Will County 4 would be the same in 2019 with or without IEPA's proposed rule amendments, including the elimination of the Will County 4 FGD requirement under the current CPS. TSD, page 17, Table 4.

As for the other Lemont area units, not only are the proposed SO₂ emission rates for the Joliet and Will County 3 units hourly and unit-specific, they are also lower numerically as compared to the CPS SO₂ system rate. The anticipated SO₂ emission rates for the Joliet units are 0.0006 lb/mmBtu, and 0.0015 lb/mmBtu for Will County 3, which reflect the permanent cessation of coal combustion at these units as required by IEPA's proposed CPS amendments. TSD, page 17, Table 4; IEPA's Responses to the Board's Second Set of Pre-filed Questions, No. 43. The most stringent CPS SO₂ system rate, starting in 2019, is orders of magnitude higher, at 0.11 lb/mmBtu. 35 IAC § 225.295(b). Indeed, IEPA has determined that the expected SO₂

emission rates and annual emissions under the CPS would be considerably higher at the Joliet units and Will County 3 if no fuel conversions were required, such as if SO₂ emissions were controlled as needed to attain the SO₂ NAAQS but in a manner consistent with the CPS without the proposed CPS amendments. IEPA's Responses to the Board's Third Set of Questions, No. 66(a) and (b).

These results should be no surprise. Under the Proposal Will County 3 cannot combust coal. That limitation is not imposed by the existing CPS. Under the existing CPS Will County 3 could continue to burn coal subject to the CPS SO₂ system rate, generating coal-level emissions. Will County 3 SO₂ emissions are projected by IEPA to decrease from 3,144 tons in 2014 to just 13 tons in 2017 and thereafter under the Proposal, assuming that unit continues to operate and burns oil. TSD, at 17, Table 4. Similarly, in 2017 SO₂ emissions from Will County 3 are predicted by IEPA to be only 13 tons, again assuming operation on oil, as compared to 1,267 tons under the CPS without amendments. *Id.* In other words, Will County 3 annual emissions are expected to decrease by more than 1,250 tons with IEPA's proposed rule amendments as of 2017. At this time no final decision has been made that Will County 3 will not operate in the future, and if it does operate it may do so on gas, which would yield even lower SO₂ emissions.

For these reasons, IEPA predicts that under its Proposal total Will County station SO₂ emissions as a whole are expected to decrease as compared to the past and as compared to the CPS without amendments. TSD at 17; August 4, 2015 hearing transcript, pages 189-192. Under the Proposal Will County 3 SO₂ emissions will drop very substantially. At the same time, Will County 4 emissions are projected by IEPA to be unaffected by the Proposal because the CPS system rate drives total fleet emissions. TSD, page 17, Table 4 (Will County 4 predicted SO₂ emissions are the same with and without IEPA's proposed CPS amendments); July 29, 2015

hearing transcript, pages 20-22. In fact, Will County 3 and the Joliet units may not be averaged against the CPS SO₂ system rate once converted, meaning that the average rate is effectively more stringent for the remaining units in the covered system. 35 IAC § 225.295(b) (IEPA proposed); July 29, 2015 hearing transcript, pages 21-22; IEPA's Responses to Second Set of Board Questions, No. 45. Those concerned with air quality should favor the proposed rules, not oppose them.

Further, SO₂ emissions combined from the Joliet and Will County stations will drastically decrease under the proposed rules. IEPA is not merely proposing to eliminate the FGD installation requirement at Will County 4. Instead, the Proposal effectively transfers the FGD install exemption from Joliet 6 to Will County 4. Under the current CPS there is no obligation to install FGD equipment at Joliet 6 or otherwise to reduce Joliet 6 SO₂ emissions beyond that which is required for the MWG CPS fleet to achieve the CPS SO₂ system rate. Under IEPA's Proposal, however, Joliet 6 must cease combusting coal by the end of 2016. 35 IAC § 225.296(b) (as proposed). Thus, Joliet 6 will see major emission reductions under IEPA's Proposal. Indeed, IEPA projects that SO₂ emissions at Joliet 6 will reduce as of 2017 from 953 tons under the existing CPS to 4 tons with the CPS amendments as proposed. TSD, page 17, Table 4. That is more than a 99% emission reduction due to the conversion. *Id.*; IEPA's Responses to the Board's Third Set of Questions, No. 67(c). That is more reduction than could be achieved through trona injection even if FGD had been required at Joliet 6 by the existing CPS. IEPA's Responses to the Board's Third Set of Questions, No. 62(a). Additional significant SO₂ and other pollutant emission reductions would occur from Joliet 7 and 8 under the Proposal. TSD at 17.

IEPA's most recent assessment of potential SO₂ emissions assuming an SO₂ attainment plan that requires no CPS changes (e.g., without the new, proposed CPS requirement to cease combusting coal at four MWG units) confirms the emission reduction benefits of the Proposal. *See* IEPA's Responses to the Board's Third Set of Questions, No. 66. While IEPA notes that it has not modeled this scenario, which would be required "to properly address this question," its preliminary analysis indicates that annual SO₂ emissions based on SO₂ emission rates that would be proposed assuming no CPS changes would be "much less stringent." *Id.* at 66(b). Indeed, IEPA found there would be "no overall SO₂ emission reductions beyond current CPS requirements" *Id.* The combined Will County 3 and 4 hourly emission rates are almost the same under IEPA's proposed rules (145.14 lb/hr plus 6520.65 lb/hr = 6,665.79 lb/hr) and the no CPS change scenario (2,838 lb/hr plus 3,783 lb/hr = 6,621 lb/hr), while the Joliet units are subject to dramatically lower hourly rates under IEPA's Proposal. *Id.* at 61(a) and 66(a). In short, IEPA's Proposal, including the proposed coal combustion cessation requirements in the CPS, is projected by IEPA to yield comparable overall SO₂ hourly emission rates at the Will County station while generating substantial annual SO₂ emission reductions from the Will County units. The planned conversion of all of the Joliet units practically eliminates SO₂ emissions from those currently coal-fired units.

SO₂ emissions from the Joliet and Will County stations have been linked by IEPA to the Lemont non-attainment area. *See, e.g.,* SOR at 10-11. In other words, the emission reductions required by IEPA's proposed rules from the Joliet station, including Joliet 6, will benefit the same nonattainment area that would be benefited by emission reductions at the Will County station. *Id.* Indeed, IEPA has modeled the Lemont area as attainment with the SO₂ NAAQS with the FGD requirement eliminated at Will County 4 and the Joliet units and Will County 3

ceasing the combustion of coal. July 29, 2015 hearing transcript, pages 41-42; August 4, 2015 hearing transcript, pages 189-194.

Finally, the FGD at Will County 4 is not required under the current CPS to be installed until the end of 2018. *See* 35 IAC § 225.296(b). However, under IEPA's proposed CPS amendments Joliet 6 must cease combusting coal by December 31, 2016. *See* proposed 35 IAC § 225.296(b). Thus, the Joliet 6 SO₂ emission reductions that would result from IEPA's Proposal will occur two years earlier than any SO₂ emission reduction that would arise from the FGD requirement at Will County 4 under the current CPS.

2. An FGD requirement at Will County 4 imposes major, unnecessary costs

Those who demand an FGD at Will County 4 or other requirements beyond IEPA's Proposal ignore IEPA's modeling and the most recent monitoring data from the Lemont area. As discussed above, that monitoring data shows attainment with the SO₂ NAAQS and IEPA modeled attainment without an FGD at Will County 4. There is simply no need for an FGD or further emission reductions from this unit.

Those demanding additional requirements beyond IEPA's Proposal also ignore the substantial costs of emission controls. The significant costs to comply with IEPA's proposed rules as they apply to Joliet and Powerton are outlined above. Will County 3 may not operate on coal under IEPA's proposed rules, and if Will County 3 is converted to another fuel, that conversion would require additional costs.

If FGD emission controls were required at Will County 4, as requested by the NGOs, that would impose still more, significant costs. Costs could vary depending on the type of FGD employed but would be at least the tens of millions of dollars. For instance, MWG earlier estimated that the capital cost of trona systems for SO₂ control would run about \$38 million per

coal-fired unit. Board's Order and Opinion in Midwest Generation, LLC v. IEPA, PCB 13-24 (April 4, 2013), at 15.

MWG would incur very significant costs to comply with the Proposal. IEPA's proposed rules are adequate for the state to satisfy the SO₂ NAAQS requirements at issue, in part by requiring major emission reductions from MWG's stations. MWG has already agreed to do more than would otherwise have been required to attain the SO₂ NAAQS. *See, e.g.*, August 4, 2015 hearing transcript, page 189; IEPA's Responses to the Board's Third Set of Questions, No. 66(b). There is no justification for imposing still more obligations and costs upon MWG to meet requirements that will be satisfied without any additional obligations or costs.

The NGOs suggested that the existing CPS should not be altered now given that the CPS resulted from negotiations several years ago. However, this position ignores rulemaking practice while generating inflexibility and actually preventing emission reductions. The proposed CPS revisions, in their entirety, yield major emission reductions beyond what is required by the existing CPS. In other words, IEPA's proposed changes, including the proposed requirements in the CPS to cease combusting coal at four units, will cause emission major emission reductions that would not occur but for IEPA's proposed amendments to the CPS. Under the NGOs' logic the state could not obtain these emission reductions because the CPS cannot be changed even through a later rulemaking. Such an inflexible practice would prevent the state from revising rules as necessary in myriad ways over time to comply with evolving requirements, including federal requirements. Moreover, eliminating the FGD requirement on Will County 4 does not preclude MWG from pursuing FGD controls or fuel conversions in the future if the investment is economically viable.

The NGOs assert through their witness, Mr. Sahu, that it is somehow inequitable to other companies not to require an FGD at Will County 4. Pre-Filed Testimony of Ranajit Sahu on Behalf of Sierra Club and ELPC (“Sahu Testimony”), pages 14-15. This assertion is ludicrous given that to operate the Joliet units and Will County 3 under the Proposal MWG must convert fuels at those units at a cost of hundreds of millions of dollars while only “paper” allowable emission reductions are required from almost all of the other sources regulated under the Proposal. *See, e.g.*, IEPA’s Responses to the Board’s Third Set of Questions, No. 65. When asked if any other company or source is required to reduce actual emissions under the Proposal Mr. Sahu could identify only one other company from the more than 1,700 modeled sources. Sahu Testimony, page 5; August 4, 2015 hearing transcript, pages 92-93. When pressed, Mr. Sahu even admitted that the so-called “small sources” he said were carrying the emission reduction burden in lieu of Will County 4 included Will County 3 and the Joliet units, which of course are operated by MWG. August 4, 2014 hearing transcript, pages 79-80. While Will County 4 is subject only to a reduction in its allowable emission rate, that is true for almost all of the other sources regulated under the Proposal. *Id.*; IEPA’s Responses to the Board’s Third Set of Questions, No. 65(a). It is quite disingenuous for the NGOs to assert that MWG is not carrying its fair share when MWG is one of only a few companies required to reduce actual emissions by the Proposal.

IEPA has found, and MWG agrees, that IEPA’s Proposal, which includes the CPS fuel conversion and Will County 4 FGD rule changes, yields major emission reductions. MWG’s compliance plans are based upon acceptance of the Proposal as whole, and MWG has relied in good faith upon IEPA’s Proposal as a whole. An FGD at Will County 4 is not needed to achieve attainment, but the other SO₂ emission reductions MWG has offered are under IEPA’s Proposal.

Rejecting the proposed Will County 4 FGD exemption would impose unnecessary costs, fundamentally alter the carefully designed and comprehensive set of emission reductions that IEPA has proposed, and undermine source confidence in any future negotiations with IEPA to the detriment of the state, its emission sources and other citizens. MWG urges the Board to adopt IEPA's proposed elimination of the existing CPS Will County 4 FGD requirement with the other rules changes IEPA has proposed.

B. Powerton's proposed 30-day rolling average emission rate is appropriate

As IEPA has explained, it has proposed a 30-day rolling average emission rate for the multiple coal-fired units at Powerton. *See* TSD at 9-10. That rolling average emission rate is reasonable and appropriate and should be included in the rule as proposed.

The NGOs have raised questions regarding the development and adequacy of IEPA's proposed 30-day rolling average emission rate. From information already submitted to the Board, however, it is clear that IEPA's proposed 30-day rolling average emission rate is protective, appropriate and should be adopted.

IEPA initially determined that an SO₂ emission rate of 6,000 lb/hr from the two Powerton coal-fired units combined was necessary. TSD at 9. Powerton currently uses low sulfur coal and some trona injection for SO₂ emission control, and it is in the process of installing additional trona injection systems at Powerton for additional SO₂ control. IEPA's preliminary 6,000 lb/hr SO₂ emission rate raised concerns about compliance feasibility given the expected future variability of short term emission rates at Powerton, including variations from startup, shutdown, regular maintenance and malfunction periods. IEPA shared those concerns about the feasibility of compliance with an hourly limit. August 4, 2015 hearing transcript, pages 188-189.

Consistently, IEPA noted in response to a question raised by Board staff in this proceeding, “compliance with an hourly limit” could be “difficult” for the units at Powerton, and these were the types of units that USEPA “expected to need a longer averaging time with a more stringent numerical limit.” IEPA’s Responses to the Board’s Pre-Filed Questions, No. 18. IEPA recognized that trona injection can lead to emission rate variability. Additional uncertainty is present for Powerton because the installation of trona injection is in progress and therefore there is sparse performance history. July 29, 2015 hearing transcript, pages 54-55.

IEPA’s concerns about imposing an hourly rate on a coal-fired unit like those at Powerton are shared by USEPA. USEPA recognizes potential compliance concerns related to a short term SO₂ emission rate, especially at coal-fired power plants, and explained in guidance that a longer averaging period, such as 30 days, could be used if appropriately derived. USEPA’s *Guidance for 1-Hour SO₂ Nonattainment Area SIP Submission* (the “Guidance”), pages 22-25 (2014)¹; July 29, 2015 hearing transcript, pages 69-70. Indeed, environmental groups raised the same argument to USEPA that they make here, claiming that longer averages could allow short periods of greater impact and that longer term averages should not be allowed. But USEPA rejected those arguments and allowed longer averaging periods, including 30-day averages. Guidance at 23-24.

IEPA’s proposed rate is designed to be protective. IEPA explains in the TSD how IEPA used USEPA’s Guidance to derive a 30-day rolling average emission rate of 3,452 lb/hr for the Powerton units. TSD at 9. Contrary to the suggestions by some in this rulemaking, IEPA did not simply create a longer averaging period that resulted in a less stringent rate. Instead, as it explained in the TSD, the numerical rate IEPA derived and has proposed is considerably lower,

¹ This Guidance was filed by IEPA as an exhibit to IEPA’s Responses to the Board’s Second Set of Pre-Filed Questions.

that is more stringent, than the 6,000 lb/hr rate. TSD at 9-10. IEPA's proposed rate for Powerton reflects a downward adjustment from IEPA's initially identified 6,000 lb/hr rate to be protective of the NAAQS. In fact, the downward adjustment proposed for Powerton is even more stringent than USEPA expected would be typically required for comparable units/controls. August 4, 2015 Hearing Transcript, pages 184-185. Further, had IEPA used a shorter averaging period, the numerical rate would have been considerably higher. August 4, 2015 hearing transcript, pages 186-187. The more stringent numerical rate associated with the longer averaging period proposed for the Powerton station is designed to provide for attainment. August 4, 2015 hearing transcript, pages 184-188; Guidance, at 25 ("The [US]EPA expects that a common net result will be that the comparably stringent limit will provide a sufficient constraint on the frequency and magnitude of occurrences of elevated emissions . . . that a control strategy based on such limits would reasonably provide for attainment").

If there were any question about IEPA's methodology or resulting proposed rate for Powerton that is answered by USEPA's approval of both. IEPA has shared its methodology and data set with USEPA, and USEPA has concurred that the generated 30-day rolling average emission rate for Powerton is an "appropriate limit for the source." TSD at 10; *see also* July 29, 2015 hearing transcript, pages 55-56. Complaints about IEPA's proposed rate restate comments already rejected by USEPA in the Guidance and attack the policy and technical choices that have already been made by USEPA and IEPA.

Further, IEPA has conducted additional analyses in response to Board questions about whether IEPA's proposed 30-day rolling average rate protects the NAAQS, including additional modeling. IEPA's Responses to the Board's Second Set of Questions, Nos. 51 and 54. IEPA has found that an exceedance of the 75 ppb standard would require multiple occasions of a highly unlikely combination of multiple factors, including atmospheric conditions and maximum

emission rates from multiple sources all at the same time, making it “exceedingly unlikely” that the SO₂ NAAQS in the Pekin area would be exceeded. *Id.* at No. 54(g). IEPA’s low proposed numeric rate also provides protection. The worst-case assumptions in IEPA’s model provide a “large buffer between what is theoretically possible and what is actually emitted in the air.” *Id.* at 54(d). This careful assessment by IEPA stands in stark contrast to the speculative NGO claims of harm from IEPA’s proposed rate that are unsupported by any technical analysis and that are contrary to the Guidance and USEPA’s approval of the proposed Powerton rate.

Further reducing any risk, the IEPA has also explained that a source in the Pekin area primarily responsible for causing monitored nonattainment, the Aventine facility, has converted or is converting to natural gas, substantially reducing SO₂ emissions. August 4, 2015 hearing transcript, pages 154-155, 172-173. This makes it even less likely that an attainment issue would arise. The significant safety margin built into the lower numeric rate proposed by IEPA for the Powerton units, coupled with IEPA’s extensive analyses and emission reductions at other sources, show that the 30-day averaging period for Powerton is protective of the NAAQS.

Mr. Sahu nonetheless claims for certain NGOs that the 30-day rolling average rate should be rejected. Sahu Testimony, pages 9-12. His arguments are without merit and are not based upon modeling or scientific analysis.

First, he claims that units with trona systems generally do not have emission rate variability and so they do not need and should not have longer term averaging. This argument, however, ignores USEPA’s contrary conclusion and IEPA’s as well. Indeed, IEPA found that emissions at Powerton are expected to be variable, which supported the need for a 30-day average. IEPA’s Responses to the Board’s Second Set of Questions, No. 51; August 4, 2015

hearing transcript, pages 183-184. Both IEPA and USEPA have found that the proposed 30-day rolling average rate is appropriate. *Id.* at 184-186. That should be the end of the matter.

Even if the Board is nonetheless inclined to consider Mr. Sahu's testimony, it is simply neither compelling nor credible for the reasons discussed below, including his lack of relevant experience, the lack of cited support for his testimony, his lack of knowledge about key facts and a prior adverse ruling about his credibility in another similar matter where, like here, he attacked state regulatory decisions that his client, Sierra Club, did not like.

On cross examination, Mr. Sahu conceded that he had never managed operations at a power plant or a power plant pollution control, including a trona injection system. August 4, 2015 hearing transcript, page 51-52. He also admitted that he had not designed a trona system for a power plant. *Id.* at 52-53. His written testimony about trona system variability is devoid of any specific reference to the actual Powerton trona systems and unit operations. Mr. Sahu recognized that trona injection system are comprised of many elements, all of which need to work together for effective emission control. August 4, 2014, pages 54-56. And he conceded that emissions can be variable during startup and malfunction events. *Id.* at 71-73. Yet, he did not even know if SSM periods were included against the proposed emission rate. *Id.* at 71. To clarify, all operating periods, including SSM periods, are subject to the proposed SO₂ emission rates, raising the very variability issue he claims did not exist. August 4, 2015 hearing transcript, pages 210-211.

This is the same type of unscientific, unsupported attack on the conclusion of a state agency that Mr. Sahu recently offered for Sierra Club in another matter where the court found his testimony was not credible. *See Sierra Club v. Energy Future Holdings Corporation*, 2014 WL 2153913, *12- 15 (March 28, 2014). In that case, Sierra Club, as here, disagreed with a state

decision and pressed for a different conclusion “based on the opinion testimony of Dr. Sahu” *Id.* at 12. The court though found that his testimony related to ESP performance was not “credible or convincing,” in part because he ignored contrary USEPA guidance, and that his testimony related to the maintenance history of ESPs and baghouses was not “credible” given his “many omissions and errors.” *Id.* at 14-15.

As noted above, in this rulemaking Mr. Sahu attacks IEPA’s conclusions about trona performance, variability and the need for and protectiveness of a longer term emission rate. However, he offers no real support for his conclusions, he blithely disregards USEPA’s approval of the proposed rate and he does not even know if SSM period emissions count against the proposed emission rate. Moreover, Mr. Sahu himself conceded the variability of the emission rate at Powerton. He confirmed that the Powerton SO₂ emission rates during operation have varied by at least 500%. August 4, 2015 hearing transcript, pages 66-68 (Powerton SO₂ emission rates varied during operation from less than 3,500 lb/hr to over 17,500 lb/hr); Sahu Testimony, page 13. He also acknowledged that emission rates may vary during SSM periods. August 4, 2015 hearing transcript, pages 72-73. While he did not understand the significance of his own testimony, because he did not know whether the proposed rates could apply during SSM periods, the variability created during SSM periods provides support for longer term averaging. Mr. Sahu’s testimony is not credible and certainly does not support overriding the contrary conclusions of both IEPA and USEPA that IEPA’s proposed 30-day average SO₂ emission for Powerton is appropriate.

Finally, NGO commenters seem to suggest that the Board should consider an alternative, shorter averaging period. They have not suggested what this period would be or provided any support for any alternative. As a general matter, however, as noted above any shorter averaging

period would likely include a higher numeric emission rate. MWG notes that the development of any alternative would require IEPA involvement, including assessments about the adequacy of any alternative to protect the SO₂ NAAQS, and USEPA support, and it is not clear how long either would take or whether IEPA or USEPA would approve any alternative. Time is already of the essence in this rulemaking. And, as noted above, IEPA's proposed rate is protective of the NAAQS and already approved by IEPA and USEPA.

The 30-day rolling average emission rate proposed by IEPA for Powerton is necessary, it is protective of the SO₂ NAAQS and it should be adopted as proposed.

C. IEPA's Proposed Part 217 and Part 225, Including the CPS, Changes Should Be Made In This Rulemaking

A question has arisen in this proceeding about whether IEPA's proposed Part 217 and Part 255, including the CPS, changes should be addressed in another rulemaking or some other proceeding, such as an adjusted standard proceeding. The answer is that IEPA's proposed SO₂ rule changes are intertwined with the Part 217 and Part 225 changes and should not and cannot be separated. *See* IEPA's Responses to the Board's Third Set of Questions, No. 67. Indeed, some of IEPA's proposed rule changes are necessary to accommodate MWG's coal-fired unit conversions to an alternative fuel, and it is those conversions that generate the most substantial SO₂ emission reductions in the Lemont area upon which IEPA relies in this rulemaking. IEPA's proposed CPS and Part 225 rule changes are also necessary to provide clarity about the applicable regulatory requirements when such units fire an alternative fuel.

When the current CPS was originally adopted, all of the MWG units at issue burned coal, and the CPS did not contemplate fuel conversion. Thus, the current CPS does not expressly provide for fuel conversion (or cessation of coal combustion) as a means to comply with the

CPS. Instead, the current CPS contemplates compliance through unit shutdowns or installation of “pollution control technology.” *See, e.g.*, 35 IAC § 225.291.

Yet, as IEPA has explained at length in this rulemaking, conversions provide SO₂ emission reductions beyond what is required by the current CPS and for attainment with the SO₂ NAAQS, as well as substantial reductions in other pollutant emissions as well. *See, e.g.* TSD at 10-11, 16-17; IEPA’s Responses to Second Set of Board’s Pre Filed Questions, No. 47; August 4, 2015 hearing transcript, pages 189-190. IEPA has relied upon the combustion of natural gas at the Joliet units and natural gas or oil at Will County 3 to attain the NAAQS in the Lemont area, by imposing in the Proposal and thus relying upon SO₂ emission reductions for those units that go beyond those required by the current CPS. August 4, 2015 hearing transcript, page 189; IEPA’s Responses to the Third Set of Board Questions, Nos. 61(a) and 66(a) and (b). The CPS must be revised to provide for the cessation of coal combustion at the Joliet units and Will County 3 as a means to comply with the CPS, and the proposed CPS required termination of coal combustion in turn generates the substantial SO₂ emission reductions upon which IEPA relies in this rulemaking. As IEPA has explained, its proposed Part 214 SO₂ emission rates assume the cessation of coal combustion at the Joliet and Will County 3 units pursuant to the CPS. August 4, 2014 hearing transcript, page 194. They are “inextricably linked.” *Id.* Absent the cessation of coal combustion at those units, which is required by the proposed CPS changes, IEPA would be required to develop a new plan, which would require different rates for MWG’s units as well as new or different rates for other sources. IEPA’s Responses to the Board’s Third Set of Questions, Nos. 63 and 67.

IEPA’s proposed CPS and Part 225 rule changes are also necessary, in part, to clarify the regulatory impact of ceasing coal combustion at the three Joliet coal-fired units and the coal-fired

Unit 3 at Will County. This includes clarification of the applicable nitrogen oxide (“NOx”) rate following conversion, whether the converted units are subject to the CPS SO₂ system rate given their de minimis SO₂ emissions after conversion and the inapplicability of mercury requirements to units that no longer emit mercury after they cease burning coal. *See* SOR at 8-13.

These clarifications are necessary so that IEPA, the public and MWG know which requirements are applicable to which units, including the CPS SO₂ and NO_x system rates, and so that MWG may timely implement a compliance plan and IEPA will know what requirements may be submitted to USEPA for the state’s attainment plan. That plan is already months overdue. Even if IEPA’s proposed Part 217 and Part 255 changes otherwise could be pursued through an adjusted standard or other proceeding, such a proceeding could not be completed in time to afford the regulatory certainty necessary for MWG to invest in the related necessary projects and for IEPA to timely submit the proposed CPS coal combustion cessation and other requirements to USEPA as part of Illinois’ attainment plan.

D. The Changes Requested by the NGOs Would Make IEPA’s Proposed Rules Economically Unreasonable, Technically Infeasible, Arbitrary and Fundamentally Unfair.

IEPA’s Proposal is technically feasible and economically reasonable, as required for the promulgation of environmental rules. *See* Illinois Environmental Protection Act, Section 27(a). The changes to that Proposal sought by the NGOs on the other hand would make IEPA’s proposed rules economically unreasonable, technically infeasible, arbitrary and fundamentally unfair.

The one-hour SO₂ rate at Powerton initially identified by IEPA and apparently sought by the NGOs is not technically feasible and should not be adopted. As IEPA has explained, the 30-day rolling average rate was provided for Powerton because of the expected variability in the Powerton emission rates, and that rate is protective of the NAAQS. *See, e.g.*, August 4, 2015

hearing transcript, pages 183-189. The NGOs though press for a one-hour averaging period or some other unidentified short term rate for Powerton. Given the variability in the expected Powerton SO₂ emissions and the fact that IEPA's proposed rate includes all operating times, the one-hour rate initially identified by IEPA simply cannot be achieved at all required times with confidence given existing and already planned controls. August 4, 2015 hearing transcript, pages 188-189. The one-hour rate sought by the NGOs is not technically feasible.

The changes to IEPA's proposed Powerton rate sought by the NGOs also are economically unreasonable, arbitrary and unfair for multiple reasons. First, as IEPA has repeatedly explained, an FGD requirement at Will County 4 and a one hour SO₂ rate at Powerton requested by the NGOs are not necessary to attain the SO₂ NAAQS in the Lemont and Pekin areas. *See, e.g.*, August 4, 2015, hearing transcript, pages 189-193. Forcing an FGD at Will County 4 would cost tens of millions of dollars. Forcing a one hour rate at Powerton could require an additional level of pollution control at Powerton, perhaps at a cost of still more millions of dollars, that has not been designed or proven to be feasible or economically justifiable. And these very substantial costs would be imposed even though they are not needed to attain the SO₂ NAAQS, which is why this rulemaking is being conducted. *Id.* at 183-193. Imposing unnecessary costs would be economically unreasonable, wasteful and arbitrary.

Further, imposing any such additional requirements would be fundamentally unfair. As mentioned above, MWG is one of a just a few companies required to actually incur costs to reduce actual SO₂ emissions to comply with the Proposal. This is because almost all of the other covered sources are subject only to paper reductions in allowable emission, which will not force reductions in actual emissions. *See, e.g.*, IEPA's Responses to the Board's Third Set of Questions, No. 65(a); July 29, 2015 hearing transcript, pages 17-19. MWG will be required to

spend many millions of dollars to convert the Joliet units from coal and additional conversion costs or lost opportunity costs arise from the requirement to cease the combustion of coal at Will County 3. This is true even though most other sources are incurring no pollution control costs under the Proposal. Forcing still more costs upon MWG through an unnecessary FGD requirement at Will County 4 or an unnecessary short term emission rate at Powerton would be inequitable and unreasonable. In short, the changes requested by the NGOs are arbitrary, wasteful, inequitable and economically unreasonable.

II. THE PROPOSED RULES SATISFY RACT AND RACM REQUIREMENTS

At the July 29, 2015 hearing certain commenters suggested that IEPA's Proposal did not satisfy RACT and RACM requirements. Such commenters suggested that a specific rate needed to be imposed upon every regulated source based upon available technologies in order to satisfy these requirements. They then argued that IEPA's proposed SO₂ emission rate for Will County 4 is inadequate because it does not reflect a rate that could be achieved by an established technology.

With due respect to the commenters, they are simply wrong. As IEPA explained in its SOR, for this type of rule RACT and RACM have been interpreted by the USEPA and courts as not requiring a specific control system-based rate at every source in a nonattainment area. SOR at 5. Instead, RACM and RACT requirements are satisfied by the "level of emission control that is necessary to provide for expeditious attainment of the NAAAS nonattainment area." *Withdrawal of the Prior Determination or Presumption that Compliance with the CAIR or the NO_x SIP Call Constitutes RACT or RACM for the 1997 8-hour Ozone and 1997 Fine Particulate NAAQS*, 79 Fed. Reg. 32892, 32894-32,895 (June 9, 2014). In other words, so long as the proposed rates and any other requirements for sources lead to attainment, that is enough, and

RACT or RACM do not require that rules include rates for all sources based upon available controls. *NRDC v. Environmental Protection Agency*, 571 F.3d 1245 (D.C. Cir. 2009).

CONCLUSION

For the reasons set forth in these comments and those offered by IEPA, MWG respectfully requests that the Board expeditiously adopt the rule changes as proposed by IEPA prior to the date of these comments. MWG appreciates the opportunity to submit these comments and the Board's consideration of MWG's positions.

Dated: August 28, 2015

Respectfully submitted,

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM. CODE) R15-21
PART 214, SULFUR LIMITATIONS, PART) (Rulemaking - Air)
217, NITROGEN OXIDES EMISSIONS, AND)
PART 225, CONTROL OF EMISSIONS)
FROM LARGE COMBUSTION SOURCES)

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, affirm that I have served the attached NOTICE and MIDWEST GENERATION, LLC'S COMMENTS IN SUPPORT OF ILLINOIS EPA'S PROPOSED RULE CHANGES upon the following person by emailing it to the email address indicated below:

Daniel Robertson, Hearing Officer
Illinois Pollution Control Board
Daniel.robertson@illinois.gov

I affirm that my email address is sbonebrake@schiffhardin.com; the number of pages in the email transmission is 33; and the email transmission took place today before 5:00 p.m.

I also affirm that I am mailing the attached by first-class mail from Chicago, Illinois, with sufficient postage affixed, to the following persons:

SEE ATTACHED SERVICE LIST

Dated: August 28, 2015

Respectfully submitted,

MIDWEST GENERATION, LLC

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