

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PETITION OF MIDWEST) AS 19-1
GENERATION, LLC FOR AN) (Adjusted Standard – RCRA)
ADJUSTED STANDARD FROM 35 ILL.)
ADM. CODE PARTS 811 AND 814)

NOTICE OF FILING

To:

Don Brown, Clerk of the Board Illinois Pollution Control Board James R. Thompson Center, Suite 11-500 100 W. Randolph Street Chicago, IL 60601 don.brown@illinois.gov	Michelle M. Ryan, Assistant Counsel Illinois Environmental Protection Agency 1021 N. Grand Avenue East P.O. Box 19276 Springfield, IL 62794 michelle.ryan@illinois.gov
Bradley P. Halloran, Hearing Officer Illinois Pollution Control Board 100 West Randolph Street Suite 11-500 Chicago, IL 60601 brad.halloran@illinois.gov	Jennifer Cassel Earthjustice 1010 Lake Street, Suite 200 Oak Park, IL 60301 jcassel@earthjustice.org

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 Motion for Continuance of the Stay, a copy of which is herewith served upon you.

Dated: December 2, 2019

MIDWEST GENERATION, LLC



By: _____

Kristen L. Gale
Susan M. Franzetti
NIJMAN FRANZETTI LLP
10 South LaSalle Street Suite 3600
Chicago, IL 60603
(312) 251-5255

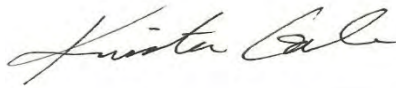
CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true copy of the foregoing Notice of Filing and Midwest Generation, LLC's Motion for Continuance of the Stay was electronically filed on December 2, 2019 with the following:

Don Brown, Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, IL 60601
don.brown@illinois.gov

and that a true copy was emailed on December 2, 2019 to the parties listed on the above foregoing Service List.

Dated: December 2, 2019



Kristen L. Gale
Susan M. Franzetti
Nijman Franzetti LLP
10 S. LaSalle Street, Suite 3600
Chicago, IL 60603
(312) 251-5255

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

**PETITION OF MIDWEST GENERATION
FOR AN ADJUSTED
STANDARD FROM 35 ILL. ADM. CODE
PARTS 811 and 814**

**AS 19-1
(Adjusted Standard-RCRA)**

MIDWEST GENERATION, LLC'S MOTION FOR CONTINUANCE OF THE STAY

Petitioner, Midwest Generation, LLC (“Respondent” or “MWGen”), by its undersigned counsel, respectfully requests that the Illinois Pollution Control Board (“Board”) grant its request for a continuance of the stay in this matter pursuant to 35 Ill. Adm. Code 101.514. In support of its motion, MWGen states as follows:

1. On February 5, 2019, MWGen filed a petition for a revision to its existing adjusted standard. *In the Matter of Petition of Midwest Generation for an Adjusted Standard from 35 Ill. Adm. Code Parts 811 and 814*, PCB AS 19-1, Petition (Feb. 5, 2019). MWGen’s Petition requested that the Board revise a condition of its existing adjusted standard. On March 25, 2019, Illinois EPA filed its recommendation that the Board grant the revision to the adjusted standard.

2. On July 30, 2019, Public Act 101-171 was enacted, which amended the Illinois Environmental Protection Act (“Act”) and added new sections regarding the regulation, management, and permitting of coal combustion residual (“CCR”) and CCR surface impoundments. 2019 ILL. ALS 171, 2019 Ill. Laws 171, 2019 ILL. P.A. 171, 2019 Ill. SB 9.

3. On September 27, 2019, MWGen sought a stay for sixty (60) days of any action of the Board in this matter in consideration of Public Act 101-171, and the Illinois EPA did not object to the request.

4. On October 3, 2019, the Board granted MWGen's request and ordered that a status be filed on December 2, 2019.

5. Filed concurrently with this motion, MWGen has provided a Status Report to the Hearing Officer and the Board regarding the recent activities in this matter. As MWGen reported, the statutory and regulatory landscape for CCR and CCR surface impoundments in Illinois continues to evolve. Specifically, the Illinois Senate passed an amendment to Public Act 101-171, SB-0671 "EPA-CCR SURFACE IMPOUNDMENT," which has moved to the Illinois House of Representatives for the 2020 legislative session. Additionally, Illinois EPA is drafting the regulations of CCR and CCR surface impoundments pursuant to Public 101-171, and will submit its proposal for the CCR regulations to the Board on or before March 30, 2020.

6. MWGen continues to evaluate the impacts of Public Act 101-171, the proposed amendment, and also the status of the preparation of the CCR regulations, on the operation and closure of the Lincoln Stone Quarry.

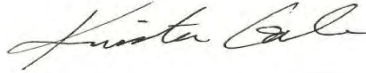
7. Because the statutory and regulatory requirements are still evolving, MWGen requests that the Board continue the stay of any action in this matter for an additional sixty (60) days.

8. Illinois EPA does not object to MWGen's request that the Board continue the stay for an additional sixty (60) days.

9. At the end of the stay, MWGen will file a status report with the Board and Hearing Officer pursuant to Section 101.514.

WHEREFORE, Petitioner, Midwest Generation, LLC, respectfully request that the Board enter an Order granting a continuance of the stay for an additional sixty (60) days.

Respectfully submitted,
Midwest Generation, LLC



By: _____
One of its Attorneys

Kristen L. Gale
Susan M. Franzetti
Nijman Franzetti LLP
10 S. LaSalle St, Suite 3600
Chicago, Illinois 60603
(312) 262-5524
kg@nijmanfranzetti.com
sf@nijmanfranzetti.com