

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	AS 2021-003
Petition of Midwest Generation LLC for an)	
Adjusted Standard From 35 Ill. Adm. Code)	(Adjusted Standard)
845.740(a) and Finding of Inapplicability of)	
35 Ill. Adm. Code 845)	
(Waukegan Station))	

To: See attached service list.

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the Illinois Environmental Protection Agency’s Motion for Extension of Time, a copy of which is herewith served upon you.

Respectfully submitted,

Dated: January 21, 2022

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Christine Zeivel, #6298033
Division of Legal Counsel
Illinois Environmental Protection Agency
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Respondent,

BY: /s/Christine Zeivel
Christine Zeivel

THIS FILING IS SUBMITTED ELECTRONICALLY

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MOTION FOR EXTENSION OF TIME

The Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”), by and through its attorney, hereby submits its Motion for Extension of Time and requests a 120-day extension of time, up to and including at least Friday, May 21, 2021, to file its recommendation concerning the Petition of Midwest Generation, LLC for an Adjusted Standard from Section 845.740(a) and Finding of Inapplicability of 35 Ill. Adm. Code 845 (“Part 845”) at its Waukegan Station, stating as follows:

1. On May 11, 2021, Midwest Generation, LLC (“Petitioner”) filed its Petition for Adjusted Standard from Part 845 (“Petition”).
2. On August 30, 2021, the Board granted Illinois EPA’s extension of time to file the Agency’s recommendation on the Petition and ordered the Agency recommendation due on November 22, 2021.
3. On September 17, 2021, Petitioner filed an Amended Petition.
4. The Agency has been working diligently to evaluate and complete recommendations concerning Petitioner’s requests as contained in the Amended Petition.
5. Since the filing of the Amended Petition, Illinois EPA and Petitioner have engaged in discussions surrounding the facts alleged and relief requested. Illinois EPA believes that

additional information obtained from ongoing discussions between Illinois EPA and Petitioner will result in a more robust and accurate Agency Recommendation to the Board.

6. On January 11, 2022, the United States Environmental Protection Agency (“USEPA”) issued nine proposed determinations on requested closure extensions made under 40 CFR § 257.103(f), along with three letters of non-compliance with federal Part 257 coal combustion residual (“CCR”) regulations. Together these twelve documents contain significant statements about USEPA’s interpretation and application of Part 257, several of which may be implicated by the Petition.

7. As Illinois EPA stated in its Statement of Reasons for proposing Part 845 and throughout the rulemaking (R20-19), a primary purpose and effect of promulgating Part 845 is to adopt the federal CCR rules in Illinois and to obtain federal approval of Illinois’s CCR surface impoundment program. To obtain federal approval of its program, Illinois must demonstrate that Part 845 is as protective and comprehensive as Part 257.

8. Illinois EPA requires additional time to review USEPA’s proposed determinations and non-compliance letters, and to consult with USEPA on the potential implications of those federal actions on Illinois EPA’s CCR surface impoundment program.

9. Counsel for the Agency contacted counsel for Midwest Generation, who indicated they have no objection to the requested extension of time.

WHEREFORE, Illinois EPA requests the Illinois Pollution Control Board grant its Motion for Extension of Time and grant the Agency an additional 120 days, up to and including May 21, 2022, to file its Recommendation with the Board.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent,

/s/ Christine Zeivel
Christine Zeivel, #6298033
Division of Legal Counsel
Illinois Environmental Protection Agency
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THIS FILING IS SUBMITTED ELECTRONICALLY

CERTIFICATE OF SERVICE

I, the undersigned, on affirmation certify the following:

That I have served the attached **MOTION FOR EXTENSION OF TIME** by e-mail upon the following:

Susan M. Franzetti	sf@nijmanfranzetti.com
Kristen Laughridge Gale	kg@nijmanfranzetti.com
Molly H. Snittner	ms@nijmanfranzetti.com
Brad Halloran	Brad.Halloran@illinois.gov
Don Brown	Don.Brown@illinois.gov

That I have served the attached **MOTION FOR EXTENSION OF TIME** upon any other persons, if any, listed on the Service List, by placing a true copy in an envelope duly address bearing proper first-class postage in the United States mail at Springfield, Illinois on January 21, 2022.

That my e-mail address is Christine.Zeivel@Illinois.gov.

That the number of pages in the e-mail transmission is six (6).

That the e-mail transmission took place before 4:30 p.m. on the date of January 21, 2022.

/s/Christine Zeivel
January 21, 2022