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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**SEP 21 2004**

**STATE OF ILLINOIS**  
**Pollution Control Board**

Commonwealth Edison Company )  
Petitioner, )  
)  
)  
v. )  
)  
Illinois Environmental Protection Agency, )  
Respondent )

PCB No. 04-215  
(Trade Secret Appeal)

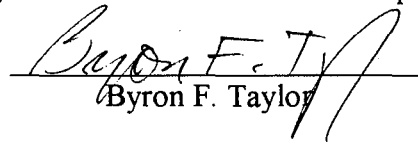
**NOTICE OF FILING**

To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
100 West Randolph  
Suite 11-500  
Chicago, Illinois 60601

Ann Alexander  
Assistant Attorney General and  
Environmental Counsel  
188 West Randolph Street  
Suite 2000  
Chicago, Il. 60601

Brad Halloran  
Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph  
Suite 11-500  
Chicago, Illinois 60601

PLEASE TAKE NOTICE that we have today filed with the Office of the Clerk of the Pollution Control Board **Commonwealth Edison Company's Motion to Strike Pleadings Unrelated to PCB 04-215 from the Docket**, a copy of which is herewith served upon you.

  
Byron F. Taylor

Date: September 21, 2004

Byron F. Taylor  
Chanté D. Spann  
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10 S. Dearborn  
Chicago, Illinois 60603  
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PCB 04-215  
Trade Secret Appeal

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2. On March 1, 2004, the IEPA requested that ComEd submit a statement of justification describing why the excerpts from the CPR and the GADs data are trade secrets exempt from disclosure by the IEPA. In response to that request, ComEd submitted its statement

of justification. Midwest Generation also submitted a statement of justification describing why the excerpts from the CPR are trade secrets with competitive value to Midwest Generation.

3. In letters dated April 23, 2004, the IEPA denied, in part, and granted, in part ComEd and Midwest Generation's requests that the materials submitted by ComEd be given trade secret status.

4. On June 2, 2004, ComEd filed a petition for review of the IEPA's denial of trade secret protection to excerpts from the CPR and GADs data. ComEd's appeal is PCB No. 04-215. Midwest Generation filed a petition for review of the IEPA's denial of trade secret protection to the excerpts from the CPR on June 3, 2004. Its appeal is PCB No. 04-216. To date, these two cases have not been consolidated.

6. The Illinois Pollution Control Board ("Board") maintains a website at <http://www.ipcb.state.il.us>, which contains electronic dockets for active and recently active cases before the Board. On this website, one can view the dockets for PCB No. 04-215 and PCB No. 04-216 electronically.

7. In some instances, filings that pertain only to PCB No. 04-216 have been included on the docket for PCB No. 04-215, leading to confusion and misrepresenting the activity in PCB No. 04-215. Specifically, the following items have been improperly posted to the docket in PCB 04-215:

- a. On September 14, 2004, the appearance for Keith Harley for the Sierra Club (in PCB 02-216).
- b. On August 26, 2004, a Motion for Leave to file the Sierra Club's Reply to Commonwealth Edison's Response to the Sierra's Club's Motion for Intervention; Reply to Midwest Generation's Response to the Sierra Club's Motion for Intervention. In this instance, upon information and belief, the filing was incorrectly titled and the pleading only applies to PCB 04-216.

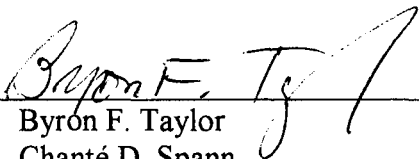
- c. On August 3, 2004, the Sierra Club's Motion for Intervention and appearance for Keith Harley in PCB 04-216. The Sierra Club previously filed a Motion for Intervention and appearance for Keith Harley in PCB 04-215 on June 21, 2004.

8. Because PCB No. 04-215 and PCB 04-216 have not been consolidated, the posting of documents relating only to PCB No. 04-216 in the docket for PCB No. 04-215 is improper and confusing. For example, the filing of motions and pleadings in the wrong docket is particularly troubling for the non-moving party because that non-moving party is forced to waste time and resources in an attempt to discern the purpose of the pleading, and then must decide whether it should respond at all to irrelevant, misfiled pleadings, or move to strike.

WHEREFORE, ComEd respectfully requests that the Board enter an order providing that only documents related to PCB 04-215 be included on that appeal's docket, electronic and otherwise, and providing that all parties filing matters in PCB 04-215 and PCB 04-216 include the correct captions and titles so as not to cause further confusion.

Respectfully submitted,

Commonwealth Edison Company

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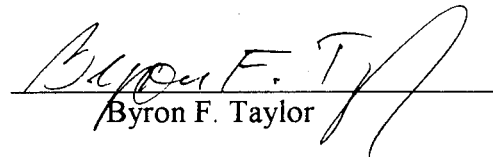
**CERTIFICATE OF SERVICE**

I, the undersigned, certify that I have served the attached Notice of Filing and Commonwealth Edison Company's Motion to Strike Pleadings Unrelated to PCB 04-215 from the Docket by U.S. mail on this 21st day of September, 2004 upon the following persons:

Ann Alexander  
Assistant Attorney General and  
Environmental Counsel  
188 West Randolph Street  
Suite 2000  
Chicago, Il. 60601

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
100 West Randolph  
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