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STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD  
January 25, 2013

MIDWEST GENERATION, LLC,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 13-24
	)	(Variance - Air)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

 ORIGINAL

**HEARING OFFICER ORDER**

As publicly noticed, a hearing in this variance proceeding is scheduled for January 29, 2013. Petitioner, Midwest Generation, LLC (Midwest Generation), is directed to respond to the following questions at hearing.

**Questions for Midwest Generation**

**35 Ill. Adm. Code 104.204(f) Compliance Plan**

1. **Background.** Midwest Generation's petition for variance (Pet.) refers to the following information in discussing the company's plans for compliance: "Midwest Generation anticipates that a typical installation of Trona FGD equipment and necessary ESP upgrades will take 18 to 24 months, with outages lasting 16 to 20 weeks." Pet. Exh. 5 at 6.

In its responses<sup>1</sup> to question (1) of the December 24, 2012 hearing officer order, Midwest Generation states:

Midwest Generation needs to preserve flexibility in its control plans, including the ability to adjust when controls, if any, are installed at which units. In addition, the CPS preserves the ability to not operate units rather than to control them as a means of compliance with the system rates. For these reasons, while Midwest Generation can outline its current plans, those plans are subject to change, and flexibility is necessary. Resp. at 4.

Midwest Generation should also retain the ability to adopt alternate or emerging technologies in order to comply. Resp. at 6.

<sup>1</sup> Midwest Generation's responses (Resp.) were filed on January 18, 2013.

CPS control technology requirements for SO<sub>2</sub> emissions are specified in 35 Ill. Adm. Code 225.296. The Board has found that a “compliance plan must include specific dates to demonstrate progress toward achieving compliance with the applicable requirements.” Ameren Energy Resources v. IEPA, PCB 12-126, slip op. at 66 (Sept. 20, 2012).

- a. **Question.** For a typical CPS unit, please provide “[a] time schedule for the implementation of all phases of the control program from initiation of design to program completion” (35 Ill. Adm. Code 104.204(f)(2)) with respect to “Trona FGD equipment and necessary ESP upgrades” (Pet. Exh. 5 at 6).
- b. **Question.** Please address whether such a time schedule can be provided for each CPS unit (not permanently shut down) to comply with 35 Ill. Adm. Code 225.295(b) at the end of the variance term.

### **35 Ill. Adm. Code 104.204(g)(2) Human Health and Environmental Impact**

2. **Background.** Midwest Generation acknowledges that under the proposed variance, “there could be a slight increase in the level of SO<sub>2</sub> emissions in 2015 and 2016 compared to what might be reasonably anticipated under the CPS because of the difference in the system-wide SO<sub>2</sub> emission rate that Midwest Generation would comply with during those two years (0.38 lb/mmBtu) compared to the CPS rates of 0.28 and 0.195 lb/mmBtu, respectively.”<sup>2</sup> Resp. at 13. However, Midwest Generation maintains that “[a]ny effect on human health and the environment of that difference would be minimal and would be more than offset by the overall net emission decrease and resulting environmental benefit arising from early emission reductions due to the variance as proposed.” *Id.* at 13-14.
  - a. **Question.** Please explain the basis for Midwest Generation’s conclusion that “[a]ny effect on human health and the environment . . . would be minimal . . .” Resp. at 13.
  - b. **Question.** Please explain the basis for Midwest Generation’s conclusion that “[a]ny effect on human health . . . would be more than offset . . .” Resp. at 13.
3. **Background.** The Illinois Environmental Protection Agency’s recommendation (Ag. Rec.) states:

The Illinois EPA agrees that there is currently no federal authority that precludes granting the instant variance request, and that if granted, the

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<sup>2</sup> Midwest Generation estimates additional mass SO<sub>2</sub> emissions of 1,301 tons in 2015 under the proposed variance as compared to mass SO<sub>2</sub> emissions under the CPS regulation, and an additional 10,745 tons of mass SO<sub>2</sub> emissions in 2016 under the proposed variance as compared to those under the CPS regulation. Pet. Exh. 5, Table 5.1.

Illinois EPA will submit the variance order to USEPA for approval as a SIP revision. Ag. Rec. at 14.


**Question.** Please address whether granting Midwest Generation's petition for variance is expected to jeopardize the State's ability to meet (i) its current obligation under the Illinois SIP to attain and maintain compliance with the National Ambient Air Quality Standards (NAAQS) and (ii) the new primary NAAQS for SO<sub>2</sub>.

**104.204(j) Suggested Conditions for Variance**

4. **Background.** Midwest Generation states that it "is proposing to commit to no further operation of the coal-fired units at Crawford." Pet. at 45. The petition more specifically states that Midwest Generation "commits to not operate Crawford Units 7 and 8 in 2013 and 2014 as a condition of the requested variance." Pet. at 21. The proposed compliance plan likewise provides that Midwest Generation "will not operate the coal-fired boilers at the Crawford Station" for the period 2013 and 2014. Pet. at 52. However, Exhibit 10 of Midwest Generation's response to the December 24, 2012 hearing officer order indicates zero tons per year emissions from Crawford Units 7 and 8 *for 2015 and 2016* under the CPS baseline. Resp. Exh. 10.

**Question.** Does Midwest Generation intend to also commit to not operating Crawford Units 7 and 8 *in 2015 and 2016* as a condition of the variance requested here?

IT IS SO ORDERED.



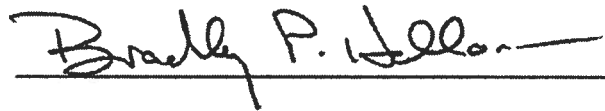
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CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on January 25, 2013, to each of the persons on the service list below.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on January 25, 2013:

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