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FEB 25 2000

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

In the Matter of:)	
)	
Petition of Commonwealth Edison)	AS No. 96-10
Company for Adjusted Standard)	(Adjusted Standard - Water)
from 35 Ill. Adm. Code 302.211(d) and (e))	

NOTICE OF FILING

TO: Parties on the Attached Service List

PLEASE TAKE NOTICE that on February 25, 2000, I filed with the Office of the Clerk of the Pollution Control Board the following:

Motion of Commonwealth Edison Company and Midwest Generation, I.L.C, to Reopen Docket and Substitution of Midwest Generation, LLC as the Named Party on the Order and Affidavit of John T. Long

copies of which are hereby served upon you.

Dated: February 25, 2000

COMMONWEALTH EDISON COMPANY

By: *Susan M. Franzetti*
One of its Attorneys

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
)
Petition of Commonwealth Edison) AS No. 96-10
Company for Adjusted Standard from) (Adjusted Standard - Water)
35 Ill. Adm. Code 302.211(d) and (e))

**MOTION OF COMMONWEALTH EDISON COMPANY
AND MIDWEST GENERATION, LLC, TO REOPEN DOCKET
AND SUBSTITUTION OF MIDWEST GENERATION, LLC
AS THE NAMED PARTY ON THE ORDER.**

Commonwealth Edison Company ("ComEd"), the Petitioner in Docket AS No. 96-10, and Midwest Generation, LLC ("Midwest Generation") (collectively, ComEd and Midwest Generation shall be referred to as the "Movants"), by and through their undersigned counsel, hereby move the Illinois Pollution Control Board (the "Board") to reopen the docket for the purpose of substituting Midwest Generation for ComEd on the order issued to ComEd on October 3, 1996 in said docket.

Movants set forth the following in support of this motion:

1. ComEd submitted an adjusted standard petition to the Board on May 16, 1996, which petition was amended on June 20, 1996 and supplemented and corrected on July 11, 1996.
2. ComEd's petition requested that the Board grant alternate thermal standards for ComEd's discharges from its Joliet, Will County, Crawford and Fisk

generating stations (the "Generating Stations") in place of the requirements set forth in 35 Ill. Admin. Code 302.211(d) and (e). The authority for granting alternate thermal standards was and is provided by 35 Ill. Admin. Code 304.141(c) and Section 316(a) of the Federal Clean Water Act, 33 U.S.C. § 1326(a).

3. Studies of the Upper Illinois Waterway ("UIW") submitted in connection with Docket AS No. 96-10 demonstrated that "the upstream reach of the South Branch of the Chicago River, the Chicago Sanitary and Ship Canal, and the Des Plaines River is greatly modified by use as a shipping canal with habitat limited to deep pools without shallows, structure, riffles of suitable substrates. . . . The area affected by the proposed adjusted standard is heavily developed with industries, including a refinery, a chemical plant and a boatyard. . . . The waterway is a very artificial and significantly modified waterway that is limited in terms of habitat. . . . Historical practices have caused substantial residual chemical contamination to be present in the sediments of the waterway." In the Matter of: Petition of Commonwealth Edison Company for Adjusted Thermal Standard from 35 Ill. Admin. Code 302.211(d) and (e), AS No. 96-10, 1996 Ill. Env. Lexis 676, at *13 (PCB, October 17, 1996) (hereinafter referred to as the "October 3, 1996 Order").

4. The October 3, 1996 Order further cited the conclusion of the UIW Study "that the above ambient water temperatures in the UIW during the winter months are due primarily to discharges from municipal treatment plants, limiting the organisms that can be maintained in the waterway." Id.

5. In light of the above, the Board found that ComEd had presented adequate proof of justification for the requested adjusted standards as set forth in Section 28.1(c) of the Illinois Environmental Protection Act and for alternate standards under the Clean Water Act. The Board issued the October 3, 1996 Order, granting alternate thermal standards for the discharge of cooling water from the Generating Stations.

6. The Agency has issued revised NPDES permits to the Generating Stations incorporating the standards and requirements of the October 3, 1996 Order. These NPDES permits are in full force and effect. Copies of the NPDES Permits are attached as Exhibits 1-5 to this motion.

7. Section 16-111(g)(3) of the Electric Service Customer Choice and Rate Relief Law of 1997, P.A. 90-561, which was enacted in order to bring about a competitive retail electricity market in Illinois, provided Illinois electric utilities such as ComEd with the option of selling their assets to affiliated or unaffiliated entities during the mandatory transition period from a regulated to an unregulated market-place.

8. By agreement dated as of March 22, 1999, ComEd agreed to sell the Generating Stations and other generating assets to Edison Mission Energy ("EME") (the "Asset Purchase Agreement" or "Agreement"). A copy of the Asset Purchase Agreement is attached as Exhibit 6 to this motion. In Section 2.3 of the Asset Purchase Agreement, EME agreed to assume and be responsible for all obligations

and liabilities related to, arising from or associated with ownership, occupancy, use or operation of the acquired assets from and after the Closing. These obligations include compliance with the October 3, 1996 Order, including, but not limited to, the commitments set forth in a letter dated June 4, 1996 from Alan P. Bielawski, on behalf of ComEd, to Albert F. Ettinger, on behalf of the Sierra Club, which letter was designated as Exhibit 10 to ComEd's Amended Petition for Alternate Thermal Standards.

9. EME is an indirect, wholly-owned subsidiary of Edison International, which is also the parent corporation of Southern California Edison, one of the nation's largest electric utilities. EME specializes in the development, acquisition, construction, management and operation of global power production facilities. EME is the world's leading developer, owner and operator of independent power facilities, with interests in 59 projects worldwide, having an aggregate generating capacity of 16,922 megawatts, of which EME's share is 12,379 megawatts (exclusive of the assets acquired from ComEd). Affidavit of John T. Long, Vice President, Midwest Generation EME, LLC, ¶ 5 (hereinafter, "Long Affidavit").

10. Section 11.6(a) of the Asset Purchase Agreement provided EME with the right, prior to the Closing, to assign all of its rights in the Asset Purchase Agreement and any related agreements to corporations, partnerships or limited liability companies in which all of the outstanding equity interests are owned or controlled by EME. Pursuant thereto, EME has assigned its rights under the Agreement to

Midwest Generation, a limited liability company that is indirectly owned by EME. On December 15, 1999, title to the Generating Stations was transferred to Midwest Generation. Midwest Generation has assumed all the rights and obligations associated with the operation of the Generating Stations, including the obligation to comply with all applicable laws.

11. In accordance with Standard Condition 13 of Attachment H to the NPDES permits ("Standard Condition 13"), ComEd and Midwest Generation, on August 19, 1999, notified the Agency of the proposed transfer of the NPDES permits from ComEd to Midwest Generation, said transfer to become effective on the Closing Date of the transaction. In the notice, Midwest Generation agreed to assume all future responsibility, coverage and liability under the NPDES permits. Pursuant to Standard Condition 13, Midwest Generation is now the permittee for the NPDES permits issued to the Generating Stations.

12. The operations at the Generating Stations will not change as a result of the transfer of the Generating Stations to Midwest Generation. The Generating Stations will continue to produce electricity through the use of the stations' existing coal-fired boilers. Long Affidavit, ¶ 6. Electricity output from the Generating Stations will be determined by the same factors that would have governed output if ComEd had continued to own the Generating Stations, including demand for electricity; cost of production; availability of electrical generation equipment; and

regulatory limitations on output, including limitations imposed by environmental regulations such as the alternate thermal standards. Id.

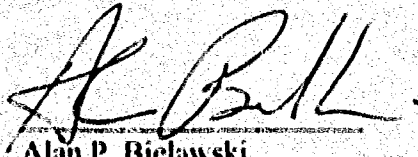
13. Plant personnel for the Generating Stations are employed by Midwest Generation. Midwest Generation has retained almost all of the workforce employed by ComEd at the Generating Stations. Long Affidavit, ¶ 7. In addition, non-Plant personnel associated with the operation of the Generating Stations are employed by Midwest Generation EME, LLC ("MGE"), a wholly-owned subsidiary of EME. MGE has retained a centralized environmental department in Chicago to provide corporate oversight and assistance to all of the assets acquired from ComEd. Id. Several of the members of ComEd's corporate environmental staff, including Julia Wozniak, have been hired by MGE as part of this corporate environmental function. Id. Ms. Wozniak is a senior biologist who has been and remains primarily responsible for developing and implementing the model used by ComEd (and now by Midwest Generation) to ensure the Generating Stations' compliance with the adjusted thermal standards. Id.

14. The Board has granted the relief requested by ComEd and Midwest Generation in similar circumstances. In In the Matter of: Petition of Envirite Corporation For an Adjusted Standard from 35 Ill. Admin. Code 721 Subpart D: List of Hazardous Substances, Appendix I, As No. 94-10, 1996 Ill. Env. Lexis 797 (IPCB, November 7, 1996) ("Envirite Order"), the Board considered a motion by Envirite Corporation and Envirite of IL, Inc. to reopen and revise AS No. 94-10 to

substitute Envirite of IL., Inc for Envirite Corporation. On February 16, 1995, the Board issued an order to Envirite Corporation delisting residue from its treatment process as a hazardous waste. Subsequent to the issuance of that order, Envirite Corporation undertook to transfer ownership and operation of its assets, including the treatment facility at issue, to Envirite of IL., Inc. In its motion for substitution, Envirite Corporation indicated that there would be no change in the management and operation of the facility and that the facility would continue to operate in accordance with all applicable orders and standards using the same processes and activities for which it was currently approved. Envirite Order, 1996 Ill. Env. Lexis 797, at *4. Envirite Corporation and Envirite of IL., Inc. further "assured the Board that the relevant factors required to justify the adjusted standard have not changed." Id. In response to the motion, the Board amended its February 16, 1995 order and granted to Envirite of IL., Inc. the adjusted standard that had been granted to Envirite Corporation. Envirite Order, 1996 Ill. Env. Lexis 797, at *5.

15. The ComEd/Midwest Generation transaction is different than the Envirite transaction in that ComEd's assets were transferred to an unaffiliated third party with different management. However, the salient point of the Envirite decision is that the relevant factors which justified the adjusted standard were not affected by the transfer of the facility. The relevant factors which justified the adjusted thermal standard issued to ComEd did not involve the identity of the discharger, but rather the nature of the discharge and the conditions in the receiving waterway, in particu-

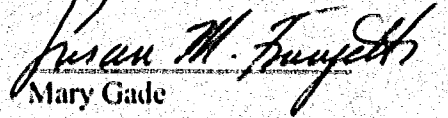
18. ComEd and Midwest Generation waive hearing in this matter.



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Respectfully Submitted



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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
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Petition of Commonwealth Edison) AS No. 96-10
Company for Adjusted Standard from) (Adjusted Standard - Water)
35 Ill. Adm. Code 302.211(d) and (e))

AFFIDAVIT OF JOHN T. LONG

STATE OF ILLINOIS)
) : SS
COOK COUNTY)

JOHN T. LONG, being of full age, sound mind and duly sworn,
hereby deposes and states as follows:

1. I am currently employed as Vice-President of Midwest Generation EME, LLC ("MGE"), a wholly-owned subsidiary of Edison Mission Energy ("EME"). I am providing this affidavit in support of the Motion of Commonwealth Edison Company ("ComEd") and Midwest Generation, LLC ("Midwest Generation"), to reopen Docket AS No. 96-10 and substitute Midwest Generation as the named party on the order issued to ComEd on October 3, 1996 in AS No. 96-10. The facts stated in this affidavit are based on my personal knowledge or on knowledge I have obtained through an inquiry of those individuals employed by EME, MGE or Midwest Generation with direct knowledge of the facts averred herein.

2. On December 15, 1999, Midwest Generation acquired a number of electric generating stations from ComEd, including ComEd's former Joliet, Will County, Crawford, and Fisk generating stations (collectively, the "Generating Stations"). Midwest Generation is an indirectly wholly-owned subsidiary of EME and MGE.

3. In my role as Vice-President of MGE, I am responsible for providing support services for the Generating Stations owned and operated by Midwest Generation and certain other affiliates of EME. These support services include environmental, health and safety matters; construction and technical services; and various specialist services.

4. Prior to my employment with MGE, I was employed by ComEd for more than twenty-eight years. During my employment with ComEd, I served in numerous capacities. My last position at ComEd was Vice President, Fossil Generation Group Support. My responsibilities as Vice-President for MGE are similar to my responsibilities for ComEd prior to ComEd's sale of the Generating Stations.

5. EME is an indirect, wholly-owned subsidiary of Edison International, which is also the parent corporation of Southern California Edison, one of the nation's largest electric utilities. EME specializes in the development, acquisition,

construction, management and operation of global power production facilities. EME is the world's leading developer, owner and operator of independent power facilities, with interests in 59 projects worldwide, having an aggregate generating capacity of 16,922 megawatts, of which EME's share is 12,379 megawatts (exclusive of the assets acquired from ComEd).

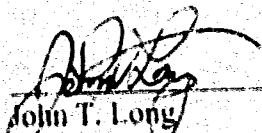
6. The operations at the Generating Stations will not change as a result of the transfer of the Generating Stations to Midwest Generation. The Generating Stations will continue to produce electricity through the use of the stations' existing coal-fired boilers. Electricity output from the Generating Stations will be determined by the same factors that would have governed output if ComEd had continued to own the Generating Stations, including demand for electricity; cost of production; availability of electrical generation equipment; and regulatory limitations on output, including limitations imposed by environmental regulations such as the alternate thermal standards.

7. Midwest Generation has retained almost all of the workforce employed by ComEd at the Generating Stations. MGE has retained a centralized environmental department in Chicago to provide corporate oversight and assistance to all of the assets acquired from ComEd. Several of the members of ComEd's corporate environmental staff, including Julia Wozniak, have been hired by MGE as

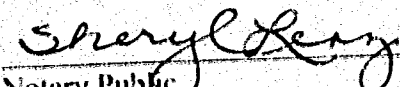
part of this corporate environmental function. Ms. Wozniak is a senior biologist who has been and remains primarily responsible for developing and implementing the model used by ComEd (and now by Midwest Generation) to ensure the Generating Stations' compliance with the adjusted thermal standards set forth in the Illinois Pollution Control Board's order of October 3, 1996.

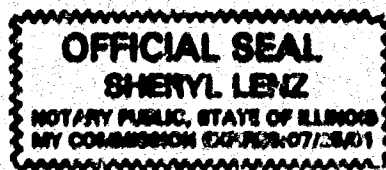
8. None of the factors that were the basis for the Illinois Pollution Control Board's decision to issue adjusted thermal standards to ComEd for wastewater discharges from the Generating Stations are implicated by the transfer of the Generating Stations to Midwest Generation.

FURTHER, AFFIANT SAYETH NOT.


John T. Long
Vice-President
Midwest Generation EME, LLC

Sworn and subscribed to before me
on this 23rd day of February 2000.


Notary Public



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CERTIFICATE OF SERVICE

I, Susan M. Franzetti, an attorney, certify that on February 25, 2000, I served the enclosed

Notice of Filing;

Motion of Commonwealth Edison Company and Midwest Generation, LLC, to Reopen
Docket and Substitution of Midwest Generation, LLC as the Named Party on the Order and
Affidavit of John T. Long.

on the following by hand delivery to:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
100 W. Randolph
Suite 11-500
Chicago, Illinois 60601

and on the following by U.S. Mail to:

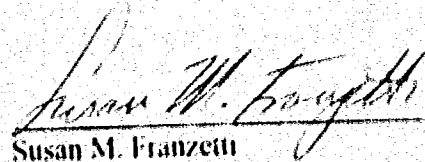
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Dated: February 25, 2000


Susan M. Franzetti

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