

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

In the Matter of: )  
 )  
 SIERRA CLUB, ENVIRONMENTAL )  
 LAW AND POLICY CENTER, )  
 PRAIRIE RIVERS NETWORK, and )  
 CITIZENS AGAINST RUINING THE )  
 ENVIRONMENT )  
 )  
 Complainants, )  
 )  
 v. )  
 )  
 MIDWEST GENERATION, LLC, )  
 )  
 Respondents )

PCB No-2013-015  
(Enforcement – Water)

**NOTICE OF ELECTRONIC FILING**

To: Attached Service List

PLEASE TAKE NOTICE that on May 12, 2014, I electronically filed with the Clerk of the Illinois Pollution Control Board: **COMPLAINANTS' AMENDED PROPOSED DISCOVERY SCHEDULE**, a copy of which is served on you along with this notice.

Respectfully submitted,

Jennifer L. Cassel  
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ph (312) 795-3726

Dated: May 12, 2014

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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<b>LAW AND POLICY CENTER,</b>	)	
<b>PRAIRIE RIVERS NETWORK, and</b>	)	
<b>CITIZENS AGAINST RUINING THE</b>	)	
<b>ENVIRONMENT</b>	)	
	)	<b>PCB 2013-015</b>
<b>Complainants,</b>	)	<b>(Enforcement – Water)</b>
	)	
<b>v.</b>	)	
	)	
<b>MIDWEST GENERATION, LLC,</b>	)	
	)	
<b>Respondents</b>	)	

**COMPLAINANTS’ AMENDED PROPOSED DISCOVERY SCHEDULE**

Complainants Sierra Club, Environmental Law and Policy Center, Prairie Rivers Network, and Citizens Against Ruining the Environment submit this amended proposed discovery schedule. In support of their proposal, complainants state as follows:

1. On May 5, 2014, counsel for Complainants’ proposed a discovery schedule to counsel for Respondents. That proposed schedule, shown in Attachment A column 1, ended with a deadline for dispositive motions on June 1, 2015.

2. On May 6, 2014, counsel for Respondents responded with an alternative schedule that would have ended with a deadline for dispositive motions on August 30, 2015, shown in Attachment A column 2. Respondents schedule failed to include any dates for Complainants expert report. By conference call and email on May 6, 2014, Complainants agreed to the August 30, 2015 dispositive motion deadline offered by Respondents, and made numerous suggestions as to timelines that would include sufficient time for Complainants’ expert report.

3. Notwithstanding Complainants' willingness to accommodate Respondent's vacation schedule and to provide, per Respondent's request, extended timeframes for expert discovery and dispositive motions, Respondents refused all of Complainants' offers that maintained the August 30, 2015 deadline and indicated that including dates for Complainants' expert report would require extending the schedule an additional two weeks.

4. Subsequently, counsel for Respondents proposed a new schedule that would end with a deadline for dispositive motions on September 25, 2015.

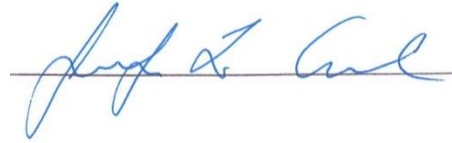
5. On May 7, 2014, counsel for Complainants proposed a schedule (shown in Attachment A column 3) that would adhere to all internal timelines proposed by Respondents (again, shown in Attachment A column 2) and preserve the final deadline for dispositive motions of August 30, 2015. To achieve this schedule while accommodating Complainants' need for adequate time to draft and submit their expert report, Complainants proposed that both Complainants and Respondents file their expert reports on March 15, 2015, the date Respondents had proposed as the deadline for submission of Respondent's expert report. Respondents again refused this offer.

6. As of the filing of this motion, and after several telephone and email exchanges, Complainants and Respondents have been unable to agree on a discovery schedule.

WHEREFORE, Complainants respectfully request that the Board accept the following compromise schedule, which, except for the proposed May 27, 2014 deadline for Complainants' filing of a reply to Respondent's Answer and Defenses to Complaint, is also shown in the Attachment A column 3:

1. Complainants shall file a reply to Respondent's Answer and Defenses to Complaint on or before May 27, 2014;
2. Written interrogatories and document requests shall be issued by the parties on or before June 15, 2014;
3. All responses to written interrogatories and document requests shall be served on or before September 1, 2014, except that responses to requests to admit shall be answered in compliance with the Illinois Supreme Court Rules and the Illinois Code of Civil Procedure;
4. Depositions of lay or fact witnesses shall begin no earlier than November 1, 2014 and be completed on or before January 30, 2015;
5. Complainants' and Respondent's written expert witness reports shall be served on or before March 15, 2015;
6. Depositions of expert witnesses shall begin no earlier than May 1, 2015 and be completed on or before June 30, 2015;
7. Dispositive motions shall be filed on or before August 30, 2015.

Respectfully submitted,



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Dated: May 12, 2014

**ATTACHMENT A: RECOMMENDED DISCOVERY SCHEDULE**

	1: Complainants' proposed discovery schedule (May 5, 2014)	2. Respondent's response without dates for Complainants' expert report (May 6, 2014)	3: Complainants' final offer as of letter (May 7, 2014)
Deadline for submission of initial requests for production, interrogatories, and requests for admission	6/15/14	6/15	<b>6/15/14</b>
Deadline for production and responses to initial discovery requests	8/1/14	9/1	<b>9/1/14</b>
Fact depositions begin	10/1/14	11/1	<b>11/1/14</b>
Close of fact discovery	12/1/14	1/30/15	<b>1/30/15</b>
Complainants' expert report due	1/15/15		
Respondent's expert report due	2/15/15	3/15	<b>Exchange of expert reports on 3/15/2015</b>
Complainants' expert reply due	3/15/15		
Expert depositions begin	4/1/15	5/1/2015	<b>5/1/2015</b>
Close of expert discovery	5/1/15	6/30/15	<b>6/30/2015</b>
Deadline for dispositive motions	6/1/15	8/30/15	<b>8/30/15</b>

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **COMPLAINANTS' AMENDED PROPOSED DISCOVERY SCHEDULE** was served to all parties of record listed below by United States Mail, postage prepaid, on May 12, 2014.

/s/ Robert M. Gelles  
Robert M. Gelles  
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