

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Midwest Generation EME, LLC,)	
Petitioner)	PCB 04-216
)	Trade Secret Appeal
v.)	
)	
Illinois Environmental Protection Agency,)	
Respondent)	

NOTICE OF FILING

To:	Dorothy Gunn, Clerk Illinois Pollution Control Board 100 West Randolph Suite 11-500 Chicago, Illinois 60601	Sheldon A. Zabel Mary A. Mullin Andrew N. Sawula Schiff Hardin LLP 6600 Sears Tower Chicago, Illinois 60606
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Brad Halloran
Hearing Officer
Illinois Pollution Control Board
100 West Randolph
Suite 11-500
Chicago, Illinois 60601

Please take notice that today we have filed with the Office of the Clerk of the Pollution Control Board an original (1) and nine (9) copies of an Agreed Motion to Amend the Scheduling Order. A copy is herewith served upon the assigned Hearing Officer and the attorneys for the Petitioner, Midwest Generation EME, LLC.

Dated: Chicago, Illinois
February 1, 2006

LISA MADIGAN, Attorney General of the
State of Illinois

MATTHEW DUNN, Chief, Environmental Enforcement/
Asbestos Litigation Division

BY:  _____

Ann Alexander, Assistant Attorney General and
Environmental Counsel

Paula Becker Wheeler, Assistant Attorney General

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Illinois Environmental Protection Agency,)	
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AGREED MOTION TO AMEND THE SCHEDULING ORDER

Petitioner Midwest Generation EME, LLC (“Midwest Generation”) and Respondent Illinois Environmental Protection Agency (“IEPA”) jointly submit to the Hearing Officer this motion to amend the Hearing Officer Order of August 25, 2005, which sets forth the discovery schedule in this matter, as follows:

1. The Hearing Officer’s order in this matter dated August 25, 2005, as amended by letter dated December 22, 2005 (a copy of which is attached hereto), requires the parties to conduct depositions by February 27, 2006. The parties wish to be allowed to conduct depositions subsequent to February 27, 2006, of any persons identified as hearing witnesses after January 31, 2006.

2. The parties request that they be permitted to depose such subsequently identified hearing witnesses within 30 days of the date on which such witness is identified. If the admissibility at the hearing of such witness’s testimony is contested by motion, the parties shall have 30 days to conduct depositions from the date of a determination, through either a ruling on a motion in limine or a stipulation by the parties, that the testimony of such witness is admissible.

3. The parties’ proposed amendment to the discovery schedule shall be understood to govern the depositions of only those individuals who are identified for the first time as hearing witnesses after January 31, 2006.

WHEREFORE, the parties jointly request that the Hearing Officer grant their motion to amend the discovery schedule set forth in the Hearing Officer Order of August 25, 2005. A proposed order is attached.

Dated: Chicago, Illinois
January 26, 2005

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By:  _____

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and Environmental Counsel
Paula Becker Wheeler, Assistant Attorney
General
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MIDWEST GENERATION EME, LLC

By:  _____

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PROPOSED HEARING OFFICER ORDER

1. Notwithstanding the hearing officer's order in this matter dated August 25, 2005, as amended by letter dated December 22, 2005, the parties shall be allowed to conduct depositions subsequent to February 27, 2006, the otherwise-applicable deadline for completing depositions, of any persons identified as hearing witnesses after January 31, 2006.

2. The parties may depose such subsequently identified hearing witnesses within 30 days of the date on which such witness is identified. If the admissibility at the hearing of such witness's testimony is contested by motion, the parties shall have 30 days to conduct depositions from the date of a determination, through either a ruling on a motion in limine or a stipulation by the parties, that the testimony of such witness is admissible.

3. This order shall be understood to govern the depositions of only those individuals who are identified for the first time as hearing witnesses after January 31, 2006.

IT IS SO ORDERED.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 West Randolph
Chicago, Illinois 60601

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CERTIFICATE OF SERVICE

I hereby certify that I did on the 1st day of February, 2006 send by United States mail a copy of the parties' Agreed Motion to Amend the Scheduling Order., to:

Sheldon A. Zabel
Mary A. Mullin
Andrew N. Sawula
Schiff Hardin LLP
6600 Sears Tower
Chicago, Illinois 60606

Dated: Chicago, Illinois
February 1, 2006

LISA MADIGAN, Attorney General of the
State of Illinois

MATTHEW DUNN, Chief, Environmental Enforcement/
Asbestos Litigation Division

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Environmental Counsel
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