

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
PETITION OF MIDWEST GENERATION, LLC,)	AS 07-03
WAUKEGAN GENERATING STATION)	(Adjusted Standard- Air)
FOR AN ADJUSTED STANDARD FROM)	
35 ILL.ADM.CODE 225.230)	
)	

NOTICE OF FILING

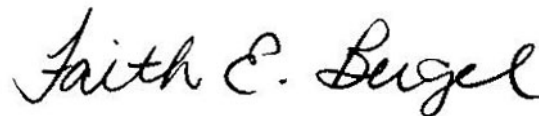
To:

John T. Therriault, Assistant Clerk
 Illinois Pollution Control Board
 James R. Thompson Center
 Suite 11-500
 100 West Randolph
 Chicago, IL 60601

Persons included on the
ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that we have today filed with the Office of the Clerk of the Pollution Control Board **MOTION TO WITHDRAW AND REFILE MOTION TO INTERVENE, IN RESPONSE TO MIDWEST GENERATION'S MOTION TO STRIKE,** and **RENEWED MOTION TO INTERVENE,** copies of which are herewith served upon you.

Respectfully Submitted,



Faith E. Bugel
 Environmental Law & Policy Center
 35 E. Wacker Dr. Suite 1300
 Chicago, IL 60601

DATED: January 23, 2008

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PETITION OF MIDWEST GENERATION, LLC,) AS 07-03
WAUKEGAN GENERATING STATION) (Adjusted Standard- Air)
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35 ILL.ADM.CODE 225.230)

**MOTION TO WITHDRAW AND REFILE MOTION TO INTERVENE,
IN RESPONSE TO MIDWEST GENERATION'S MOTION TO STRIKE**

NOW COMES the Environmental Law and Policy Center ("ELPC"), by and through its attorneys, and, pursuant to 35 Ill. Admin. Code 101.402, files its response to Midwest Generation, LLC's Motion to Strike ("Motion to Strike Environmental Law and Policy Center's Motion to Intervene," January 14, 2008) by moving the Board to withdraw the original Motion to Intervene submitted by ELPC on December 6, 2007 and to accept the Renewed Motion to Intervene accompanying this Motion. In support of this motion, ELPC states as follows:

1. On December 6, 2007, ELPC filed a Motion to Intervene with the PCB. This motion stated that ELPC was a party of interest in rulemakings R06-025 and R06-026. At this time, ELPC inadvertently failed to mail notice to the attorneys representing Midwest Generation, LLC, in the present proceeding.
2. ELPC does not dispute that 35 Ill. Admin. Code 402.101(a) applies to this proceeding.
3. On December 27, 2007, ELPC Attorney Faith Bugel became aware of the inadvertent failure to mail notice. She then called her assistant, Kelsey Snell, with instructions to re-mail the notice. Ms. Snell did so on December 28, 2007 by unregistered U.S. mail.

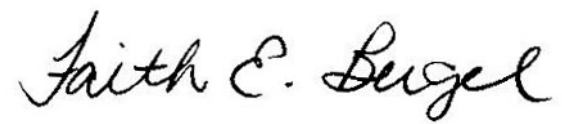
4. On January 2, 2008, ELPC Attorney Meleah Geertsma left a message for Stephen Bonebrake, counsel of record for Midwest Generation, that notice had been mailed to correct the oversight, as per her conversation earlier that day with Ms. Snell. Ms. Geertsma later that day confirmed this information in a call with co-counsel of record Kathleen Bassi.

5. On January 14, 2008, attorneys for Midwest Generation filed a motion to strike ELPC's Motion to Intervene. The Motion to Strike states that as of January 14, 2008, Schiff Hardin, the firm representing Midwest Generation, had not been served with a motion to intervene.

6. The electronic docket for PCB case no. AS-07-03 shows no filings between December 6, 2007, the date on which ELPC filed the original Motion to Intervene, and the date of this filing, other than those pertaining to ELPC's Motion to Intervene.

WHEREFORE, for the reasons set forth above, ELPC seeks leave to withdraw and file a Renewed Motion to Intervene to correct errors in serving Petitioner. Filing a Renewed Motion to Intervene will not unduly delay or materially prejudice the proceeding or otherwise interfere with an orderly or efficient proceeding, in keeping with 35 Ill. Admin. Code 101.402(b).

Respectfully Submitted,

A handwritten signature in black ink that reads "Faith E. Bugel". The signature is written in a cursive style with a large, prominent "F" and "B".

Faith E. Bugel

Environmental Law & Policy Center
35 E. Wacker Dr. Suite 1300
Chicago, IL 60601

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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RENEWED MOTION FOR LEAVE TO INTERVENE

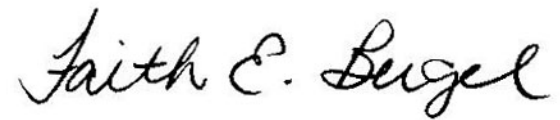
I, FAITH E. BUGEL, hereby file a RENEWED MOTION TO INTERVENE in this matter on behalf of ENVIRONMENTAL LAW & POLICY CENTER. In support of this Petition, ELPC states the following:

1. ELPC is an Illinois-based not-for-profit organization that was previously party to the CAIR (R06-025) and Mercury (R06-026) Rulemakings before the Illinois Pollution Control Board and is similarly affected by the current Adjusted Standard proceeding.

2. Due to our interest and involvement in R06-025 and R06-026, ELPC and all ELPC members have an interest in proceedings that decide and affect the applicability of the Illinois Mercury Rules.

3. ELPC and its members will be directly and materially affected by the outcome of this proceeding. ELPC's mission includes advocating for the protection of air quality and water quality, and protection of public health directed related to air and water quality. ELPC's members would be directly affected by an adjusted standard at the Waukegan facility that affects the manner in which the Illinois Mercury Rule is applied and the consequent mercury emissions from that facility.

Respectfully Submitted,

A handwritten signature in black ink that reads "Faith E. Bugel". The signature is written in a cursive style with a large, prominent 'F' and 'B'.

Faith E. Bugel
Environmental Law & Policy Center
35 E. Wacker Dr. Suite 1300
Chicago, IL 60601

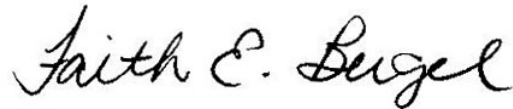
DATED: January 23, 2008

CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 23rd day of January, 2008, I have served electronically the attached **MOTION TO WITHDRAW AND REFILE MOTION TO INTERVENE, IN RESPONSE TO MIDWEST GENERATION'S MOTION TO STRIKE,** and **RENEWED MOTION TO INTERVENE** upon the following persons:

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601

and electronically and by first class-mail with postage thereon fully prepaid and affixed to the persons listed on the **ATTACHED SERVICE LIST**.



Faith E. Bugel
Environmental Law & Policy Center
35 E. Wacker Dr. Suite 1300
Chicago, IL 60601

DATED: January 23, 2008

SERVICE LIST

(AS 07-03)

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