

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

**AMENDMENTS TO 35 ILL.ADM.CODE 225:
CONTROL OF EMISSIONS FROM LARGE
COMBUSTION SOURCES (MERCURY
MONITORING)**

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**R09-10
(Rulemaking – Air)**

NOTICE OF FILING

To:

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 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 **POST-HEARING COMMENTS OF MIDWEST GENERATION,
LLC.**


Kathleen C. Bassi

Dated: March 5, 2009

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POST-HEARING COMMENTS OF MIDWEST GENERATION, LLC.

MIDWEST GENERATION, LLC, by and through its attorneys, SCHIFF HARDIN LLP, and through the written testimony of Scott Miller filed on January 30, 2009, through Mr. Miller's appearance at hearing on February 10, 2009, and through outreach discussions with the Illinois Environmental Protection Agency ("Agency") at various times both before and after the proposal was filed with the Board on October 3, 2008, has actively participated in this rulemaking. Midwest Generation generally supports the proposal as it has been amended and as reflected in the Agency's compilation of its recommended revisions to the proposed amendments to 35 Ill.Adm.Code Part 225, Subparts A and B, filed with the Board February 19, 2009 ("Revised Proposal"), and encourages the Board to adopt the Revised Proposal with one additional change indicated below.

Midwest Generation appreciates the Agency's ongoing willingness to discuss various issues associated with the Illinois mercury rule, 35 Ill.Adm.Code Part 225, Subpart B. The experience of both industry and regulators in controlling mercury emitted from large coal-fired electric generating units is, relatively speaking, in its infancy. As has been the case with other pollution control programs, the control of mercury emissions and monitoring mercury emissions will evolve and improve over time. Cooperation between industry and the regulators is essential

for us to achieve the best control most efficiently and economically. Because this is an evolving area of pollution control, Midwest Generation looks forward to working with the Agency and the Board in the future as our experience and knowledge indicate areas of improvement to the program.

Midwest Generation encourages the Board to adopt the Revised Proposal with the additional revision to Section 225.294(j)(2) indicated below. However, there are certain areas and issues relative to this rulemaking that deserve particular attention here.

Stack Testing and Monitor Availability

In this rulemaking, the Agency proposed to add Section 225.239 to the rule to provide for stack testing as the means for demonstrating compliance with the mercury rule through June 30, 2012. Midwest Generation has had approximately two years' experience with continuous mercury emissions monitoring systems ("CMMS" or "CEMS"). As Mr. Miller stated in his testimony and in response to questions at hearing, Midwest Generation, today, cannot comply with a monitor availability requirement of 75%. Transcript, p. 71 (Feb. 10, 2009)¹, as proposed to be amended in the Joint Motion to Correct Transcript (Mar. 5, 2009). In fact, in response to a question from the Board's Mr. Anand Rao regarding Midwest Generation's current percentage of monitor availability, Mr. Miller testified, "So I'm zero percent today." Tr. p. 75. Mr. Miller's written testimony described the numerous problems with the CMMS. He stated, "During our first year of operation of the CMMS (2008), almost every major part on one or more of the CMMS have failed." Miller Testimony, p. 14 (Jan. 30, 2009). Dominion's David Nuckols described similar pervasive problems operating CMMS in both his written and oral testimony.

¹ Future references to the Transcript of the February 10, 2009, hearing will be indicated as "Tr." followed by the page number only.

Because of the significant amount of time that CMMS are not available – that is, they are having difficulty passing all the quality assurance/quality control (QA/QC) tests, such as the integrity test and daily calibration error tests necessary for measurements from the monitors to be considered valid data or a quality assured monitor operating (“QAMO”) hour – Midwest Generation supports the Agency’s proposal to add Section 225.239, as set forth in the Revised Proposal, to the Illinois mercury rule and encourages the Board to adopt Revised Proposal Section 225.239. As Mr. Miller indicated at hearing, Midwest Generation will likely utilize the stack testing provisions of the rule while running the CMMS in parallel as diagnostics and trying to improve the percent availability of the CMMS so that they will meet the 75% availability requirement by July 1, 2012. Tr. p. 75.

Deletion of Temperature Correction

Midwest Generation also particularly encourages the Board to adopt the deletion of the requirement for temperature correction in Section 225.294(g)(4) as included in the Revised Proposal. The deletion of the temperature correction in Section 225.294(g)(4) would allow for a reasonable implementation of the sorbent injection requirements of the Combined Pollutant Standard (“CPS”) as our understanding of the most effective design of sorbent injection systems evolves. This revision allows sources to increase the amount of time and space in which flue gas is exposed to sorbent without unnecessarily imposing an increase in the amount of sorbent that must be injected. Midwest Generation believes that this amendment more faithfully reflects the Agency’s understanding of the effect that injecting sorbent at a rate of 5 lb/macf has on removing mercury from the flue gas stream. For these reasons, adoption of this amendment to the rule would provide a significant improvement to the rule.

In conjunction with the removal of the temperature correction factor from Section 225.294(g)(4) for all units except those equipped with sorbent injection prior to a hot-side electrostatic precipitator (“ESP”), the monitoring, recordkeeping, and reporting of “flue gas temperature at the point of sorbent injection” should be removed from Section 225.294(j)(2) for all units except those injecting sorbent prior to a hot-side ESP. This particular point was not identified during the discussions that addressed Section 225.294(g)(4), but this correction corresponds to that revision. Midwest Generation suggests the following revision in Section 225.294(j)(2):

Section 225.294 Combined Pollutant Standard: Control Technology Requirements and Emissions Standards for Mercury

* * *

j) * * *

- 2) After the first 36 months that injection of sorbent is required, it must monitor activated sorbent feed rate to the EGU, flue gas temperature at the point of sorbent injection if the unit is equipped with activated carbon injection prior to a hot-side electrostatic precipitator, and exhaust gas flow rate from the EGU, automatically recording this data and the sorbent carbon feed rate, in pounds per million actual cubic feet of exhaust gas at the injection point, on an hourly average;

Midwest Generation encourages the Board to adopt both of these revisions to the proposal.

Coal Sampling and the Adding an ASTM Method

The Agency has addressed coal sampling in several provisions of the Revised Proposal and has offered clarification in some instances regarding coal sampling.

The Agency has proposed to incorporate by reference at Section 225.140(h)(7) ASTM D6722-01, "Standard Test Method for Total Mercury in Coal and Coal Combustion Residues by Direct Combustion Analysis (2001)," to the list of methods for determining the amount of mercury in coal. Midwest Generation supports this addition and urges the Board to adopt this amendment to the mercury rule.

The Agency clarified at the February 10th hearing that companies may use weighted averaging in determining, on a monthly basis, the amount of mercury in the coal burned. *See* Mr. David Bloomberg's testimony, Tr. p. 21. Midwest Generation believes that weighted averaging will provide a more accurate report of the amount of mercury in the coal burned. However, it was not clear from the rule that such averaging will be allowed. Mr. Bloomberg clarified that it is.

Midwest Generation supports the Agency's proposal to reduce the frequency of coal sampling to monthly from daily for CPS units where the units have not been opted in to the 90% reduction requirement. *See* Section 225.265(a)(1)(A).

Approved Sorbents from Calgon

The Agency proposed to add two sorbents manufactured by Calgon to the list of approved sorbents in Section 225.294(g)(2). Midwest Generation appreciates the Agency's willingness to codify its approval of these two sorbents, Calgon Carbon's FLUEPAC CF Plus and Calgon Carbon's FLUEPAC MC Plus, and urges the Board to adopt that amendment.

Matching Inlet Mercury Emissions to QAMO Outlet Emissions

In Section 225.290(b)(3)(F), the Agency proposed to allow the option of utilizing the inlet mercury emissions based on coal sampling that matches in time the QAMO hours of the outlet mercury emissions when calculating the percent mercury reduction. Midwest Generation agrees that this is a more accurate method for calculating mercury emission reductions and urges the Board to adopt this amendment.

Retroactive Noncompliance Under Section 225.239(g)(2)

The Revised Proposal has addressed Midwest Generation's concerns regarding retroactive noncompliance under Section 225.239(g)(2) by limiting the period of time during which a company relying on stack testing as its means of demonstrating compliance could be found noncompliant as a result of a failed stack test. That noncompliance, as now provided in the Revised Proposal, is limited retrospectively to the more recent of the first day of the quarter in which the failed stack test occurred, the last day of certified CEMS data demonstrating compliance, or the date on which a significant change occurred that would require retesting and continuing until compliance is demonstrated. This approach to determining noncompliance is acceptable to Midwest Generation for this rule. Midwest Generation, however, emphasizes that the approach to determining noncompliance specified in Section 225.239 is not necessarily the means of determining noncompliance for other pollutants where stack testing is the method for demonstrating compliance, and Midwest Generation's acceptance of the approach set forth in Section 225.239(g)(2) should not be construed as expressing a position regarding such other pollutants or circumstances.

Midwest Generation encourages the Board to adopt Section 225.239(g)(2) as presented in the Revised Proposal.

“Optimum Manner”

During the course of this rulemaking proceeding, Midwest Generation had some questions regarding the Agency’s application of the provision requiring that units subject to Section 225.294(g) in the CPS inject sorbent in an optimum manner. The Agency has clarified the issue both in discussions with Midwest Generation and through Mr. Jim Ross’ statement on the issue at the February 10th hearing. Midwest Generation seeks no further clarification or other action from the Board regarding “optimum manner.”

Additional Correction to the Transcript for the February 10, 2009, Hearing

Midwest Generation was one of the joint movants requesting the Board to correct the transcript of the hearing held February 10, 2009, in the Joint Motion to Correct Transcript filed March 5, 2009. One section of the transcript, however, could not be corrected through that Joint Motion to Correct Transcript. In this particular instance, too many words were missing to support a mere correction of the transcript.

Page 71, lines 13-21 of the transcript should read as follows:

MR. MILLER: The regulation allows continuous monitoring and availability and or STAC stack testing options, the first two and a half years of the program and then post July 1st, 2012, the availability is calculated on a rolling basis. I think Chris meant as of today, I don’t have any monitors at 75 percent availability. We have attempted to install 11 monitors for all our units in the state who is and when done with the project we should be meeting the 75 percent availability monthly rolling no matter what the average. * * *

Midwest Generation requests that the Board consider these lines of the transcript as corrected above.

Conclusion

Midwest Generation supports the proposed amendments to the mercury rule and encourages the Board to adopt the Revised Proposal, including the additional revision to Section 225.294(j)(2) set forth above.

Respectfully submitted,

MIDWEST GENERATION, LLC.

by: 
one of its attorneys

Dated: March 5, 2009

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CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 5th day of March, 2009, I have served electronically the attached **POST-HEARING COMMENTS OF MIDWEST GENERATION, LLC** upon the following persons:

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

and electronically and by first class mail, postage affixed upon persons included on the **ATTACHED SERVICE LIST**.

A handwritten signature in cursive script, appearing to read "Kathleen C. Bassi", is written over a horizontal line.

Kathleen C. Bassi

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(R09-10)

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