

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**SIERRA CLUB, ENVIRONMENTAL
LAW AND POLICY CENTER,
PRAIRIE RIVERS NETWORK, and
CITIZENS AGAINST RUINING THE
ENVIRONMENT**

Complainants,

v.

MIDWEST GENERATION, LLC,

Respondent.

**PCB 13-15
(Enforcement -
Water)**

NOTICE OF FILING

TO: Don Brown, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

Attached Service List

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board the attached **COMPLAINANTS' MOTION TO CORRECT THE JANUARY 30-31, 2018 HEARING TRANSCRIPTS**, copies of which are served on you along with this notice.

Respectfully submitted,

/s/ Abel Russ
Abel Russ
Attorney
Environmental Integrity Project
1000 Vermont Avenue NW
Washington, DC 20005
aruss@environmentalintegrity.org
802-482-5379

Dated: March 27, 2018

Attorney for Prairie Rivers Network

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**SIERRA CLUB, ENVIRONMENTAL)
LAW AND POLICY CENTER,)
PRAIRIE RIVERS NETWORK, and)
CITIZENS AGAINST RUINING THE)
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Complainants,)
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v.) **Water)**
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)
MIDWEST GENERATION, LLC,)
)
Respondent.)
)**

**COMPLAINANTS' MOTION TO CORRECT THE
JANUARY 30-31, 2018 HEARING TRANSCRIPTS**

Pursuant to 35 Ill. Adm. Code 101.604, Complainants Sierra Club, Environmental Law and Policy Center, Prairie Rivers Network, and Citizens Against Ruining the Environment (“Complainants”), by their undersigned counsel, submit to the Hearing Officer this motion to correct the transcripts for the January 30 and 31, 2018 hearing dates and states as follows:

According to a March 8, 2018 Hearing Officer Order, motions to correct the January 30 and 31, 2018 transcripts are due on March 28, 2018. Complainants have noted the following typographical errors in the January 30, 2018 hearing transcript and request that the Hearing Officer make the following corrections:

Page and Line Reference	Current Language	Requested Correction
72:13-14	I believe there was a misstatement unto the evidence.	I believe there was a misstatement as to the evidence.

105:21-23	And, again, I just have a concern regarding why, how, and what it claims to present.	And, again, I just have a concern regarding why, how, and what it claims to represent .
167:20-168:1	Mr. Dunaway's statements may be reliable, but we don't have any verification that the witness's ability -- memory ability to repeat those statements' articulation is accurate as to the witness -- Mr. Dunaway's statements.	Mr. Dunaway's statements may be reliable, but we don't have any verification that the witness's ability -- memory, ability to repeat those statements , articulation is accurate as to the witness -- Mr. Dunaway's statements.
233:12	she can redact the others to not, I'm sorry.	she can redact the “(others do not)” , I'm sorry.
251:16-17	is it fair to say that Midwest Gen proposed the sum CCA agreements that you referred to to IEPA	is it fair to say that Midwest Gen proposed some CCA agreements, that you referred to , to IEPA
252:3-6	Provisions in the CCA regarding insulation of new monitoring wells would have been informed by the results of the existing groundwater monitoring, correct?	Provisions in the CCA regarding installation of new monitoring wells would have been informed by the results of the existing groundwater monitoring, correct?
257:15	means environmental compliances, you know, takes	means environmental compliance , you know, takes
262:1-2	We haven't done investigation within this whole area to characterize it.	We haven't done an investigation within this whole area to characterize it.
270:18	the bottom ash selling basins	the bottom ash settling basins
276:14-15	IEPA cleanup objectives, is what is stated in this report.	IEPA cleanup objectives, which is what is stated in this report.

Complainants have noted the following typographical errors in the January 31, 2018

hearing transcript and request that the Hearing Officer make the following corrections:

Page and Line Reference	Current Language	Requested Correction
21:4-5	Do you know what, I think I have, too, but I'm not even sure with my glasses.	Do you know what, I think I have it , too, but I'm not even sure with my glasses.
55:2-17	<p>Q. Does PJAM do that? A. Yes, they do. Q. Are Midwest Generation plants in the PJAM region? A. Yes, they are in the PJAM region. Q. And does PJAM procure capacity commitments through a capacity auction? A. Yes, they do for given years. Q. When you say for given years, what do you mean? A. It's an auction that is setup for three years out from the present time. Q. And if one of Midwest Generation's plants did not participate in the auction, there are other possible sources of capacity in the PJAM marketplace, correct?</p>	<p>Q. Does PJM do that? A. Yes, they do. Q. Are Midwest Generation plants in the PJM region? A. Yes, they are in the PJM region. Q. And does PJM procure capacity commitments through a capacity auction? A. Yes, they do for given years. Q. When you say for given years, what do you mean? A. It's an auction that is setup for three years out from the present time. Q. And if one of Midwest Generation's plants did not participate in the auction, there are other possible sources of capacity in the PJM marketplace, correct?</p>
56:2-11	<p>Q. The PJAM region has a surplus of capacity available right now, correct? MS. FRANZETTI: Objection. Lack of foundation. HEARING OFFICER HALLORAN: Ms. Bugel? MS. BUGEL: The witness has established in her previous testimony that she is familiar with the capacity auction, the PJAM region and how the auctions work.</p>	<p>Q. The PJM region has a surplus of capacity available right now, correct? MS. FRANZETTI: Objection. Lack of foundation. HEARING OFFICER HALLORAN: Ms. Bugel? MS. BUGEL: The witness has established in her previous testimony that she is familiar with the capacity auction, the PJM region and how the auctions work.</p>
57:2-12	<p>Q. I mean, the market that the Midwest Gen plants participated in within the PJAM region. A. There are circumstances where -- particularly within the ComEd</p>	<p>Q. I mean, the market that the Midwest Gen plants participated in within the PJM region. A. There are circumstances where -- particularly within the ComEd region</p>

	region where three of the Midwest Generation plants that we're discussing here reside within ComEd, which is a region within PJAM where there is significant congestion and due to that I -- my opinion is that there are times when there certainly is not excess power available which is why the capacity market exists.	where three of the Midwest Generation plants that we're discussing here reside within ComEd, which is a region within PJM where there is significant congestion and due to that I -- my opinion is that there are times when there certainly is not excess power available which is why the capacity market exists.
214:10-10	Q. Would the word <i>di minimis</i> help you?	Q. Would the word de <i>minimis</i> help you?

WHEREFORE, for the reasons stated above, Complainants request that the Hearing Officer correct the January 30 and 31, 2018 transcripts.

Respectfully submitted,

/s/ Abel Russ

Abel Russ
Attorney
Environmental Integrity Project
1000 Vermont Avenue NW
Washington, DC 20005
aruss@environmentalintegrity.org
802-482-5379

Attorney for Prairie Rivers Network

Jeffrey Hammons
Environmental Law & Policy Center
35 E. Wacker Dr., Suite 1600
Chicago, IL 60601
(312) 795-3726

Attorney for ELPC, Sierra Club and Prairie Rivers Network

Faith E. Bugel
1004 Mohawk
Wilmette, IL 60091
(312) 282-9119
fbugel@gmail.com

Gregory E. Wannier
2101 Webster St., Ste. 1300
Oakland, CA 94612
(415) 977-5646
Greg.wannier@sierraclub.org

Attorneys for Sierra Club

Keith Harley
Chicago Legal Clinic, Inc.
211 W. Wacker, Suite 750
Chicago, IL 60606
kharley@kentlaw.iit.edu
312-726 -2938 (phone)
312-726 -5206 (fax)

Attorney for CARE

Dated: March 27, 2018

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **COMPLAINANTS' OBJECTION TO AND APPEAL OF HEARING OFFICER'S RULING ON RESPONDENT'S EXHIBIT 649** was served electronically to all parties of record listed below on March 27, 2018.

Respectfully submitted,

/s/ Akriti Bhargava

Akriti Bhargava
Litigation Assistant
Sierra Club Environmental Law Program
2101 Webster St., Ste. 1300
Oakland, CA – 94703
(415) 977-5629
akriti.bhargava@sierraclub.org

PCB 2013-015 SERVICE LIST:

Jennifer T. Nijman
Kristen L. Gale
NIJMAN FRANZETTI LLP
10 South LaSalle Street, Suite 3600
Chicago, IL 60603

Keith Harley
Chicago Legal Clinic, Inc.
211 W. Wacker, Suite 750
Chicago, IL 60606
kharley@kentlaw.iit.edu
312-726-2938 (phone)
312-726-5206 (fax)

Bradley P. Halloran,
Hearing Officer
Illinois Pollution Control Board
100 West Randolph St., Suite 11-500
Chicago, IL 60601