ILLINOIS POLLUTION CONTROL BOARD
January 9, 2014

MIDWEST GENERATION, LLC (Fabric)
Filter Dust Collector System for Joliet Station)
No. 29, Unit Nos. 7 & 8 Crusher Building))
(Property I.D. No. 07-19-400-016-9003),)
)
          Petitioner,   )
)
     v.   )   PCB 14-70
)   (Tax Certification - Air)
ILLINOIS ENVIRONMENTAL   )
PROTECTION AGENCY,   )
)
          Respondent.   )

ORDER OF THE BOARD (D. Glosser):

On December 9, 2013, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify a certain facility of Midwest Generation, LLC (Midwest Gen) as a "pollution control facility" for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2012); 35 Ill. Adm. Code 125. The facility is associated with Midwest Gen's Joliet Station No. 29, a coal-fired plant for generating electricity, which is located at 1800 Channahon Road in Joliet, Will County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency's recommendation, and certifies that Midwest Gen's Fabric Filter Dust Collector System on the Unit Nos. 7 and 8 Crusher Building is a pollution control facility.

LEGAL FRAMEWORK

Under the Property Tax Code, "[i]t is the policy of this State that pollution control facilities should be valued, at 33 1/3% of the fair cash value of their economic productivity to their owners." 35 ILCS 200/11-5 (2012); *see also* 35 Ill. Adm. Code 125.200(a)(2). "For tax purposes, pollution control facilities shall be certified as such by the Pollution Control Board and shall be assessed by the Department [of Revenue]." 35 ILCS 200/11-20 (2012); *see also* 35 Ill. Adm. Code 125.200(a). Under the statute, the Board determines if the facilities are pollution control facilities; however, the Board is not authorized to assess a value of those facilities.

Under Section 125.202 of the Board's procedural rules, a person may submit an application for tax certification to the Agency. *See* 35 Ill. Adm. Code 125.202. If the Agency receives a tax certification application, the Agency must file with the Board a recommendation on the application, unless the applicant withdraws the application. *See* 35 Ill. Adm. Code 125.204(a). Among other things, the Agency's filing must recommend that the Board issue or deny tax certification. *See* 35 Ill. Adm. Code 125.204(a)(4). If the Board finds "that the claimed facility or relevant portion thereof is a pollution control facility . . ., the Pollution Control Board

. . . shall enter a finding and issue a certificate to that effect." 35 ILCS 200/11-25 (2012); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Midwest Gen on or about April 25, 2008.[1] Rec. at ¶ 1. The Agency explains that it had misplaced Midwest Gen's application. *Id*. On December 9, 2013, the Agency filed a recommendation on the application with the Board, attaching Midwest Gen's application (Rec. Exh. A). The Agency's recommendation identifies the facility at issue:

> The subject matter of this request consists of a Fabric Filter Dust Collector System, commonly known as a baghouse, which was constructed and installed by Midwest Gen on the Units 7 and 8 Crusher Building of the Joliet Station No. 29. As described in the application, a fabric filter is a conventional type of emissions control equipment that "[is] made of a woven or felted material in the shape of a cylindrical bag in a supported envelope." The various components of the system included a collection hopper, a mechanism for periodic cleaning of the particle materials, and other measures designed to control fugitive dust, such as water sprays, upgraded seals and skirt extensions. Rec. at ¶ 4 (quoting Rec. Exh. A; citations omitted).

The Agency further describes the facility: "The application states that the system is employed 'to control fugitive dust coal particles . . . from the coal handling process equipment,' and thus acts to prevent or reduce particulate matter emissions that would otherwise be emitted from the coal handling processes to the atmosphere." Rec. at ¶ 4 (quoting Rec. Exh. A; citation omitted).

The Agency recommends that the Board certify that the Fabric Filter Dust Collector System on the Unit Nos. 7 and 8 Crusher Building is a pollution control facility as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2012)) with the primary purpose "to prevent or reduce air pollution." Rec. at ¶¶ 7, 8; *see also* Rec. Exh. B (Agency technical memorandum).

TAX CERTIFICATE

Based upon the Agency's recommendation and Midwest Gen's application, the Board finds and certifies that Midwest Gen's Fabric Filter Dust Collector System identified in this order is a pollution control facility under the Property Tax Code (35 ILCS 200/11-10 (2012)). The Board makes no finding regarding the assessed value of that facility. Under Section 11-25 of the Property Tax Code, the effective date of this certificate is "the date of application for the certificate or the date of the construction of the facility, which ever is later." 35 ILCS 200/11-25 (2012); *see also* 35 Ill. Adm. Code 125.216(a). Section 125.216(d) of the Board's procedural rules states that the Clerk "will provide the applicant and the Agency with a copy of the Board's order setting forth *the Board's findings and certificate, if any*." 35 Ill. Adm. Code 125.216(d)

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[1] The Agency's recommendation is cited as "Rec. at _."

(quoting in italics 35 ILCS 200/11-30 (2012)). The Clerk therefore will provide Midwest Gen and the Agency with a copy of this order.

IT IS SO ORDERED.

Section 11-60 of the Property Tax Code provides that any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification or restriction of a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate may appeal the Board's finding and order to the Circuit Court under the Administrative Review Law (735 ILCS 5/3-101 *et seq*. (2012)). *See* 35 ILCS 200/11-60 (2012).

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 9, 2014, by a vote of 4-0.

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John T. Therriault, Clerk
Illinois Pollution Control Board