

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
MIDWEST GENERATION, LLC)	
)	
Petitioner,)	
)	
v.)	PCB No. 20-38
)	PCB No. 20-39
)	(Thermal Demonstration)
ILLINOIS ENVIRONMENTAL)	(Consolidated)
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

To:

Don Brown, Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, IL 60601
don.brown@illinois.gov
(via electronic mail)

Bradley P. Halloran, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, IL 60601
brad.halloran@illinois.gov
(via electronic mail)

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Pollution Control Board a Motion for Leave to File a Reply to Midwest Generation, LLC’s Response to the Agency’s Recommendation, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

Date: June 3, 2020

By: /s/ Sara G. Terranova
Sara G. Terranova
Assistant Counsel
Division of Legal Counsel
Sara.Terranova@illinois.gov

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PROTECTION AGENCY,)	
)	
Respondent.)	

MOTION FOR LEAVE TO FILE A REPLY TO MIDWEST GENERATION, LLC’s

RESPONSE TO THE AGENCY’S RECOMMENDATION

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA or Agency”), by and through one of its attorneys, Sara G. Terranova, and pursuant to 35 Ill. Adm. Code § 101.500, hereby files this Motion for Leave to File a Reply (“Motion”). In support of this Motion, Illinois EPA states as follows:

I. BACKGROUND

1. On December 30, 2019, Midwest Generation, LLC (“MWGen” or “Petitioner”) filed its Petitions to Approve Alternate Thermal Effluent Limitations.

2. On February 18, 2020, the Illinois Pollution Control Board (Board) granted the Agency’s request to extend the deadline to file its recommendation. This extension allowed the Agency to complete its review of MWGen’s cooling tower use and to hold discussions with the United States Environmental Protection Agency.

3. On March 30, 2020, due to the COVID-19 pandemic, the Agency filed for and the Board granted an Extension of Time to File a Recommendation with a deadline to file by April 29,

2020.

4. On April 29, 2020, the Agency filed its Recommendation with the Board regarding MWGen's Petitions, in which the Agency recommends that the Board grant MWGen's Petitions with conditions.

5. On May 20, 2020, the Petitioner filed a Response to the Agency's Recommendation.

6. Pursuant to 35 Ill. Adm. Code §101.500, this Motion has been filed within 14 days after service of MWGen's Response to the Agency's Recommendation.

7. As such, the Agency hereby requests leave from the Board to file its Reply to MWGen's Response to the Agency's Recommendation as provided below.

II. REPLY

8. Petitioner's response primarily includes comments regarding the Agency's three recommended conditions. While not objecting to any of the Agency's conditions, the Petitioner did provide further information and clarification on conditions two and three for the Board's consideration.

9. In response to the Agency's second recommended condition, the Petitioner proposes that the Agency's suggested alternative thermal effluent limitation ("AEL") language be modified to provide that "MWGen will continue to operate its Joliet 29 Generating Station Cooling Towers to minimize the use of excursion hours when possible."

10. The Agency has no objection to the Petitioner's proposed language regarding the Agency's second recommended condition.

11. In response to the Agency's third recommended condition, the Petitioner requests that the Board advise the downstream dischargers how to proceed separately to obtain AEL relief,

if it would result in a delay of this proceeding. Specifically, the Petitioner requests that downstream dischargers' AEL relief be dealt with in a separate proceeding or sub docket so as not to jeopardize or delay the AEL relief sought by the Petitioner in this proceeding. Finally, whether the Board conditions MWGen's thermal AEL for regulatory relief for the downstream dischargers or directs those dischargers to file separate Subpart K petitions, the Petitioner requests that the relief limit those dischargers to thermal loading in line with their historical practices.

12. While the Agency does not object to the Petitioner's request that the relief limit the downstream dischargers to thermal loading in line with their historical practices, the Agency sees no need for those downstream dischargers to file separate Subpart K petitions. Additional petitions, even if each relies on MWGen's demonstration with few or no modifications, would result in the unnecessary use of both the Board's and Agency's resources. The Agency believes the Board could successfully condition Petitioner's thermal AEL for regulatory relief for the downstream dischargers.

II. CONCLUSION

13. The Agency requests that the Board grant this Motion and accept the Agency's Reply.

WHEREFORE, for the above and foregoing reasons, the Illinois EPA requests the that the Illinois Pollution Control Board enter an Order granting this Motion for Leave to File a Reply to Midwest Generation, LLC's Response to the Agency's Recommendation and that the Illinois Pollution Control Board accept the Illinois EPA's Reply.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

Dated: June 3, 2020

By: /s/ Sara G. Terranova
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CERTIFICATE OF SERVICE

I, Sara G. Terranova, Assistant Counsel for the Illinois EPA, herein certifies that I have served a copy of the foregoing Notice of Filing and Motion for Leave to File a Reply to Midwest Generation, LLC's Response to the Agency's Recommendation, via electronic mail upon:

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Clerk of the Board
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Dated: June 3, 2020

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