

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 ) AS 2024-006  
PETITION OF MIDWEST GENERATION )  
FOR AN ADJUSTED STANDARD FROM ) (Adjusted Standard – Air)  
35 Ill. Admin. Code Parts 201 and 212 )

**NOTICE OF FILING**

**To:**

Don Brown  
Carol Webb  
Pollution Control Board  
100 West Randolph Street  
James R. Thompson Center  
Suite 11-500  
Chicago, Illinois 60601-3218

Dana Vetterhoffer  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

**PLEASE TAKE NOTICE** that on this day, the 31 day of October, 2024, I caused to be filed with the Clerk of the Illinois Pollution Control Board **MIDWEST GENERATION'S STATUS REPORT AND MOTION TO EXTEND STAY OF PROCEEDINGS**, copies of which are herewith served upon you.

Dated: October 31, 2024

Respectfully submitted,

Midwest Generation, LLC

/s/ Samuel A. Rasche  
One of its Attorneys

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*Attorneys for Midwest Generation*

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**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on this 31 Day of October, 2024: I have electronically served a true and correct copy of Midwest Generation’s Status Report and Motion to Extend Stay of Proceedings by electronically filing with the Clerk of the Illinois Pollution Control Board and by e-mail upon the following persons:

Don Brown  
Carol Webb  
Pollution Control Board  
100 West Randolph Street  
James R. Thompson Center  
Suite 11-500  
Chicago, Illinois 60601-3218

Dana Vetterhoffer  
Division of Legal Counsel  
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1021 N. Grand Avenue East  
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Springfield, Illinois 62794-9276

My e-mail address is [Sam.Rasche@afslaw.com](mailto:Sam.Rasche@afslaw.com).

The number of pages in the e-mail transmission is 7.

The e-mail transmission took place before 5:00 p.m.

/s/ Samuel A. Rasche

Attorney for Midwest Generation

Dated: October 31, 2024

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**MIDWEST GENERATION’S STATUS REPORT AND  
MOTION TO EXTEND STAY OF PROCEEDINGS**

NOW COMES Midwest Generation, LLC (“Midwest Generation”) by and through its attorneys, ArentFox Schiff LLP, and pursuant to 35 Ill. Adm. Code § 101.502 and 101.514, provides this Status Report and Motion to Extend Stay of Proceedings. Midwest Generation requests that the Hearing Officer extend the stay in this proceeding until the United States Environmental Protection Agency (“USEPA”) approves the amendments to 35 Ill. Adm. Code Section 212.214 adopted by the Illinois Pollution Control Board (“Board”) in the rulemaking proceeding in Docket No. R 23-18(A) as a revision to the Illinois State Implementation Plan (“SIP”).

**Status Report**

1. On September 5, 2023, the Illinois Environmental Protection Agency (“IEPA”) filed a *Motion for Stay of Proceedings, or in the Alternative, Motion for Extension of Time to File Recommendation* while the Board considers Midwest Generation’s substantively similar rulemaking proposal in R23-18(A). On September 21, 2023, the Board granted IEPA’s motion to stay the proceedings for 90 days, until December 21, 2023. *Order of the Board* at 2, AS24-06. IEPA filed two subsequent motions to extend the stay of proceedings which were granted by the Hearing Officer on January 4, 2024, and April 25, 2024. On September 16, 2024, the Hearing Officer granted an additional unopposed motion by Midwest Generation to extend the stay of proceedings until October 31, 2024. *Hearing Officer Order*, AS 24-06 (Sept. 16, 2024).

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2. Prior to the most recent extension of stay, the Board issued a final order in the R23-018(A) rulemaking adopting Midwest Generation's proposal and directing the Clerk to submit the adopted rules for publication in the Illinois Register. *Opinion and Order of the Board* at 10, R23-18(A) (Aug. 22, 2024). The adopted rulemaking was published in the *Illinois Register* on September 13, 2024. 48 Ill. Reg. 13539, 13711 (Sept. 13, 2024). The adopted amendments will be submitted to USEPA for approval as revisions to the Illinois SIP. See *IEPA Post-Hearing Comment*, R23-18(A), P.C. #23 at 7 (May 22, 2024). Counsel for IEPA confirmed that, as of the filing of this status report, IEPA has not yet submitted the adopted amendments to USEPA for approval.

### **Request to Extend Stay**

3. Midwest Generation requests that the Hearing Officer extend the stay in this proceeding for six months. While Midwest Generation anticipates that USEPA will ultimately approve the rule amendments adopted by the Board in R23-18(A), keeping this proceeding open and stayed would allow Midwest Generation to retain the ability to pursue its Petition for Adjusted Standard if USEPA ultimately disapproves the rule amendments that are applicable to Midwest Generation's Powerton Generating Station as a revision to the Illinois SIP.

4. Once USEPA formally approves or disapproves the amendments adopted by the Board in R23-18(A), Midwest Generation will have clarity on whether the relief sought in this proceeding is necessary. However, the timeline for USEPA's decision making is unknown. Recognizing the Board's preference against indefinite stays, Midwest Generation requests that the Hearing Officer stay proceedings for six months, at the end of which Midwest Generation will provide an update on the SIP approval process and request further stay if necessary.

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5. The Board recently granted a similar 6-month extension of stay pending USEPA's approval of the Illinois SIP submittal in a similar adjusted standard proceeding. *See*, Hearing Officer Order, AS 24-3 (Sept. 23, 2024).

6. Counsel for Midwest Generation has consulted with counsel for the Agency but did not receive confirmation of whether the Agency has any objections to this motion as of the time of this filing.

WHEREFORE, for the reasons set forth above, Midwest Generation respectfully requests that the Hearing Officer grant this Motion to Extend Stay of Proceedings for six months.

Respectfully submitted,

Midwest Generation, LLC

By: /s/ Samuel A. Rasche

One of its Attorneys

Dated: October 31, 2024

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