

## BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JUL 26 2004

STATE OF ILLINOIS Pollution Control Board

Commonwealth Edison Company	)	
Petitioner,	)	
	)	
	)	PCB No. 04-215
v.	)	(Trade Secret Appeal)
	)	
Illinois Environmental Protection Agency,	)	
Respondent	)	

#### **NOTICE OF FILING**

To: Dorothy Gunn, Clerk

Illinois Pollution Control Board

100 West Randolph

Suite 11-500

Chicago, Illinois 60601

Ann Alexander

Assistant Attorney General and

Environmental Counsel 188 West Randolph Street

Suite 2000

Chicago, Il. 60601

Brad Halloran Hearing Officer Illinois Pollution Control Board 100 West Randolph Suite 11-500 Chicago, Illinois 60601

PLEASE TAKE NOTICE that we have today filed with the Office of the Clerk of the Pollution Control Board Commonwealth Edison Company's Opposition to Consolidation, a copy of which is herewith served upon you.

Chanté D. Spann

Date: July 26, 2004

Byron F. Taylor Chanté D. Spann Sidley Austin Brown & Wood LLP Bank One Plaza 10 S. Dearborn Chicago, Illinois 60603 (312) 853-7000

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#### BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JUL 26 2004

Commonwealth Edison Company, Petitioner	)	STATE OF ILLINOIS Pollution Control Board
	)	PCB 04-215
v.	)	Trade Secret Appeal
	)	
Illinois Environmental Protection Agency,	)	
Respondent	)	
	)	

# COMMONWEALTH EDISON COMPANY'S OPPOSITION TO CONSOLIDATION

Pursuant to the June 17, 2004 order entered by the Illinois Pollution Control Board ("Board") in the above-referenced proceeding, Commonwealth Edison Company ("ComEd") respectfully submits its Opposition to Consolidation of the above-referenced proceeding with PCB 04-216 and hereby states as follows:

- 1. On January 30, 2004, ComEd provided the Illinois Environmental Protection Agency ("IEPA") with a courtesy copy of Final Responses to a United States Environmental Protection Agency Clean Air Act § 114 Information Request ("Final Responses") relating to six coal-fired generating stations formerly owned by ComEd. The Final Responses attached certain confidential business information and trade secrets owned by ComEd, including excerpts from a Continuing Property Record ("CPR") and certain GADs data. The coal-fired generating stations are currently owned by Midwest Generation EME, LLG ("Midwest Generation").
- 2. On March 1, 2004, the IEPA requested that ComEd justify that the articles submitted with its Final Responses are trade secrets exempt from disclosure pursuant to 35 Ill. Admin. Code part 130.
- 3. ComEd submitted a statement of justification to the IEPA on March 11, 2004, setting forth the reasons why the materials constitute trade secrets. Midwest Generation also submitted a statement of justification setting forth the reasons why the excerpts from the CPR are trade secrets. The

IEPA denied trade secret status to the majority of the information covered by the ComEd and Midwest Generation statements of justification.

4. On June 2, 2004, ComEd filed a petition for review of the IEPA's denial of trade secret protection to the excerpts from the CPR and the GADs data. ComEd's appeal is PCB No. 04-215. Midwest Generation filed a petition for review of the IEPA's denial of trade secret protection to the excerpts from the CPR on June 3, 2004. Its appeal is PCB No. 04-216.

5. The Board has directed the companies to address whether PCB No. 04-215 and PCB No. 04-216 should be consolidated. *June 17, 2004 Board Order, at 4.* 

6. ComEd incorporates by reference "Midwest Generation EME, LLC's Opposition to Consolidation," which has, or will be, filed in PCB No. 04-216, for the reasons stated therein. As explained in Midwest Generation's submission, consolidation of PCB No. 04-215 and PCB 04-216 will cause material prejudice, administrative confusion, and inconvenience to each company.

WHEREFORE, Commonwealth Edison Company respectfully requests that the Board maintain PCB No. 04-215 and PCB No. 04-216 as separate and independent proceedings.

Respectfully submitted,

Commonwealth Edison Company

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Attorneys for Commonwealth Edison Company

### **CERTIFICATE OF SERVICE**

I, the undersigned, certify that I have served the attached Notice of Filing and Commonwealth Edison Company's Opposition to Consolidation by U.S. mail on this 26th day of July, 2004 upon the following persons:

Ann Alexander Assistant Attorney General and Environmental Counsel 188 West Randolph Street Suite 2000 Chicago, Il. 60601

Brad Halloran Hearing Officer Illinois Pollution Control Board 100 West Randolph Suite 11-500 Chicago, Il. 60601 Dorothy Gunn, Clerk Illinois Pollution Control Board 100 West Randolph Suite 11-500 Chicago, Illinois 60601

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