

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

In the Matter of:	)	
	)	
	)	
	)	
AMENDMENTS TO 35 ILL. ADM.	)	R2023-018
CODE PARTS 201, 202, AND 212	)	(Rulemaking – Air)
	)	
	)	

**NOTICE OF FILING**

To: Attached Service List

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Illinois Pollution Control Board **MIDWEST GENERATION, LLC’S STATEMENT TO THE BOARD REGARDING ERROR IN THE REVISED SECOND NOTICE, P.C. #18** and a **CERTIFICATE OF SERVICE**, which are attached and copies of which are herewith served upon you.

Dated: May 18, 2023

Respectfully submitted,

Midwest Generation, LLC

/s/ Sarah L. Lode  
One of its Attorneys

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*Attorneys for Midwest Generation, LLC*

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**MIDWEST GENERATION, LLC’S STATEMENT TO THE BOARD  
REGARDING ERRORS IN THE REVISED SECOND NOTICE, P.C. #18**

Midwest Generation, LLC (“MWG”) by its attorneys, ArentFox Schiff LLP, hereby files this comment on the Illinois Pollution Control Board’s (the “Board”) revised Second Notice, as it was submitted to Illinois’s Joint Committee on Administrative Rules (“JCAR”) on May 2, 2023 (“Revised Second Notice”). (P.C. #18 at 4–47.)

MWG respectfully notes for the Board that in its Revised Second Notice, it has incorrectly listed the participants from which it received comments and incorrectly characterized P.C. #14.

The Revised Second Notice summarizes P.C. #14 as follows:

Dynergy (PC 14). Dynergy commented that it opposes IEPA’s proposal while adding that Dynergy can support the proposal if it includes alternative opacity standards for Dynergy’s coal-fired boilers. PC 14 at 1. Dynergy’s comment specifically addressed these proposed alternative standards. PC 14 at 13-26.

(P.C. #18 at 9.) However, P.C. #14 is a joint comment, submitted by both Dynergy and MWG, which are unrelated companies, and the requested relief in P.C. #14 related to both companies’ coal-fired boilers. (See generally P.C. #14.) Accordingly, MWG requests that the Board correct its Revised Second Notice to properly reflect that MWG was a joint commenter to P.C. #14 using the following language:

Dynergy and Midwest Generation (PC 14). Dynergy and Midwest Generation jointly commented that they oppose IEPA’s proposal while adding that Dynergy and Midwest Generation can support the proposal if it includes alternative opacity standards for Dynergy’s and Midwest Generation’s coal-fired boilers. PC 14 at 1.

Dynegy and Midwest Generation's joint comment specifically addressed these proposed alternative standards. PC 14 at 13-26.

Further, MWG respectfully requests that the Board revise and correct a paragraph on page 5 of its Revised Second Notice to reflect that MWG submitted public comment in the rulemaking, as follows (revision shown in bold and underscored):

List of Commenters: In this rulemaking (docket R23-18), the Board received public comment from C23D32 (twice), the Illinois Environmental Regulatory Group (IERG), the Illinois Manufacturers' Association (IMA), the Joint Committee on Administrative Rules (JCAR), the Chemical Industry Council of Illinois (CICI), Citizens Against Ruining the Environment (CARE), the Glass Packaging Institute (GPI), Sierra Club, the Illinois Association of Aggregate Producers (IAAP), the Illinois Attorney General's Office (AG), Dynegy Midwest Generation (Dynegy), **Midwest Generation, LLC (MWG)**, the American Petroleum Institute (API), and the Illinois Environmental Protection Agency (IEPA).

P.C. #18 at 5.

Dated: May 18, 2023

Respectfully submitted,  
Midwest Generation, LLC

/s/ Andrew N. Sawula  
One of its Attorneys

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*Attorneys for Midwest Generation, LLC*

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on this 18th day of May, 2023:

I have electronically served true and correct copies of Midwest Generation, LLC's Statement to the Board Regarding Error in the Revised Second Notice, P.C. #18 by electronically filing with the Clerk of the Illinois Pollution Control Board and by e-mail upon each person listed in the attached service list.

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

The number of pages in the e-mail transmission is 5.

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

/s/ Sarah L. Lode

Sarah L. Lode

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