

ILLINOIS POLLUTION CONTROL BOARD
November 2, 2023

SIERRA CLUB, ENVIRONMENTAL LAW)	
AND POLICY CENTER, PRAIRIE RIVERS)	
NETWORK, AND CITIZENS AGAINST)	
RUINING THE ENVIRONMENT,)	
)	
Complainants,)	
)	
v.)	PCB 13-15
)	(Enforcement – Water, Land)
MIDWEST GENERATION, LLC,)	
)	
Respondent.)	

ORDER OF THE BOARD (by B.F. Currie):

On October 16, 2023, Midwest Generation, LLC (Midwest) filed a motion for extension of time to file the post-hearing briefs (Mot.). On October 20, 2023, Sierra Club, Environmental Law and Policy Center, Prairie Rivers Network, and Citizens Against Ruining the Environment (collectively, Environmental Groups), filed a response in opposition to Midwest’s motion for extension of time (Resp.). The Board grants, in part, Midwest’s motion by extending the deadline to January 18, 2024, from January 4, 2024.

The hearing in this matter concluded on June 15, 2023. The final hearing transcript was filed in the docket on June 22, 2023. On June 22, 2023, the hearing officer issued an order titled “Agreed Post-Hearing Briefing Schedule”. That order set the simultaneous filing of post-hearing briefs deadline at “90 days after the last Board Decision on the Interlocutory Appeals.” Further, that order set the simultaneous filing of responses to post-hearing briefs at 45 days after post-hearing briefs are filed. The parties filed five appeals of evidentiary decisions made by the hearing officer during the hearing. The Board issued an order deciding the five appeals on October 4, 2023. That order set the deadline for post-hearing briefs at 90 days following the issuance of the order – January 4, 2024.

Midwest requests an extension of time to file the post-hearing briefs to March 1, 2024. Midwest says the request is for “good cause because of the scope and complexity of this matter, and due to conflicts in scheduling. Mot. at 2. Further, Midwest says it has consulted with its clients, “who have numerous conflicts in December and early January, including related to the holidays, preventing their availability to sufficiently engage in finalizing MWG’s post-hearing brief. Additionally, MWG’s counsel both have long scheduled commitments and vacations in November and December.” Mot. at 2.

The Environmental Groups oppose the extension of time, arguing that the “existing briefing schedule provides more than enough time for the parties to complete briefing, even if it is lengthy and complex as argued by Respondents.” Resp. at 2. Though the Environmental

Groups oppose the requested extension, in the alternative, they propose an extension of no more than two weeks. Resp. at 4.

Board Discussion and Findings

In its October 4, 2023, order the Board had set the deadline for post-hearing briefs at the agreed-upon schedule of 90 days following the issuance of the order. Presumably the complexity and scope of the briefs were known to the parties when the agreed post-hearing briefing schedule was set five months ago on June 22, 2023. Complainants suggest, and the Board agrees, that it is not unreasonable to extend the deadline by two weeks. The Board therefore sets the deadline for simultaneous post-hearing briefs at January 18, 2024, and the deadline for simultaneous responses at March 4, 2024.

ORDER

1. The Board grants, in part, Midwest's motion for extension of time to file post-hearing briefs.
2. The parties' simultaneous post-hearing briefs are due January 18, 2024.
3. The parties' simultaneous responses are due March 4, 2024.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 2, 2023, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board