

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 16th day of September, 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: September 16, 2024

Respectfully submitted,

Midwest Generation, LLC

/s/ Samuel A. Rasche
One of its Attorneys

Joshua R. More
Amy Antonioli
Samuel A. Rasche
ARENTFOX SCHIFF LLP
233 South Wacker Drive, Suite 7100
Chicago, Illinois 60606
(312) 258-5500
Joshua.More@afslaw.com
Amy.Antonioli@afslaw.com
Sam.Rasche@afslaw.com

Andrew N. Sawula
ARENTFOX SCHIFF LLP
One Westminster Place, Suite 200
Lake Forest, Illinois 60065
(847) 295-4336
Andrew.Sawula@afslaw.com

Attorneys for Midwest Generation

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)

CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 16th day of September, 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
Illinois Environmental Protection Agency
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

My e-mail address is 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: September 16, 2024

Joshua R. More
Amy Antonioli
Samuel A Rasche
ARENTFOX SCHIFF LLP
233 South Wacker Drive, Suite 7100
Chicago, Illinois 60606
(312) 258-5500
Joshua.More@afslaw.com
Amy.Antonioli@afslaw.com
Sam.Rasche@afslaw.com

Andrew N. Sawula
ARENTFOX SCHIFF LLP
One Westminster Place, Suite 200
Lake Forest, Illinois 60065
(847) 295-4336
Andrew.Sawula@afslaw.com

Attorneys for Midwest Generation

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)

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.

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. *See, Order of the Board*, AS24-06 at

2. On January 4, 2024, the Board granted IEPA’s unopposed motion to extend the stay until April 19, 2024. *See, Hearing Officer Order*, AS 24-06. Pursuant to 35 Ill. Adm. Code § 101.514, the Board directed the parties to file a status and any additional requests for stay of the proceedings at the close of stay. *Id.*

2. On April 16, 2024, IEPA filed a Status Report and Motion to Extend Stay of Proceedings (“IEPA Status Report”) and requested that the Board extend the stay of proceedings “for 150 days up to and including September 16, 2024 (or a later date if deemed more appropriate by the Board).” IEPA Status Report at 5. On April 25, 2024, Midwest Generation filed its own status report confirming the information contained in IEPA’s status report and stating no objection to IEPA’s request to extend the stay of proceedings. Midwest Generation Status Report at 5. On

April 25, 2024, the Board granted IEPA's motion and extended the stay until September 16, 2024. See *Hearing Officer Order*, AS 24-06.

3. Since the parties' last status reports, 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). On Friday, September 13, 2024, the Secretary of State published the final rule in the *Illinois Register*.

4. Request to Extend Stay

5. Midwest Generation requests to extend the stay in this proceeding for 45 days to allow time to review the published rule and determine whether to withdraw its Petition. Prior to the close of the 45-day stay, Midwest Generation will either withdraw its Petition or otherwise communicate to the Board how it would like to proceed. Midwest Generation has consulted with counsel for IEPA, and IEPA has no objection to the requested 45-day extension of the stay of proceedings.

6. WHEREFORE, for the reasons set forth above, Midwest Generation requests that the Board grant this unopposed Motion to Extend Stay of Proceedings for 45 days, up to and including October 31, 2024 (or such other date deemed more appropriate by the Board).

Respectfully submitted,

Midwest Generation, LLC

By: /s/ Samuel A. Rasche

One of its Attorneys

Dated: September 16, 2024

Joshua R. More
Amy Antonioli
Samuel A Rasche
ARENTFOX SCHIFF LLP
233 South Wacker Drive, Suite 7100
Chicago, Illinois 60606
(312) 258-5500
Joshua.More@afslaw.com
Amy.Antonioli@afslaw.com
Sam.Rasche@afslaw.com

Andrew N. Sawula
ARENTFOX SCHIFF LLP
One Westminster Place, Suite 200
Lake Forest, Illinois 60065
(847) 295-4336
Andrew.Sawula@afslaw.com

Attorneys for Midwest Generation, LLC