

ILLINOIS POLLUTION CONTROL BOARD  
June 21, 2017

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

**HEARING OFFICER ORDER**

On June 13, 2017, Midwest Generation, LLC (Midwest Gen) filed a motion for extension of hearing date (Mot.). On June 20, 2017, Midwest Gen filed an affidavit in support of the motion pursuant to Section 101.510(b) of the Board's procedural rules. On June 15, 2017, the Sierra Club, Environmental Law & Policy Center, Prairie Rivers Network, and Citizens Against Ruining the Environment (collectively, the Citizen Groups) filed their response (Resp.).

In Midwest Gen's motion and affidavit, it states that Midwest Gen's in-house counsel is unavailable for the scheduled hearing dates of July 17 through July 21, 2017, and that in-house counsel's presence at the hearing is necessary to assist in making decisions. Mot. at 4; Affidavit at 1. Midwest Gen states that it is available for hearing either the week of October 23 through October 27, 2017, or October 30 through November 3, 2017. Affidavit at 1.

In its response, the Citizen Group states that Midwest Gen was aware of the hearing dates five months ago and could have planned around the hearing dates. Rep. at 1. Citing case law, the Citizen Groups argue that the mere existence of a conflict is an insufficient reason to cancel a previously scheduled hearing. Id. at 2.

I find that the unavailability of Midwest Gen's in-house counsel sufficient reason to reschedule the hearing. It is understandable that in-house counsel's presence at the hearing is necessary. I also note that this is Midwest Gen's first request and that the motion is not due to a lack of diligence.

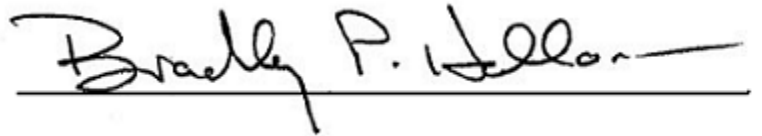
Midwest Gen's motion to extend the hearing is granted. The parties should be prepared at the next status conference to inform me of their availability for hearing from the dates of October 23 through November 17, 2017.

It is also noted that on June 20, 2017, all parties participated in a telephonic status conference with the hearing officer. The parties stated that they continue to discuss proposed

stipulations and authenticity issues. I direct the parties to continue their discussions as counsel for the Citizen Groups stated that there are “hundreds of exhibits”. Counsel for the Citizen Groups stated that she will draft a “witness/exhibit specific list” by July 10, 2017.

The parties or their legal representatives are directed to participate in a telephonic status conference with the hearing officer on June 29, 2017, at 10:00 a.m. The telephonic status conference must be initiated by the complainants, but each party is nonetheless responsible for its own appearance. At the conference, the parties must be prepared to discuss the status of the above-captioned matter and their readiness for hearing.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Bradley P. Halloran". The signature is written in a cursive style and is positioned above a solid horizontal line.

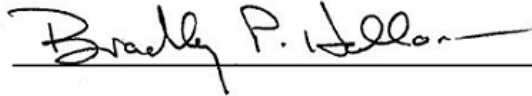
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CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were e-mailed on June 21, 2017, to each of the persons on the service list below.

It is hereby certified that a true copy of the foregoing order was e-mailed to the following on June 21, 2017:

Don Brown  
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A handwritten signature in black ink that reads "Bradley P. Halloran" with a horizontal line underneath.

Bradley P. Halloran  
Hearing Officer  
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@ Consents to electronic service

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