

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MIDWEST GENERATION, LLC – FISK)
GENERATING STATION,)

Petitioner,)

v.)

ILLINOIS ENVIRONMENTAL)
PROTECTON AGENCY,)

Respondent.)

PCB 06-57
(CAAPP Permit Appeal—Air)

MIDWEST GENERATION, LLC – JOLIET)
GENERATING STATION,)

Petitioner,)

v.)

ILLINOIS ENVIRONMENTAL)
PROTECTON AGENCY,)

Respondent.)

PCB 06-58
(CAAPP Permit Appeal—Air)

MIDWEST GENERATION, LLC –)
POWERTON GENERATING STATION,)

Petitioner,)

v.)

ILLINOIS ENVIRONMENTAL)
PROTECTON AGENCY,)

Respondent.)

PCB 06-59
(CAAPP Permit Appeal—Air)

MIDWEST GENERATION, LLC – WILL)
COUNTY GENERATING STATION,)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTON AGENCY,)
)
Respondent.)

PCB 06-60
(CAAPP Permit Appeal—Air)

MIDWEST GENERATION, LLC –)
WAUKEGAN GENERATING STATION,)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTON AGENCY,)
)
Respondent.)

PCB 06-146
(CAAPP Permit Appeal—Air)

MIDWEST GENERATION, LLC – WILL)
COUNTY GENERATING STATION,)
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Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTON AGENCY,)
)
Respondent.)

PCB 06-156
(Permit Appeal—Air)

MIDWEST GENERATION, LLC –)
POWERTON GENERATING STATION,)

Petitioner,)

v.)

ILLINOIS ENVIRONMENTAL)
PROTECTON AGENCY,)

Respondent.)

PCB 07-101
(Permit Appeal—Air)

MIDWEST GENERATION, LLC – WILL)
COUNTY GENERATING STATION,)

Petitioner,)

v.)

ILLINOIS ENVIRONMENTAL)
PROTECTON AGENCY,)

Respondent.)

PCB 08-9
(Permit Appeal—Air)

MIDWEST GENERATION, LLC – FISK)
GENERATING STATION,)

Petitioner,)

v.)

ILLINOIS ENVIRONMENTAL)
PROTECTON AGENCY,)

Respondent.)

PCB 08-18
(Permit Appeal—Air)

MIDWEST GENERATION, LLC –)
WAUKEGAN GENERATING STATION,)
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ILLINOIS ENVIRONMENTAL)
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PCB 08-20
(Permit Appeal—Air)

MIDWEST GENERATION, LLC – WILL)
COUNTY GENERATING STATION,)
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PCB 08-22
(Permit Appeal—Air)

MIDWEST GENERATION, LLC –)
POWERTON GENERATING STATION,)
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ILLINOIS ENVIRONMENTAL)
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PCB 08-23
(Permit Appeal—Air)

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ILLINOIS ENVIRONMENTAL)
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PCB 08-24
(Permit Appeal—Air)

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PCB 10-98
(Permit Appeal—Air)

NOTICE OF ELECTRONIC FILING

To: See attached Service List

PLEASE TAKE NOTICE that on the 22nd day of March, 2016, the Joint Response to Board Question was filed electronically with the Illinois Pollution Control Board, a true and correct copy of which is attached hereto and is hereby served upon you.

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PCB 07-101
(Permit Appeal—Air)

MIDWEST GENERATION, LLC – WILL
COUNTY GENERATING STATION,

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ILLINOIS ENVIRONMENTAL
PROTECTON AGENCY,

Respondent.

PCB 08-9
(Permit Appeal—Air)

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JOINT RESPONSE TO BOARD QUESTIONS

Pursuant to the Hearing Officer Orders dated February 22, 2016, Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, by Lisa Madigan, Attorney General of the State of Illinois, and Petitioner, MIDWEST GENERATION, LLC, by and through its attorneys, hereby submit the following joint response to the Illinois Pollution Control Board's ("Board") questions in the above-referenced cases.

INTRODUCTION

The Hearing Officer Orders directed the parties to respond to questions in the above-captioned appeals. Below are the parties' responses for each of the relevant facilities.

I. Fisk Generating Station, PCB 06-57 and PCB 08-18

PCB 06-57 is the appeal of the 2005 Clean Air Act Permitting Program ("CAAPP") permit for Fisk Generating Station. PCB 08-18 is the appeal of a 2007 construction permit for Fisk Generating Station. The Board has directed the parties to provide a response to the following questions: "How does petitioner's intention to rely on non-coal fired generating capacity at the Fisk facility impact permit negotiations...and what is the estimated timeframe for the resolution of th[ese] appeal[s]...?"

The CAAPP permit for the Fisk facility was issued when the facility was still combusting coal to generate electricity, and thus it contains numerous permit conditions that address requirements related to coal. The facility no longer combusts coal to generate electricity, although other fossil fuel-fired peaker operations continue at this facility. Accordingly, the coal related provisions of the CAAPP permit are no longer relevant to current operations, including many conditions that are at issue in the appeals. Similarly, the construction permit at issue in PCB 08-18 concerned pollution control equipment for the coal-fired boiler. The parties are discussing this fundamental change to the facility, its impact on the permits and permit negotiations and how to address needed permit changes for future operations that do not include coal. The parties anticipate the Illinois Environmental Protection Agency issuing a CAAPP permit reflecting current operating conditions at the facility by the end of this year or in 2017. Petitioner anticipates that, shortly after CAAPP permit issuance and expiration of any permit challenge periods, it will move to voluntarily dismiss the appeals.

II. Joliet Generating Station, PCB 06-58 and PCB 08-24

PCB 06-58 is the appeal of the 2005 CAAPP permit for Joliet Generating Station. PCB 08-24 is the appeal of a 2007 construction permit for Joliet Generating Station. The Board has

directed the parties to provide a response to the following questions: "how does the transition from coal to non-coal as a fuel source at the Joliet facility change the permitting negotiations; are certain issues resolved due to that transition; are there new issues to negotiate due to that transition; and what is the estimated timeframe for the resolution of th[ese] appea[s]?"

The CAAPP permit for the Joliet facility was issued when the facility was combusting coal to generate electricity, and thus it contains many permit conditions that address requirements related to coal. Under a recently adopted state rule, Joliet Units 6, 7 and 8 must cease combusting coal by the end of 2016, although those units may thereafter combust other fuels. Accordingly, the coal related provisions of the permit will no longer be relevant to operations after the end of this year, including many conditions that are at issue in the appeals. Similarly, the construction permit at issue in PCB 08-24 concerned pollution control equipment for the coal-fired boiler.

Pursuant to a construction permit, the Petitioner is in the process of making physical changes to the facility to enable the combustion of non-coal fuels. The parties are discussing these fundamental changes to the facility, their impact on its permits and how to address needed permit changes for future operations that do not include coal. The parties anticipate the Illinois Environmental Protection Agency issuing a CAAPP permit reflecting up-to-date operating conditions at the facility as early as 2017. Petitioner anticipates that shortly after issuance of the CAAPP permit and expiration of any permit challenge periods, it will move to voluntarily dismiss the appeals.

III. Powerton Generating Station, PCB 06-59, PCB 07-101 and PCB 08-23

PCB 06-59 is the appeal of the 2005 CAAPP permit for Powerton Generating Station. PCB 07-101 and PCB 08-23 are appeals of 2007 construction permits for Powerton Generating

Station. The Board has directed the parties to provide a response “to the question of the estimated time frame of the resolution of th[ese] appeal[s]....”

The parties state that the Petitioner filed a Motion for Voluntary Dismissal on March 2, 2016 in PCB 06-59. The parties state that they are collaboratively working toward the goal of the Illinois Environmental Protection Agency issuing revised construction permits in connection with the appealed construction permits by the end of this year. Petitioner anticipates that, shortly after issuance of the revised construction permits and expiration of any permit challenge periods, it will move to voluntarily dismiss the appeals.

IV. Will County Generating Station, PCB 06-60, PCB 06-156, PCB 08-9, PCB 08-22 and PCB 10-98

PCB 06-60 is the appeal of the 2005 CAAPP permit for Will County Generating Station. PCB 06-156 is the appeal of a 2006 construction permit for Will County Generating Station. PCB 08-9 and PCB 08-22 are the appeals of 2007 construction permits for Will County Generating Station. PCB 10-98 is the appeal of a 2010 construction permit for Will County Generating Station. The Board has directed the parties to answer the following questions: “How would closure of the Will County Unit 4 affect the permitting negotiations in [PCB 06-60] and the related PCB 9-6 and PCB 13-13 appeals; and what is the estimated timeframe for resolution of th[ese] appeal[s]”? The parties assume the Board intended to reference PCB 06-156, PCB 08-9, PCB 08-22 and PCB 10-98 as the appeals related to PCB 06-60 and answers accordingly.

Petitioner has submitted a deactivation notice for Will County Unit 4 to PJM Interconnection, LLC. At this time, however, the petitioner is under no obligation to close this unit and the petitioner continues to assess whether the unit will continue to operate and, if so, in what manner. In the event Will County Unit 4 is retired, it may not be necessary to conclude negotiations of these appeals and the Petitioner may move to voluntarily dismiss these appeals.

V. Waukegan Generating Station, PCB 06-146 and PCB 08-20

PCB 06-146 is the appeal of the 2006 CAAPP permit for Waukegan Generating Station. PCB 08-20 is the appeal of a 2007 construction permit for Waukegan Generating Station. The Board has directed the parties to provide a response “to the question of the estimated time frame of the resolution of th[ese] appeal[s]....”

The parties state that they are collaboratively working toward the goal of the Illinois Environmental Protection Agency issuing modifications by the end of this year to the CAAPP permit and issuing a revised construction permit for Waukegan Generating Station. Petitioner anticipates that, shortly after issuance of the permit modifications and revised permit and expiration of any permit challenge periods, it will move to voluntarily dismiss the appeals.

CONCLUSION

The parties continue to work diligently to resolve these complex permit appeals and to achieve the common goal of effective, up-to-date operating permits for these plants, and will continue to participate in periodic status conferences with the Board Hearing Officer.

Respectfully submitted,

MIDWEST GENERATION, LLC

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY
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General of the State of Illinois

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Environmental Enforcement/
Asbestos Litigation Division

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Dated: March 22, 2016

CERTIFICATE OF SERVICE

I, RYAN G. RUDICH, an Assistant Attorney General, do certify that I caused to be served this 22nd day of March, 2016, the attached Notice of Electronic Filing and Joint Response to Board Questions on the parties named on the attached service list by placing a true and correct copy in first class postage prepaid envelopes and depositing same with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois, at or before the hour of 5:00 p.m.



RYAN G. RUDICH

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

By: _____



RYAN G. RUDICH
Assistant Attorney General
Environmental Bureau
69 W. Washington, 18th Floor
Chicago, Illinois 60602
(312) 814-1511

DATE: March 22, 2016

SERVICE LIST

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