

Air pollution lawsuit: Federal and state lawyers sue Midwest Generation over Illinois power plant emissions

Midwest Generation is discharging noxious smoke at 6 sites, lawyers say

By Michael Hawthorne

Tribune reporter

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From the outside, the power plant that towers above Chicago's Pilsen neighborhood looks like a sooty relic from the early part of the last century.

The Fisk plant has been burning coal to generate electricity on the Near West Side since 1903. But federal and state lawyers alleged Thursday that its internal parts -- the massive boiler, steam chest and turbine -- have been repeatedly upgraded without the modern pollution controls required under the Clean Air Act.

By steadily replacing worn out equipment, a lawsuit filed in U.S. District Court alleges, owner Midwest Generation kept Fisk and five other power plants operating well past the time when they otherwise would have been closed. The noxious smoke churning out of the plants makes them some of the biggest contributors to dirty air in the Chicago area, according to federal records.

The 75-page lawsuit marks a renewed effort by the Obama administration to crack down on emissions from coal-fired power plants, an undertaking that languished under former President George W. Bush. Coal plants are major sources of heat-trapping carbon dioxide, toxic mercury and other pollutants that create lung-damaging soot and smog.

Besides the Fisk plant, the suit cites the Crawford plant in Chicago's Little Village neighborhood, and plants in Joliet, Romeoville, Waukegan and Downstate Pekin.

Targeted repeatedly by neighborhood activists and environmental groups, the Midwest Generation plants have avoided anti-pollution regulations for years, in part because federal regulators assumed decades ago that the aging generators would have been scuttled by now. In 2001, a Harvard School of Public Health study estimated the Fisk and

Crawford plants alone are responsible for 2,800 asthma attacks, 550 emergency room visits and 41 early deaths every year.

Four years later, Illinois Atty. Gen. Lisa Madigan documented thousands of pollution violations at the power plants. She joined the lawsuit filed Thursday by the U.S. Justice Department on behalf of the U.S. Environmental Protection Agency.

"I am very concerned about the negative health effects that these aging plants have on the people who live in the communities where the Midwest Gen facilities are located," Madigan said.

Company officials contend the problems outlined in the complaint are being addressed. Under a 2006 deal with the Illinois EPA, Midwest Generation agreed to clean up or close its coal plants by 2018. The federal lawsuit could force the company to upgrade or close its plants faster.

In a statement, the company called its agreement with the state "as tough or tougher" than settlements the federal government has brokered with other power companies. Emissions by 90 percent by 2015, and emissions of sulfur dioxide, an ingredient in smog and acid rain, by 84 percent by 2018, it said.

"While we remain open to exploring settlement of this complaint, we have a progressive record of environmental performance and leadership that we will be prepared to vigorously present and defend," the company's statement said.

Midwest Generation, a subsidiary of California-based Edison International, bought the six plants in 1999 from ComEd, which is not cited in the complaint. The lawsuit says the refurbished coal burners illegally emit large amounts of sulfur dioxide, nitrogen oxide and particulate matter, commonly known as soot.

Carbon dioxide isn't addressed in the complaint, though combined the Midwest Generation plants are the state's largest industrial source of the greenhouse gas. Congress is debating regulations to combat climate change that would for the first time limit emissions.

Midwest Generation is the third power company to face tougher scrutiny from the EPA under President Barack Obama. During the Clinton administration, the agency realized many old coal plants across the nation had been modified and expanded so many times that they should be considered new plants and forced to comply with modern pollution standards.

The federal EPA later sued a half dozen companies under New Source Review, a provision of the Clean Air Act that requires upgraded pollution controls when power plants undergo major modifications. The Bush administration allowed those cases to move through the courts but generally declined to file additional complaints prepared by EPA staff.

Federal regulators have negotiated settlements with several other power companies. A coalition of environmental groups last month threatened to go to court to force the government to take similar action against Midwest Generation.

"If they are polluting now and breaking the law, they should be cleaning up now," said Brian Urbaszewski, director of environmental health for the Respiratory Health Association of Metropolitan Chicago.

mhawthorne@tribune.com

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