



Chicago Clean Power Coalition

Revised December 2011

Common Questions About the Clean Power Ordinance

Does Chicago have the authority to regulate air pollution?

Chicago and other municipalities have home rule authority to enact ordinances that protect the health and well-being of their citizens. Chicago's home rule authority to address air pollution already has been demonstrated by the adoption of its Air Quality Ordinance that covers air pollution.

Isn't the federal government supposed to regulate coal plants?

The Clean Air Act regulates air pollution, but delegates implementation of the law to the states. States always have been allowed to have stricter regulations than those specified in the Clean Air Act. By the same token, the City also has the authority to regulate air pollution, especially those pollutants that have a disproportionate local impact and have not been fully or adequately addressed at the state and federal level.

Is there legal precedent for this ordinance?

Chicago has the authority to pass an ordinance covering air pollution from local coal plants but we haven't found any city in the nation that's enacted an ordinance like this. The ordinance gives Chicago the opportunity to set an example for the nation as we move toward better public health, cleaner energy and a healthier environment.

The need for Chicago to take this action is greater than that of any other city in the country. Chicago is the only major urban area with not just one, but two coal plants within city limits. There are a few other minor urban areas in the country that have two coal plants within their limits. However all of these cities (e.g., Denver, Colorado; Cleveland, Ohio; and Lansing, Michigan) are much smaller and less densely populated than Chicago, and fewer people live around coal plants in these cities than live near Chicago's coal plants. Furthermore, many of these coal plants are smaller than Fisk and Crawford, and most have much less pollution coming out of them.

How is this different than the last coal plant ordinance that was introduced?

On July 28, 2011 Alderman Joe Moore (Ward 49) and Alderman Danny Solis (Ward 25) re-introduced the Chicago Clean Power Ordinance to Chicago's City Council. This is the same ordinance that was introduced to the City Council in April 2010. As before, the ordinance requires Fisk and Crawford to reduce their emissions of particulates by 90% and carbon dioxide by 50%. Since it was first introduced in April, the ordinance has gained substantial grassroots support and a majority of Chicago aldermen are now signed on as cosponsors.

Didn't the State adopt regulations covering pollution from Fisk and Crawford?

In 2006, the State of Illinois adopted regulations covering mercury, NOx and SO2 emissions from coal plants. At that time, Edison International's subsidiary Midwest Generation (owner and operator of Fisk and Crawford) entered into an agreement with the State consenting to those regulations.

Unlike the State agreement, the proposed Chicago Clean Power Ordinance covers PM/PM10/PM2.5 and CO2. Research in recent years has demonstrated that fine particulate matter (PM2.5) has the worst effects on cardiopulmonary health. Also, in recent years the awareness surrounding global warming has rapidly grown and the need to reduce CO2 pollution to combat climate change has become more pressing. For instance, in 2009, the US EPA found that carbon dioxide and other greenhouse gases threaten the public health and welfare of current and future generations. This ordinance addresses major local sources global warming not addressed at by the federal government in addition to the particulate matter not covered by the State agreement.

Chicago Clean Power Coalition

www.cleanpowerchicago.org • info@cleanpowerchicago.org

Will the Mayor support it?

Mayor Emanuel said he worked on the proposal with Ald. Joe Moore (Ward 49), a lead sponsor of the Chicago Clean Power Ordinance. While the mayor stopped short of endorsing its passage, he issued a message to top officials at Edison International/Midwest Generation, which owns the plants: “We are paying a health care cost as a city because of” the plants, he said. “I want them as a company to be a responsible citizen to the people of the city of Chicago.”

“I’m happy there are jobs there. I got that, but those jobs should not come at the expense of the public health cost to our children and to our taxpayers. And I’m planning on having that conversation with them.” The mayor previously has stated he wants Edison/Midwest Generation to either install equipment to dramatically reduce pollution or convert to natural gas.¹

Won’t this ordinance force Midwest Generation to shut down the coal plants?

Some coal power plants have been closed in recent years when low electricity prices and needed pollution controls designed to protect the public combined to make plants uneconomical to run. Every month the plants in Chicago operate, pollutants they emit lead to an average of three to four deaths and scores of asthma attacks. Responsible businesses either make the necessary investments to prevent such harm to their neighbors or they cease operating dangerous facilities.

Midwest Generation refuses to guarantee that the Fisk plant will remain open beyond 2015 or that the Crawford plant will remain open at the end of 2018. According to the 2006 agreement with the State of Illinois, Edison/Midwest Generation must either have installed additional controls for sulfur dioxide emissions on Fisk and Crawford by 2015 and 2018, respectively, or shut down. Their own 2010 SEC filings indicate that the company plans to defer decisions about installing pollution controls for the “maximum time available.” Meanwhile, recent press accounts note that an agreement reached between the company and Mayor Emanuel would have closed the plants as early as 2012 and 2014. The fact that a wind energy sale was connected to that agreement does not diminish the fact that MWGen was planning to quickly close the old coal plants.

If the plants shut down, what will this do to electric rates in Chicago?

If Edison/Midwest Generation chose to close Fisk and Crawford, our lights would stay on and our bills would not change. ComEd, which provides power for almost all Chicago residents and businesses, does not currently buy power from Fisk and Crawford. Our electricity comes from a regional and national power market — not a specific plant— and prices are determined by demand, the market price of coal and natural gas, power purchase agreements and other factors. ComEd also has transmission capability to provide power from other sources, bypassing the need for the Chicago coal plants to generate power here.

What’s the effect on jobs?

Jobs are dependent on how the company decides to comply with the ordinance. The Chicago Clean Power Coalition has advocated a jobs transition / training component in the Clean Power Ordinance in order to protect workers. This is more of a “right to work” guarantee than the Edison/Midwest Generation has offered its employees and is supported by SEIU, the largest union in Illinois.

What difference will one city make in reducing global warming pollution?

The ordinance would reduce CO₂ pollution by approximately 2.5 million metric tons per year, which is equivalent to taking 500,000 cars off the road! This is a huge and necessary step towards meeting Chicago’s goals to reduce global warming pollution as presented in the City’s 2007 Chicago Climate Action Plan, which calls for repowering both of these plants. Passing the Chicago Clean Power Ordinance would enact pollution limits that protect our climate and set an example for the rest of the country at a time when state and federal governments have failed to act to address climate change.

Can the plants just run less often to meet the ordinance requirements?

The ordinance sets a rate-based emission standard, meaning that for every unit of electricity produced, the plant is only allowed to emit so much pollution. In other words, the ordinance would ensure that no matter how many hours the plants operate, at every moment they are on they will be emitting far less pollution than they are emitting now.

Midwest Generation states that they've already made big strides in cleaning up pollution from their coal plants. Why should they be required to do more?

The Illinois Attorney General's office has documented hundreds of ongoing soot violations at the two plants, based on company-supplied data. A federal lawsuit filed in 2009 by the Justice Department on behalf of the EPA and the state of Illinois Attorney General's Office accuses Midwest Generation and ComEd of modifying and rebuilding the plants to such an extent that they should be considered new plants and forced to comply with modern pollution standards. Permanent pollution reductions MWGen has made at the two plants have directly followed from strong emission control requirements.

Will Chicago get face a lawsuit if City Council passes this ordinance?

Midwest Generation would likely sue the City challenging its home rule authority to pass this ordinance. Midwest Generation has consistently used litigation to obstruct and delay any governmental attempts to require modern pollution controls at the company's facilities.

However, it is doubtful that such a challenge would be successful. The Illinois Constitution provides strong protection of home rule municipalities' authority to enact ordinances that protect the health and well-being of their citizens. While there have been two isolated cases that muddy the waters on home rule authority regarding environmental regulations, the Supreme Court has trended in the direction of granting strong protection to municipalities' home rule authority and only allowing preemption where the legislature expressly states that intent. Finally, Chicago's home rule authority to address air pollution has already been demonstrated by Chicago's adoption of its Air Quality Ordinance that covers air pollution.

U.S. EPA is adopting a Power Plant Air Toxics Rule. How will that impact the ordinance?

EPA's rule is designed to limit toxic acid gases and heavy metals such as lead, cadmium and arsenic now emitted by coal power plants. It would require coal plants nationwide to install minimal pollution controls to control toxic gases and would likely require such plants to control emissions of particulate matter ash that carries toxic heavy metals into neighboring communities. But the federal rule would not require action for at least three years, extensions allowing pollution to continue can be granted, and this rule could be litigated, resulting in more years of delay. Emission limits in the ordinance are significantly stricter and are fully in force within two years. In other words, the federal proposal is less protective and allows pollution for years longer than the ordinance.

Don't we have to worry about EPA rules causing power shortages over the next several years?

While some older and uneconomic coal plants in the Midwest may close, Illinois is a net exporter of electricity and has and will continue to have more than adequate generation capacity. New long-term, reliable and low cost sources of natural gas, the growing adoption of energy efficiency by industry and consumers that reduces energy demand, and the Illinois renewable portfolio standard requiring that 25% of the power used in Illinois by 2025 must come from clean renewable energy sources, are already contributing to a shift towards cleaner electricity sources that will pollute far less, create good jobs and provide for our energy needs.

¹ Dardick, Hal. Emanuel, aldermen send message to Chicago coal-fired power plants. Chicago Tribune. July 28, 2011.