

# 8 FACTS:

## LATEST PROPOSED REVISIONS TO ILLINOIS EPA'S MULTI-POLLUTANT STANDARDS (MPS) PROPOSAL

**1** The electricity market and Vistra's subsidiaries' downstate Illinois generating fleet have changed dramatically due to plant mergers and acquisitions, retirements, and regulatory changes. In 2017, the Illinois EPA proposed a rule change that would replace two sets of annual emission rate limits governing eight downstate plants with a single set of more stringent annual tonnage caps, while adding new provisions designed to further protect the environment and public health. In October 2018, the Illinois Pollution Control Board issued a unanimous order modifying the originally proposed rule and requesting additional comment on its proposal.

**2** The Board's proposed rule combined the remaining eight downstate MPS plants into one MPS group, imposed a mass cap on SO<sub>2</sub> and NO<sub>x</sub>, and required additional reductions in the case of a plant sale, suspension, or retirement. The revisions also impose a new SO<sub>2</sub> cap on the Joppa facility, a new ozone season NO<sub>x</sub> limit on five plants, and new year-round operating requirements relating to certain NO<sub>x</sub> controls.

**3** In March 2019, IEPA suggested further revisions to the rule, designed to address the remaining concerns expressed by the Illinois Attorney General and several environmental groups. In order to facilitate an end to the extended rulemaking process and achieve the regulatory relief it needs, Vistra, on behalf of its subsidiaries, has agreed to accept IEPA's proposed revisions. IEPA's proposed revisions would ratchet down annual emissions caps and the cap reductions associated with plant sale, suspension, or retirement even further. IEPA's revisions would also require that Vistra begin a process to permanently shut down at least 2,000 MW from the MPS-impacted plants.

**4** The U.S. EPA and the IEPA evaluate the ability of air pollution control rules to protect public health and the environment based on allowable emissions. The IPCB order applies the standard of allowable emissions and holds

that local public health and local air quality standards will remain protected under the new MPS rule and multiple other laws. IEPA's new revisions would go even further, resulting in a 42 percent reduction in allowable annual NO<sub>x</sub> emissions and a 48 percent reduction in allowable annual SO<sub>2</sub> emissions.

**5** Vistra supported the IEPA's initial MPS proposal and accepts the more stringent emission limits, and other additional requirements, proposed by IPCB, as well as those suggested by IEPA, in order to move forward with more operating flexibility and more regulatory and environmental certainty.

**6** IEPA's proposal builds on the trend of lower emissions from Vistra's Illinois subsidiaries' fleet over the last two decades— an SO<sub>2</sub> reduction of 90 percent, with significant reductions in NO<sub>x</sub> and other emissions.

**7** Under the Clean Air Act, the National Ambient Air Quality Standards are established to protect public of health, with a margin of safety. Both IEPA and IPCB determined that the proposed changes to the MPS will not interfere with the attainment or maintenance of any NAAQS, protecting public health.

**8** The regulatory certainty provided from a revised and approved MPS will give Vistra, through its subsidiaries, an opportunity to create a viable integrated power business in Illinois under very challenging economic and market conditions and hopefully allow for the continuation of economic benefits to downstate communities, counties, school districts through thousands of direct and indirect jobs, millions in household earnings, and millions in state and local tax revenues.



## ■ Why does Vistra accept IEPA's proposal to further reduce the emission caps and retire at least 2000 megawatts?

Vistra accepts IEPA's proposal in order to allow for a timely decision which will create much needed regulatory certainty and operational flexibility, while at the same time providing more stringent environmental protections.

The MPS proposal would replace two sets of annual emission rate limits (associated with the DMG and Ameren legacy plants) with a single set of specific annual tonnage limits. This represents a streamlined regulatory compliance approach that is consistent with other power plant regulations. This simplifies emission calculations that are needed to monitor compliance.

In terms of restoring operational flexibility, the MPS rule change would remove the need for Vistra's subsidiaries to run units that would otherwise not be dispatched as frequently by MISO, the federally mandated grid operator. It's a simple matter of the rule not having adapted to keep up with an evolving downstate power market and consolidation of ownership of these plants. The rule needs to be re-balanced to promote unit dispatch based upon the cost of generation and offers the added benefit of imposing tougher allowable limits. The IPCB order notes that the proposal would allow for economic and rational dispatch of units.

## ■ Is the claim of reduced allowable emissions real?

Yes. Opponents to the original IEPA proposal were quick to point out that a 55,000-ton annual SO<sub>2</sub> cap was more than what the plants recently emitted, while conveniently ignoring the fact that these plants can and are authorized to emit more than 66,000 tons of SO<sub>2</sub> annually under the current MPS rule.

Recent electricity production has been lower than normal due to external factors including the weather, the economy, natural gas prices, and scheduled and unscheduled plant outages. The IEPA had proposed an alternative revised SO<sub>2</sub> annual cap of 49,000 tons attempting to address concerns raised by the Illinois Attorney General's Office. The IPCB proposed an even lower, annual tonnage cap of 44,920 on SO<sub>2</sub> and 22,469 on NO<sub>x</sub>, and further reductions in the case of retirement or suspended operation of units. Then, in March 2019, IEPA went further still, and suggested caps of 34,500 tons SO<sub>2</sub> and 19,000 tons NO<sub>x</sub>.

The plants emitted approximately 60,000 tons of SO<sub>2</sub> as recently as 2014. We accept IEPA's proposed caps of 34,500 tons of SO<sub>2</sub> and 19,000 tons of NO<sub>x</sub> and IEPA's other suggested revisions because we can obtain regulatory certainty and more streamlined rules. The reduction of allowable SO<sub>2</sub> and NO<sub>x</sub> emissions under the MPS proposal, especially as modified by IEPA, would be real and significant.

## ■ Is Vistra supporting the MPS proposal just to avoid new investments in emission control technology?

No, as noted in the IPCB order, the MPS rule has never required the installation of any controls and does not restrict Vistra's subsidiaries from employing any specific method to reach required emission rates. The order specifically rejects such claims. No investment in new emission control technology is needed to meet the current or proposed revisions to the MPS rule.

## ■ What is the financial basis for Vistra's support for the proposal? Is the Illinois fleet cash positive?

Vistra's support for the IEPA's original proposal as initially amended by IPCB, and later by IEPA, is not based on the overall financial position of its subsidiaries. Rather, Vistra supports the proposal because it will restore operational flexibility for its subsidiaries and eliminate the need to run individual units at a loss for MPS compliance reasons and is more protective of the environment than the prior rule. Without the approval of the proposed MPS the Illinois fleet would have more unprofitable power plant units as the uneconomic units are dragging down the economic units. The Vistra subsidiaries must run profitably.

## ■ Is the MPS rule a bailout for Vistra's Illinois coal fleet?

No, revisions to the MPS are important for environmental regulation and operational flexibility. Illinois' downstate energy fleet, regardless of fuel source, continues to face substantial challenges from a flawed capacity market design and low power prices.

Notably, MISO, the federally mandated and regulated, grid and resource adequacy manager for much of downstate, has called upon the State of Illinois to fix the capacity market design to protect future resource adequacy. The

MPS revisions, while helpful, do not address these fundamental market issues. In the end, decisions will need to be made regarding the viability of its power plant fleet in Illinois with or without a revised MPS. A revised MPS, as proposed, will benefit Illinois and its citizens by reducing overall power plant emissions and providing an optimal path for Vistra, through its subsidiaries, to build an economically viable business while contributing tax revenues and employment.

## ■ Is Vistra planning to use the MPS rule to close its lowest emitting plants?

IEPA's proposed revisions require the retirement of at least 2,000 MW. No units have been identified at this time to meet this requirement. Adopting the MPS proposal, however, will reduce some of the economic pressure on the Illinois fleet and is likely to reduce the number of units under threat of shutdown. However, this is no fix for the fundamental capacity market flaws and low power prices in the downstate energy market. Any retirement decisions will be made on a unit-by-unit basis. The retirement decision will follow two key criteria in this order: 1) retire at least 2,000 MW as promulgated by the proposed IEPA rule and 2) select uneconomic plants consistent with federal energy regulations and market rules.