

ILLINOIS POLLUTION CONTROL BOARD
October 24, 1985

PEOPLE OF THE STATE OF ILLINOIS,)
)
 v.) PCB 83-222
)
 COMMONWEALTH EDISON COMPANY,)
 (Certification No. 21RA-ILL-)
 WPC-83-34))

OPINION AND ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on remand from the Circuit Court of Cook County (No. 83-L-53339) of the tax decertification of the Dresden Sewage Treatment Plant No. 1. In the hearing held in this matter in 1983, Commonwealth Edison Company ("Edison") admitted that this facility fell within par. 502a-2(c) of the Illinois Revenue Act of 1939 (Ill. Rev. Stat. 1983, ch. 120, par. 502a-2(c) as a "device . . . for sewage disposal or treatment." However, Edison reserved objections to decertification of this facility based on procedural infirmities and constitutional grounds. The procedural infirmities have been cured by rehearing in this matter. As to the constitutional objections, the Board wishes to reiterate the position stated in its December 28, 1983 Opinion in this matter:

"The Board does not find this to be an appropriate case for adjudication by the Board of the constitutionality of this legislative enactment. The arguments accepted by the Board in Santa Fe supporting its resolution of a constitutional challenge to an enactment altering the enforcement mechanism of the Environmental Protection Act are inapplicable here. They do not persuade the Board that it should enter the arena of taxation law to consider the constitutionality of a tax benefit provision of the Revenue Act."

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

The Board hereby revokes Tax Certification No. 21RA-ILL-WPC-83-34.

IT IS SO ORDERED.

B. S. Forcade and J. T. Meyer concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 24~~th~~ day of October, 1985, by a vote of 7-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board