ILLINOIS POLLUTION CONTROL BOARD
April 16, 1981

CENTRAL ILLINOIS UTILITY CO.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 80-234
	)	
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

This matter comes before the Board on the petition filed December 31, 1980 as amended January 29, 1981 for extension of the variance from the 2.0 mg/l fluoride limitation of Rule 304 of Chapter 6: Public Water Supply which was granted in Central Illinois Utility Co. v. IEPA, PCB 77-349, 30 PCB 32 (April 13, 1978). The Illinois Environmental Protection Agency (Agency) filed its Recommendation in support of grant of the extension January 16, 1981. Hearing was waived and none has been held.

Pursuant to a certificate of public convenience and necessity, granted by the Illinois Commerce Commission (ICC), the Central Illinois Utility Co. (the Company) provides water service to the Oak Run Development, a subdivision located near Dahinda in Knox County, Illinois. The water needs of its 170 users are currently being supplied from a single deep well, although the Company anticipates construction of a second well in the near future. The raw and the finished water from the existing well contains approximately 2.5 mg/l fluoride and the water of the proposed second well would likely contain excess fluoride. (Knox County has been identified by the Illinois State Water Survey as the county containing the most water supply systems exceeding the 2.0 mg/l fluoride limitation, as the raw water contains fluoride in levels ranging from 2.2 mg/l to 8.0 mg/l.)

The Company's consulting engineers have recommended that of the various central fluoride removal processes available, that the activated alumina adsorption process would be the least costly. Installation of the necessary equipment to treat the water from the existing well would involve a capital expenditure of $127,860. Yearly operation and maintenance costs of $28,000, in combination with other treatment related expenses, will impose additional yearly revenue requirements of $61,248. If the waters of the proposed second well need treatment, additional capital and operating costs would necessarily be imposed (Pet. 4, Ex. B, C).

The Company provides a balance sheet and income statement to support its assertion that it has insufficient cash or income to finance installation of the system, and provides the Board with no figures or plan whereby the initial capital expenditure could be financed. The Company does state that if system installation were to be required and somehow financed, and the ICC were to refuse to allow the additional annual revenue requirements to be passed on to the Company's customers, that the Company would suffer a net annual loss of $43,685. If, however, ICC approval were received for rate increases to pass on the annual revenue requirement, each of the 170 customers would be assessed an additional $360 yearly (Pet. 4-5, Ex. D-F). The Board noted in its prior opinion that in 1978, customers were yearly paying $60 for water service (30 PCB at 32). In summary, the Company believes that immediate compliance would impose an arbitrary or unreasonable hardship on itself and its users.

The Agency agrees with the facts as presented by the Company, including the Company's assertion that the health of its customers will not be endangered by consumption of water containing fluoride at the 2.5 mg/l concentration level. The Agency accordingly recommends grant of variance until January 1, 1984, the recently extended deadline date for exemptions under Section 1416 of the Safe Drinking Water Act (SDWA), 42 USC 300(g)-5.

The Board finds that the Company has demonstrated that denial of variance would impose an arbitrary and unreasonable hardship. The situation of the very small system distributing water with excessive fluoride has changed little since the Board comprehensively addressed the problem in Village of Altona, PCB 80-74 (July 10, 1980), despite the extension of the SDWA exemption deadline: treatment technologies and the fluoride standard itself continue to remain in a state of flux. Variance is therefore granted for a five-year period, subject to the conditions outlined in the attached Order.

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

ORDER

1. Petitioner, the Central Illinois Utility Co., is granted a variance from the 2.0 mg/l maximum fluoride concentration limit of Rule 304(B) of Chapter 6: Public Water Supply for five years, subject to the following conditions:

A. Beginning on or about June 1, 1981, and at six month intervals thereafter, the Petitioner shall communicate with the Agency to ascertain whether fluoride removal techniques specifically applicable to small systems have been developed and identified.

B. As expeditiously after identification of a feasible compliance method as is practicable, but no later than January 1,

1984, Petitioner shall submit to the Agency a program (with increments of progress) for bringing its system into compliance with fluoride standards.

C. Petitioner shall take all reasonable measures with its existing equipment to minimize the level of fluoride in its finished water and shall not allow the fluoride concentration to exceed an average of 4.0 mg/l.

D. Pursuant to Rule 313(D)(1) of Chapter 6, on or before June 30, 1981 and every three months thereafter, Petitioner will send to each user of its public water supply a written notice to the effect that Petitioner has been granted a variance from the 2.0 mg/l maximum fluoride standard by the Pollution Control Board. The notice shall state the average content of fluoride in samples taken since the last notice period during which samples were taken.

2. Within forty-five days of the date of this Order, Petitioner shall execute and forward to the Illinois Environmental Protection Agency, PWS Enforcement Programs, 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of the certificate shall be as follows:

CERTIFICATE

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 80-234, dated _____, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

_____
Petitioner

_____
By: Authorized Agent

_____
Title

_____
Date

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 16th day of April, 1981 by a vote of 5-0.

Christan L. Moffett, Clerk
Illinois Pollution Control Board