

ILLINOIS POLLUTION CONTROL BOARD
May 24, 1979

COMMONWEALTH EDISON COMPANY,)
)
) Petitioner,)
))
) v.) PCB 79-51
))
ENVIRONMENTAL PROTECTION AGENCY,)
))
) Respondent.)

OPINION AND ORDER OF THE BOARD (by Mr. Dumelle):

Petitioner has requested variances from the effluent standards applicable to the discharges of treated sewage from its Joliet and Will County electric generating stations and its Joliet Headquarters Building. The Agency has recommended that variances be granted for all of the discharges from these three facilities. No hearing was held.

Petitioner holds two NPDES permits which set limits on the discharge of wastewater from the Joliet and Will County Generating Stations. Petitioner has applied for a NPDES permit for the discharge of wastewater from its recently completed Joliet Headquarters Building. The Agency has indicated that it can neither reissue the first two permits nor issue the third because the discharges may cause or contribute to downstream violations of applicable dissolved oxygen water quality standards. This conclusion was based on a computer model prepared by the Northeastern Illinois Planning Commission (NIPC) and submitted as part of NIPC's water quality management plan prepared pursuant to Section 208 of the Clean Water Act. This model was the subject of a prior Board variance which granted similar relief to over 250 dischargers (Village of Bloomingdale v. EPA, PCB 78-124, October 19, 1978, 31 PCB 125, November 2, 1978, and November 30, 1978). In Bloomingdale, the Board commented as follows on the use of this model:

"The Board finds that it need not determine whether or not the model's predictions are accurate. By its very existence the NIPC study provides evidence of possible present and future violations of the Board's dissolved oxygen water quality standard. While the model does not provide conclusive proof that any individual discharge will cause or contribute to violations, the Board sees no reason why the model's conclusions should be challenged in a series of permit denial appeals or

obviated in a series of variances. Extensive litigation would constitute economic hardship on hundreds of dischargers and would impose an administrative burden on the Agency. This hardship is rendered arbitrary or unreasonable by virtue of the fact that it may be needless. Pending regulatory changes may remove the need for some of this litigation."

The Board hereby incorporates the record and its findings and conclusions in Bloomingtondale in the record of this matter.

The NPDES permits for the Joliet and Will County Stations provide effluent limitations of 30 mg/l as a daily average and 45 mg/l as a daily maximum for both BOD and suspended solids.

The effluent from the Joliet Headquarters Building is discharged into an unnamed drainage ditch which provides a dilution ratio of less than one to one. Petitioner submitted an application for an exemption under Rule 404(f)(ii) to set the effluent limitation for this discharge at 10 mg/l BOD and 12 mg/l suspended solids. This application was denied on the basis of the NIPC model.

Without variances Petitioner's only alternatives are termination of all discharges or construction of additional treatment facilities to eliminate all deoxygenating wastes. Petitioner contends that the hardship and expense associated with these alternatives far outweighs any environmental improvement which would result.

The Agency has recommended that these variances include all the discharges from the Joliet and Will County Stations. The Agency feels that the thermal components of these discharges may have some effect on downstream dissolved oxygen levels.

The Board concludes that denial of these variances would constitute arbitrary or unreasonable hardship on Petitioner. The reasoning in Bloomingtondale must be employed in this matter to avoid inequitable results. Although the Agency has shown that Petitioner has not consistently met the 30/30 standard at the generating stations, the Board will require that these standards be met. Proper operation and maintenance of these existing facilities should result in compliance with 30/30 which also represents the least stringent standard the Board can set and be consistent with Federal law. The discharge from the Joliet Headquarters Building will be set at 10 mg/l BOD and 12 mg/l suspended solids, since by applying for an exemption under Rule 404(f)(ii), Petitioner has indicated it can meet this standard. The variances from Rule 902(i)(1)(iii),

910(a)(4), and 910(b) shall be granted solely for the purpose of reissuance of the NPDES permits for the generating stations and issuance of the NPDES permit for the Joliet Headquarters Building. The Board agrees with the Agency's suggestion that the variances for the discharges from the generating stations should cover all of the discharges.

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

ORDER

- 1) Petitioner is hereby granted a variance from Rules 203(d), 402 (as it pertains to dissolved oxygen), and 902(i)(1)(iii) of Chapter 3: Water Pollution until October 19, 1983 for the discharge from its Will County generating station.
- 2) Petitioner is hereby granted a variance from Rules 205(c), 402 (as it pertains to dissolved oxygen) and 902(i)(1)(iii) of Chapter 3: Water Pollution until October 19, 1983 for the discharge from its Joliet generating station.
- 3) Petitioner is hereby granted a variance from Rule 203(d), 402 (as it pertains to dissolved oxygen), 910(a)(4) and 910(b) of Chapter 3: Water Pollution, until October 19, 1983 for the discharge from its Joliet Headquarters Building.
- 4) Petitioner is hereby granted a variance from Rule 404(f) of Chapter 3: Water Pollution until October 19, 1983 or until the Board takes final action in R77-12, Docket C, whichever occurs first, for the discharge from its Joliet Headquarters Building.
- 5) The treated sewage discharges from the Will County and Joliet generating stations shall be limited to 30 mg/l as a 30 day average and 45 mg/l as a seven day average for both BOD and suspended solids.
- 6) The treated sewage discharge from the Joliet Headquarters Building shall be limited to 10 mg/l BOD and 12 mg/l suspended solids as 30 day averages.
- 7) The Agency is hereby authorized to reissue NPDES permits for the discharges from the Will County and Joliet generating stations and issue a NPDES permit for the discharge from the Joliet Headquarters Building in a manner consistent with the terms of this Order including terms and conditions consistent with best practicable treatment, operation and maintenance for Petitioner's facilities.

- 8) Within 45 days of the date of this Order, Petitioner shall execute a Certification of acceptance and agreement to be bound by all the terms and conditions of these variances. The Certification shall be forwarded to the Illinois Environmental Protection Agency, Division of Water Pollution Control, Variance Section, 2200 Churchill Road, Springfield, Illinois 62706. This 45 day period shall be held in abeyance if this matter is appealed. The form of the Certification shall read as follows:

CERTIFICATION

I (We), _____ having read and fully understanding the Order in PCB 79-51 hereby accept that Order and agree to be bound by all of its terms and conditions.

SIGNED _____

TITLE _____

DATE _____

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 24th day of May, 1979 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett Clerk
Illinois Pollution Control Board