

ILLINOIS POLLUTION CONTROL BOARD
September 7, 1978

CENTRAL ILLINOIS PUBLIC SERVICE)
COMPANY,)
)
Petitioner,)
)
v.) PCB 78-78
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

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

This matter is before the Board on a motion by Central Illinois Public Service Company (CIPS) for relief from a Board order in PCB 77-145 entered September 1, 1977. The Board construed the motion as a new petition for variance from a Board order and docketed the petition as PCB 78-78. Hearing was waived in this matter, and the Board has received no public comment.

Condition 3 of the order entered in PCB 77-145 required CIPS to submit an operating permit application to the Illinois Environmental Protection Agency (Agency) on or before November 3, 1977. In the interim, however, a coal strike prevented CIPS from stack testing unit one under full load conditions with Illinois coal. In addition, there were periods of time when the unit was out of repair, or when severe weather intervened, or when the representative coal stored for the purposes of the test was frozen and could not be retrieved. Newton finally scheduled stack tests for the unit during the week of June 12, 1978.

The Agency agrees that CIPS made some honest attempts to do the stack tests but due to the circumstances was unable to do the tests on schedule. The Agency therefore recommends that the variance be granted subject to certain conditions. The Board finds that it would be arbitrary and unreasonable not to grant CIPS a delay in compliance with condition 3 of the September 1, 1977 order in PCB 77-145 since CIPS was thwarted in good faith attempts to comply with the Board order by extraneous circumstances. The Board will therefore grant CIPS until September 30, 1978 to comply with the condition 3, in the event it has not already done so.

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

ORDER

It is the Order of the Pollution Control Board that:

1. Central Illinois Public Service Company be granted a variance from condition 3 of the Board order entered September 1, 1977 in PCB 77-145 until September 30, 1978 subject to the following conditions:
 - a. Stack tests shall be conducted at full load, and an application for an operating permit shall be filed with the Agency by CIPS prior to the termination of this variance.
 - b. Within 45 days of the adoption of this Order, the Central Illinois Public Service Company shall execute and forward to John D. Williams, Technical Advisor, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 a Certification of Acceptance and Agreement to be bound to all terms and conditions of this Order. The 45 day period shall be held in abeyance during any period this matter is being appealed. The form of said certification shall be as follows:

CERTIFICATION

I, (We), _____ having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 78-78 hereby accept said Order and agree to be bound by all the terms and conditions thereof.

SIGNED _____

TITLE _____

DATE _____

2. This variance shall terminate sooner upon compliance with Section 1a. above.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted on the 1st day of September, 1978 by a vote of 4-0.

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