

ILLINOIS POLLUTION CONTROL BOARD
November 13, 1975

CANDY AND COMPANY, INC., a corporation,)
Petitioner,)
)
v.) PCB 75-441
)
ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

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

This matter comes before the Pollution Control Board (Board) upon the November 12, 1975, petition of Candy and Company, Inc. (Candy) for variance from Rules 103(b) and 203(G) of the Air Regulations for its coal-fired boiler.

Candy seeks variance for a boiler which is used as a "standby unit... only operated in cases of emergency." Petitioner's boiler was used only 5 days in 1975. The majority of Candy's business is processing wax, blends, was emulsions, resin-wax combinations, resin solution with combinations of lesser types of ingredients in the preparation of sanitary chemicals with heat.

Candy states throughout its petition that the boiler in question is used solely in case of emergency to keep its raw material lines from solidifying and to keep the premises heated when and if its gas-fired boiler needs emergency attention.

In State of Illinois, Department of Mental Health, Manteno State Hospital v. EPA, PCB 74-352, the Board stated:

The Petition will be dismissed since it has not been shown that there is any likelihood that the variance will be used. Petitioner is not currently in violation of any Rules or Regulations and we can only speculate on the possibility of such a violation in the future. We could indulge in similar speculation for most of the businesses in Illinois. The variance procedure was not intended for such remote possibilities and we have no alternative but the dismissal of this action without prejudice.

The Board re-affirmed that holding in Galesburg State Research Hospital v. EPA, PCB 75-198. Candy is in the same posture as Galesburg and Manteno. As it seeks variance only in case of emergency, the Board must dismiss its Petition.

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

ORDER

It is the Order of the Pollution Control Board that Candy and Company, Inc.'s Petition for variance from Rules 103(b) and 203(G) of the Air Regulations be and is, hereby, dismissed without prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 13th day of November, 1975 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board