

ILLINOIS POLLUTION CONTROL BOARD

December 18, 1975

CITY OF HIGHLAND, )  
 )  
 ) Petitioner, )  
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 )  
 ) v. ) PCB 75-50  
 )  
 )  
 ) ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 ) Respondent. )

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

On February 3, 1975 the City of Highland, Illinois (City) came before the Illinois Pollution Control Board (Board) with a petition for variance from Section 9(a) of the Illinois Environmental Protection Act (Act), Rules 102, 103(b)(2), 104, 3-3.112, 203(g)(1)(B), 203(i)(4), 204(c)(1)(A) and 204(h)(2) of the Air Pollution Control Regulations (Air Rules), and from Board Order PCB 71-284 as applied to the City's coal-fired boilers 2, 3, and 4 at the Highland Municipal Electric Power Plant (Plant). A hearing was held on April 30, 1975.

The City requests a variance to allow it to operate the coal-fired boilers until the interconnection to the Illinois Power Company is completed. Thereafter, it seeks a variance to operate the boilers in case of an emergency.

The interconnection, according to the City's brief, page 7, was scheduled to begin operation on July 1, 1975. However, at the hearing, it was stated that the interconnection would be operational by January 1, 1976 (Tr.4). That date is approaching quickly, yet the City has not informed the Board of the progress of that construction project in the past 7-1/2 months.

The first order to retire the City's coal-fired boilers was issued under an Air Contaminant Emission Reduction Program. The deadline was July 1, 1971. Subsequent Board Orders were issued with the same goal. PCB 71-284 granted variance until January 1, 1972. This Order also was not complied with. On July 25, 1974 the Board denied a similar variance petition because it lacked a compliance program (PCB 73-288). The City has had almost five years to bring forth a good faith effort to cease its violations of the Air Rules. It has failed to do so.

The Board will not grant a variance where the Petitioner fails to undertake a program which would result in compliance with the regulations. In this case, no compliance program is proposed to control emissions from the coal-fired boilers. Petitioner requests variances to operate the boilers until the interconnection is completed. Considering the City's history of a lack of good faith, and absence of a compliance program, the Board must deny that portion of Petitioner's variance request.

The Board must also reject the City's request for a variance to operate its boilers on an emergency or stand-by basis after completion of the interconnection. This is because of the above mentioned lack of compliance program and lack of good faith, plus the Board's policy not to issue speculative variances (City of Carlyle v. EPA, PCB 75-165 (May 15, 1975); PCB 75-253, (July 17, 1975)). On page 9 of its Petition, the City states, "No matter how the Plant utilizes the interconnection agreement, it is flexible enough to allow the Plant to operate without depending on the boilers to produce electricity". In that case, the Board finds no reason for the City to need a variance. The Board reaches these conclusions without finding it necessary to discuss the issues raised in the Train case (Train v. NRDC, NO. 73-1742, 7 E.R.C. 1735, (April 16, 1975)).

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

ORDER

It is the Order of the Board that the petition of the City of Highland, Illinois, be and is hereby dismissed.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 18<sup>th</sup> day of December, 1975 by a vote of 4-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board