

ILLINOIS POLLUTION CONTROL BOARD
December 18, 1975

ELECTRIC WHEEL COMPANY,)
)
 Petitioner,)
)
 v.) PCB 75-335
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

Electric Wheel Company (Petitioner) filed a variance petition on August 27, 1975, seeking relief from Rule 203(g)(1)(B) of the Board's Air Pollution Control Regulations, Chapter 2, until September 1, 1976.

On August 28, 1975, the Board found the petition to be inadequate in that it failed to include information pertaining to the criteria required by Train v. NRDC, Inc., 43 USLW 4467 (Supreme Court No. 73-1742, April 16, 1975).

An amended petition for variance was subsequently filed on October 21, 1975, containing supplemental information.

Electric Wheel Company is a major domestic producer of agricultural and industrial rims and wheels. The plant is located at 1120 North 28th Street, Quincy, Illinois and includes a plant power house equipped with four boilers which produce steam for its manufacturing processes and also for space heating. Petitioner states that natural gas has been the primary fuel source, but shortages in recent years have forced dependency upon alternate fuels for the majority of the time. At present, boiler #1 is being fired with natural gas, boiler #2 is being fired with fuel oil, boiler #3 is out of service, and boiler #4 is being fired with coal. It is boiler #4 which is the subject of this petition. A stack test performed during April and May of 1974 showed compliance with regulations in effect at that time. However, the average particulate emission was 0.644 pound per million Btu of heat input, a particulate emission which exceeds the limitation which became effective May 30, 1975. Present control equipment on boiler #4 is a Research-Cottrel Multiclone which has an estimated collection efficiency of 85% (Rec. p. 2). Petitioner states that various equipment manufacturers are preparing quotations on supplemental air control equipment and that delivery of such equipment could require as much as one year.

Petitioner alleges that a denial of this variance petition would force a major curtailment in production at the Quincy plant and would jeopardize the employment of nearly 1200 employees. Petitioner further alleges that the resulting loss in production would drastically affect both the agricultural and construction industries, as these industries could not find other suppliers to replace this loss in production.

Petitioner also alleges that the grant of the variance will not prevent attainment of the national ambient air quality standards for particulates. In data supplied by Petitioner, the particulate standards were not exceeded at the nearest Quincy monitoring station. However, in data supplied by the Agency, a second monitoring station located three miles to the southwest had an Annual Geometric Mean of 81 micrograms per cubic meter in 1974, exceeding the standard of 75 micrograms per cubic meter (Rec. p. 7).

Petitioner has not met the burden imposed on those seeking a variance. Firstly, Petitioner has not established to the satisfaction of the Board that particulate emissions from boiler #4 will not contribute to an air quality violation in the surrounding area. Secondly, although Petitioner alleges a denial of this variance petition would force a major curtailment in production jeopardizing the employment of 1200 persons, the allegation is unfounded. The Board has consistently held that a denial of a variance does not constitute a shutdown order. The Petitioner can still operate although subjecting itself to possible enforcement action (ABC Great States v. EPA, PCB 72-39; Commonwealth Edison v. EPA, PCB 72-91, 72-150; Unarco v. EPA, PCB 75-289). Thirdly, Petitioner's variance petition does not satisfy Rule 401(viii) of the Procedural Rules of the Illinois Pollution Control Board which requires that the petition for variance must include a detailed description of the program to be undertaken to achieve compliance. Petitioner alleges that it is considering various equipment and that equipment manufacturers are preparing quotations on this control equipment. Rule 401(viii) requires the compliance program to have progressed much beyond the management consideration stage. The Board will not grant a variance based on such a speculative compliance program as is presently proposed by Petitioner. Finally, Petitioner alleges that it has acted in good faith in attempting to bring boiler #4 into compliance and to deny the variance would impose an unreasonable and arbitrary hardship. Stack tests performed in April and May of 1974 revealed boiler #4 could not be coal fired in compliance with particulate limitations which were to be effective May 30, 1975. Yet, Petitioner has not taken positive action to resolve the problem. Indeed, as of November 17, 1975, Petitioner was still in the reviewing stage and had not yet instituted a positive plan. The Board has consistently stated that any hardship that results from a refusal to take the necessary steps toward compliance is self-imposed, and that the hardship

imposed by denying a variance is not unreasonable or arbitrary if it was earlier within the power of Petitioner to remedy. (City of Danville v. EPA, PCB 72-335; Unarco v. EPA, PCB 75-289).

For the foregoing reasons the Board denies Electric Wheel's petition for variance.

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

ORDER

1. It is the Order of the Board that petition of Electric Wheel Company 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 18th day of December, 1975 by a vote of 4-0.

Christan L. Moffett (gr)
Christan L. Moffett, Clerk
Illinois Pollution Control Board