

ILLINOIS POLLUTION CONTROL BOARD
May 22, 1975

ILLINOIS POWER COMPANY,)
)
 Petitioner,)
)
 v.) PCB 75-110
)
 ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

INTERIM ORDER OF THE BOARD (by Mr. Zeitlin):

Petitioner Illinois Power Company filed a Variance Petition in this matter for its Wood River Station, Unit 5, on March 7, 1975. Thereafter, on April 4, 1975, this Board entered an Interim Order requiring that Petitioner submit an Amended Petition within 45 days to correct the deficiencies, (primarily the lack of an adequate compliance plan,) noted in that Order.

Thereafter, on May 16, 1975, Petitioner filed an Amended Variance Petition showing such a compliance plan. However, the United States Supreme Court on April 16, 1975, in a decision in Train v. National Resources Defense Council, 43 U.S.L.W. 4467 (U.S., April 16, 1975), rendered the information contained in the Amended Petition insufficient.

The Train decision mandates that this Board not grant Variances from the Air Pollution Control Regulations absent a showing that such a grant will not cause a violation of the national ambient air quality standards, or a failure to maintain those standards. The Amended Petition, as filed on May 16, 1975, does not address these requirements. See, King-Seeley Co. v. EPA, PCB 75-159 (April 24, 1975) (Interim Order of the Board); Great Lakes Carbon Corp. v. EPA, PCB 75-85 (May 22, 1975). While this Board does not like to continually find Variance Petitions inadequate for procedural deficiencies, the Board is constrained to so act under its interpretation of the Train case.

For the reason noted above, the Amended Petition in this matter is inadequate. A second Amended Petition shall be filed with the Board within 45 days of the date of this

Order correcting that deficiency. Failure to timely file such a second Amended Petition shall render this matter subject to dismissal for inadequacy. The 90 day decision period set by statute shall run from date of filing of said second Amended Petition.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board hereby certify that the above Interim Order was adopted on the 22ND day of May, 1975 by a vote of 5 to 0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board