

ILLINOIS POLLUTION CONTROL BOARD
December 5, 1974

ENVIRONMENTAL PROTECTION AGENCY)
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 v.) PCB 73-113
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 UNION ELECTRIC COMPANY)
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MR. LARRY P. EATON, ASSISTANT ATTORNEY GENERAL, appeared on behalf of the Environmental Protection Agency;
MR. ROBERT BRODERICK, POPE & DREIMYER, appeared on behalf of Union Electric Company

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

This enforcement action was initiated by the Agency with a Complaint filed on March 14, 1973, and an Amended Complaint was filed on September 7, 1973.

The Agency charges that Respondent was in violation of Section 9(a) of the Environmental Protection Act ("Act") and Rule 3-3.112 of the Rules and Regulations Governing the Control of Air Pollution. Respondent is charged with such violations from on or before July 1, 1970 and continuing through the date of the filing of the Amended Complaint. In addition, 62 days in 1971 and 1972 are listed during which alleged violations took place.

Union Electric Company is a Missouri Corporation, authorized to do business in the State of Illinois; is engaged in the business of generating, transmitting, and distributing electric power and energy to the public in portions of Illinois, Missouri and Iowa. Respondent owns and operates 6 steam electric generating stations, one of which is a 500 megawatt plant located on the Mississippi River at Venice in Madison County, Illinois, and is known as Venice #2 Plant (Venice Plant). The violations are alleged against the Venice Plant (R. 5, 6).

A hearing was held on October 18, 1974 at which no testimony was given but the following facts were stipulated by the Agency and Respondent. The numbers below refer to paragraphs in the Stipulation.

3. The construction of the Venice Plant was completed in 1950, at which time the plant had eight pulverized coal boilers, each of which discharged into its separate stack and all of which stacks were equipped with electrostatic precipitators with a design efficiency of ninety percent (90%) as to six (6) of such stacks and ninety-five percent (95%) as to two (2) of such stacks.

4. On April 15, 1968, the Company submitted an Air Contaminant Reduction Program which, as amended on July 18, 1968, was approved by the Air Pollution Control Board on July 25, 1968. This Program as approved, provided that by June 1972, the Venice Plant would be in compliance with the Illinois particulate regulations which would be exceeded only when the Company experienced a system emergency which would occur so infrequently that the Venice Plant would be essentially in full compliance with the particulate regulations after June 1972.

5. On May 6, 1971, the Company received a letter from the then Manager of the Bureau of Air Pollution Control advising that approved variances expired at the end of one (1) year, that the Bureau had no record of the Company's request for an extension and suggesting that the Company might seek a variance if it would impose an arbitrary and unreasonable hardship on the Company to bring the Venice Plant into immediate compliance with the Environmental Protection Act.

6. In response to the above described letter and, although it had been implementing its Program which the Air Pollution Control Board had approved on July 25, 1968, the Company on July 20, 1971, filed its Petition for Variance asking in the alternative that it either be permitted to continue and complete its approved program or that it be granted a variance from the applicable particulate air quality standards established by the Pollution Control Board until December 31, 1972, to enable it to complete the conversion of boilers one (1) through six (6) of the Venice Plant to oil burning which the Company was then engaged in doing.

7. The Company's Petition for Variance was never acted upon and on October 17, 1972, the Pollution Control Board, at the Company's request, dismissed the Petition without prejudice and found, as the Company represented, that the Venice Plant had been derated, pursuant to the Company's approved Program, that the Venice Plant was in compliance with the regulations and that a variance was no longer necessary and that the Company was engaged in converting six (6) of the Plant's boilers to oil burning.

8. The conversions of boilers three (3), four (4), five (5) and six (6) of the Venice Plant to oil burning were completed on November 11, 1972, December 11, 1972, March 6, 1973 and December 29, 1972, respectively, and have since such dates, when operated,

burned only low sulphur No. 2 fuel oil. Boilers one (1) and two (2) of the Venice Plant were taken out of service for conversion to oil on April 1, 1973 and after that date, have burned only low sulphur No. 2 fuel oil whenever they have been operated. The remaining boilers of the Venice Plant, boilers seven (7) and eight (8) have been derated to comply with the provisions of Rule 3-3.112 and whenever they have been operated since on or about January 1, 1973, have burned low sulphur (approximately 1.5% sulphur) coal.

10. If the proceedings were to be tried, the Agency would produce evidence tending to prove the allegations made in the original and amended complaints and the Company would contest the existence of and the degree of the violations charged against it. For the purpose of this Stipulation only the Company agrees that the Board may find the Agency's anticipated proof to be credible.

12. Since the modifications of the Venice Plant as described in paragraph 8 have taken place, including derating, and conversion of boilers one (1) through six (6) from coal-burning to oil-burning, and boilers seven (7) and eight (8) to low sulphur coal, complaints of the Plant's operation have ceased and the Plant is now in compliance with Section 9(a) and Rule 3-3.112.

Based on the information contained in the Stipulation (Paragraph 10) we find that Respondent has been in violation during 1971 and 1972. The violations pertained to Section 9(a) of the Act and to Rule 3-3.112 of the Rules and Regulations Governing the Control of Air Pollution.

However, we take note that Petitioner was in the process of implementing the Air Contaminant Reduction Program approved by the Air Pollution Control Board on July 25, 1968. Further, when that program became inadequate, Respondent proceeded to come into compliance with the new Rules and Regulations by converting six boilers to low sulphur oil, two to low sulphur coal and derating the boilers.

No violations are alleged after September 19, 1972. On October 17, 1972, the Board dismissed Respondent's Petition for Variance without prejudice at Petitioner's request because it was then in compliance.

We are therefore accepting the stipulation and assess the stipulated penalty of \$750.

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

ORDER

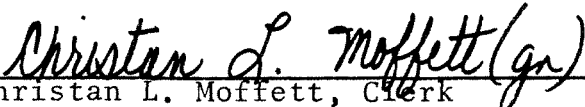
IT IS THE ORDER OF THE BOARD THAT:

1. Respondent pay a penalty of \$750 for violation of Section 9(a) of the Act and Rule 3-3.112 of the Rules and Regulations Governing the Control of Air Pollution. Payment is to made within 35 days from the date of this Order to:

State of Illinois
Fiscal Services Section
Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

2. Respondent is ordered to cease and desist from the violations found, and to comply henceforth, in the operation of the Venice Plant, with all provisions of the Environmental Protection Act and the Board's Air Pollution Control Regulations to the extent same may be applicable to the operations of the Venice Plant.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 5th day of December, 1974 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board