ILLINOIS POLLUTION CONTROL BOARD
December 13, 1973

MT. CARMEL PUBLIC UTILITY,	)	
	)	
Petitioner,	)	
	)	
vs.	)	PCB 73-300
	)	
ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by Mr. Seaman):

On November 5, 1973, Petitioner, Mt. Carmel Public Utility Company, filed its Petition seeking amendment of our Opinion and Order of October 18, 1973 (PCB 73-300). Therein, we granted Petitioner's request for Variance from Rule 3-3.112 of the Rules and Regulations Governing the Control of Air Pollution for two if its boilers stating, "The Board is satisfied that Petitioner has applied itself with good faith and diligence to the compliance program ordered on November 11, 1971....The alternative plan submitted by Petitioner and contained in the body of this Opinion is hereby approved."

The alternative plan approved is as follows:

a) Conversion of Boiler No. 1 to gas and oil to be completed by May 1, 1974, with the boiler going out of service January 1, 1974;

b) Boiler No. 4, Petitioner's last coal-fired boiler, will be retired on or before June 30, 1974, in compliance with the Board's original Order.

Petitioner now requests that the Board modify its Order of October 18, 1973, to defer conversion of Boiler No. 1 and retirement of Boiler No. 4 until October 31, 1974. Petitioner contends that its ability to assure reliability of service to its customers appears to be seriously jeopardized by the developing situation regarding fuel oil shortages if Petitioner is required to comply with the existing Order of the Board.

As stated in paragraph 7 of Petitioner's Supplemental Petition for a Continuance of Variance filed with the Board on July 25, 1973, Petitioner entered into a contract with

Marathon Oil Company on October 10, 1972, for the purchase of No. 2 fuel oil to be delivered from its Robinson, Illinois, refinery. Marathon agreed to deliver six million gallons during the first year of the contract, plus or minus 10%, with the quantity, quality and price subject to renegotiation at the end of each year of the contract. Petitioner has been receiving deliveries from Marathon under this contract since the conversion of boiler No. 5 was completed in March of 1973.

On October 12, 1973, the Energy Policy Office of the Department of Interior issued its EPO Reg. 1-Mandatory Allocation Program for Middle Distillate Fuels (see Federal Register, Volume 38, No. 199-Tuesday, October 16, 1973). Number 2 fuel oil being purchased by Petitioner from Marathon Oil Company is covered by this mandatory fuel allocation program. The regulation provides that each wholesale purchaser of such fuel oil (which includes utilities) will be entitled to receive allocations under the program from its suppliers on the basis of purchases during the corresponding month of 1972. Mandatory allocation of fuel oils under this order began November 1, 1973. Insofar as Petitioner made no purchases of fuel oil in 1972, it has no basis for the allocation of oil from any supplier beginning November 1, 1973. However, paragraph 4 (d) provides:

> "Any wholesale purchaser who did not have a supplier during 1972 may apply to the Department of the Interior and be assigned a supplier. Any customer so assigned must be accepted by the supplier for the duration of the program. The Department of the Interior will develop and publish a set of criteria under which such applications will be considered. The criteria will include consideration of unusual conditions or misfortunes in the base period, new investments, sales experience of comparable purchasers, etc."

Paragraph 4 (f) of the Regulation provides in part that if a supplier has insufficient supplies to provide each of the wholesale purchasers which he supplied in 1972 (including those purchasers assigned by the Department of the Interior) with a quantity equal to the 1972 base or adjusted base period supply level, the supplier will allocate based on proportional allocations. This portion of the regulation contemplates that suppliers may be unable to meet their obligations to supply wholesale purchasers which they supplied in 1972 and those purchasers assigned to the supplier by the Department of the Interior.

Petitioner has received a letter from Marathon Oil Company, dated October 16, 1973, from its Findlay, Ohio, offices (Exhibit "A") informing the Petitioner of the mandatory allocation program and stating that the program would impair the ability of Marathon to supply the Petitioner with its fuel oil requirements under the contract previously mentioned.

After seeking information from the Department of the Interior at Chicago, Illinois, the Petitioner, on October 22, 1973, wrote a letter to the Department of the Interior, in the absence of a prescribed form, requesting an allocation of oil under paragraph 4 (d) of the Mandatory Allocation Regulation and the assignment of a supplier (Exhibit "B"). Since that time the Department of the Interior has supplied Petitioner with forms, and an allocation of oil and an assignment of a supplier has been requested on the prescribed form (Exhibit "C").

In view of the world-wide shortage of crude oil and refining capacity, as well as the uncertainties of obtaining the necessary allocations and suppliers from the Department of the Interior, Petitioner does not consider it advisable to proceed with the conversion of its Boiler No. 1 on January 1, 1974. Also, under the circumstances, Petitioner does not consider it prudent to take Boiler No. 4 out of service on June 30, 1974. Petitioner's ability to assure reliability of service to its customers appears to be seriously jeopardized by the developing situation regarding fuel oil if Petitioner complies with the existing orders of the Board. If Boiler No. 1 is converted to oil as originally proposed, and Boiler No. 4 is taken out of service on June 30, 1974, and thereafter Petitioner should be unable to secure a sufficient allocation of fuel oil, or if it were unable to secure any allocation, Petitioner might become largely or entirely dependent upon energy purchased from Central Illinois Public Service Company through its presently existing single-pole 69 KV transmission line intertie with CIPS at Lawrenceville, Illinois. If Petitioner became entirely dependent upon purchased energy, this 69 KV transmission line would be wholly inadequate to supply the needs of customers within Petitioner's service area. Also, Petitioner contends that if it had only limited generating capacity because of inability to obtain fuel oil, and if Boiler No. 4 were out of service, and if this transmission line were also taken out of service by windstorms, ice storms, lightning strikes or other calamities such as automobile collisions with poles, Petitioner would be either wholly unable to supply its

service area with electric power or would be able to supply only a limited amount of electric power, depending upon the amount of fuel oil available to it for generation of power, and this situation might exist for an extended period of time. Petitioner argues that it is in the same dilemma if it does not convert Boiler No. 1 to fuel oil, but takes Boilers No. 1 and 4 out of service on June 30, 1974, leaving only Boiler No. 5 available for power generation, in order to bring itself into compliance with the previous Order of the Board.

An additional possible complication is the fact that Petitioner supplies steam to the Mt. Carmel plant of the Flintkote Company which produces felt paper used in the manufacturing of roofing materials and which employs approximately 85 men. If Petitioner cannot lawfully burn coal in any of its boilers after June 30, 1974, and if the supply of fuel oil available to Petitioner is greatly restricted, or unavailable, then Petitioner might be unable to fulfill its contractual obligations with the Flintkote Company to supply steam to its Mt. Carmel plant, as a consequence of which the Flintkote plant would be required to curtail or cease operations, with serious adverse effect upon the economy of the City of Mt. Carmel and surrounding areas.

As we stated in our Opinion and Order of October 18, 1973, this Board is satisfied that Petitioner has applied itself with good faith and diligence to the compliance program ordered. Petitioner's present plight is the result of factors beyond its power to influence. We will, therefore, grant the requested modification of our Opinion and Order of October 18, 1973 (PCB 73-300) subject to certain conditions.

Petitioner is currently attempting to construct a 138 KV line (to be operated initially at 69 KV) from the Village of Keensburg, Illinois, to an intertie with Central Illinois Public Service Company at Albion, Illinois. Petitioner has encountered numerous difficulties in obtaining right-of-way easements for this line, and it is now certain that construction cannot be completed by June 30, 1973, as originally ordered by the Board. The Agency is of the opinion that Petitioner has shown good faith in developing the 138 KV line and that the problems encountered in said development are not self-imposed.

IT IS THE ORDER of the Pollution Control Board that the motion of Mt. Carmel Public Utility Company to extend the compliance date (June 30, 1974) stated in our Opinion and Order of October 18, 1973 (PCB 73-300) to October 31, 1974, be granted subject to the following conditions:

1. Petitioner shall pursue, with all diligence and dispatch, the acquisition of right-of-way easements for its 138 KV line and the acquisition of sufficient fuel oil commitments to allow conversion of its Boiler No. 1 at the earliest possible date.

2. Petitioner shall file with the Agency quarterly reports regarding its progress toward achieving the objectives specified in Condition 1, above.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Order was adopted on this 13th day of December, 1973 by a vote of 5 to 0.

Christan L. Moffett