

ILLINOIS POLLUTION CONTROL BOARD
March 19, 2009

AMEREN ENERGY GENERATING)	
COMPANY, AMERENENERGY)	
RESOURCES GENERATING COMPANY,)	
and ELECTRIC ENERGY, INC.,)	
)	
Petitioners,)	
)	
v.)	PCB 09-21
)	(Variance - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

On February 19, 2009, Ameren Energy Generating Company, Amerenenergy Resources Generating Company, and Electric Energy, Inc. (Ameren) filed a motion asking that the Board reconsider the Board's January 22, 2009 opinion and order denying Ameren's request for variance. The Illinois Environmental Protection Agency did not file a response to the motion.

In ruling on a motion for reconsideration, the Board will consider factors including new evidence or a change in the law, to conclude that the Board's decision was in error. 35 Ill. Adm. Code 101.902. In Citizens Against Regional Landfill v. County Board of Whiteside, PCB 93-156 (Mar. 11, 1993), we observed that "the intended purpose of a motion for reconsideration is to bring to the court's attention newly discovered evidence which was not available at the time of hearing, changes in the law or errors in the court's previous application of the existing law." Korogluyan v. Chicago Title & Trust Co., 213 Ill. App. 3d 622, 627, 572 N.E.2d 1154, 1158 (1st Dist. 1992). The Board finds that the Ameren has provided no new evidence or a change in the law that would indicate that the Board's January 22, 2009 opinion and order denying the variance request was in error. Therefore the motion to reconsider is denied.

IT IS SO ORDERED.

Board Member Thomas E. Johnson dissented.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2006); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final

orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 19, 2009, by a vote of 4-0, Member Johnson Dissented.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board