

ILLINOIS POLLUTION CONTROL BOARD
September 3, 1981

GTE AUTOMATIC ELECTRIC, INC.,)
)
) Petitioner,)
)
) v.) PCB 80-225
)
 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

OPINION AND ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on the petition filed by GTE Automatic Electric, Inc. (GTE) December 10, 1980, as amended January 28, March 23, and June 19, 1981, from Rules 103, 205(j) and 205(k)(3) of Chapter 2: Air Pollution. The Environmental Protection Agency (Agency) has recommended denial of variance in its Recommendation of May 8, 1981, as amended July 24, 1981, although certain variance conditions were suggested in the alternative. GTE filed a Response on August 3, 1981. No hearing was held in this matter, as the early hearing requests made by both GTE and the Agency have recently been withdrawn (Am. Pet. June 19, 1981, Am. Rec. July 24, 1981).

At its manufacturing facility in Northlake, Cook County, GTE designs, fabricates and assembles electromechanical and electronic telephone switching systems. The metal parts involved in the final systems' assembly are either vapor degreased to remove soil, oil, and grease in preparation for surface etching, or vapor defluxed as part of post operative process involving soldering and removal of solder flux residues. GTE's degreaser units employ either trichloroethylene, perchlorethylene, or fluorocarbon as the cleaning solvent, while the defluxers employ fluorocarbon only.

Rules 205(j) and (k)(3) require that, effective July 1, 1980, that specified control equipment be installed and operational on open top degreasers and defluxers to prevent the escape of solvent vapors into the atmosphere. GTE seeks variance from the compliance deadline for a) 7 open top degreasers which were in various stages of retrofitting, to be completed by June 15, 1981, b) 7 open top degreasers, permanently shut down by May 31, 1981 c) 2 conveyORIZED degreasers also retrofitted by May 31, 1981, and d) 4 conveyORIZED defluxers retrofitted by July 20, 1981 (one of which was removed from service June 26, 1981).*

*GTE asserts that two of these units are exempt from Rule 205(k) because of their small size, but are retrofitting them anyway.

The overall cost of this retrofit is estimated at \$64,300. In short, compliance has been achieved during the lengthy pendency of this action, and the Board must determine whether variance relief should be granted to protect GTE from possible enforcement actions resulting from its year-long period of non-compliance.

GTE explains that the delay in compliance is attributable to adverse, "general economic conditions" occurring in early 1980. Resulting decline in demand for GTE products caused it to substantially reduce production, and also to reduce its engineering staff. As reduction in its production level caused removal of seven degreasers from service, and reduced operation of its other open-top degreasers (1 shift only) and conveyORIZED machines (2 shifts maximum), GTE states that its total emissions have necessarily been reduced throughout 1980, even before completion of its retrofit efforts. GTE therefore believes that grant of variance will not harm the public. GTE also alleges that full compliance during the last year could have been achieved only by a full shut-down of its degreasers and defluxers, which would have closed down the Northlake facility to the economic detriment of the Northlake facility's 8100 employees and GTE's manufacturing operations as a whole.

The Agency recommends denial of variance because it believes that "a showing of general [adverse] economic conditions and difficulty in getting delivery of the required data and materials for modification are not in and of themselves indicative of arbitrary and unreasonable hardship. ...What is before the Board is the far from unusual difficulty of not providing sufficient time to finish your plans, order the equipment and deliver and install such equipment in order to meet a specific compliance date." The Agency further believes as a result of its investigation of this petition and discussions with GTE personnel, that a primary reason for non-compliance was simply "a lack of awareness and involvement with the new regulations". It also notes that the Petitioners' stations indicate 70 excursions (out of 14,360 samples) from the Board's ozone standard of .08 ppm, and 2 of which exceeded the Federal standard of .12 ppm. Given these circumstances, and the fact that hydrocarbon emissions are toxic and can have adverse health effects (although none were reported in Northlake), the Agency is of the opinion that GTE's non-compliance should not be excused.*

Although the Board does not reject out of hand allegations of special hardship resulting from general economic conditions, [see variance grant in Outboard Marine Corp. v. IEPA, PCB 80-211

*The Board notes however, that in adopting Rule 205(K), its intent was to minimize ozone formation by means of requiring reduction of hydrocarbons, rather than to prevent ill-effects from hydrocarbons in and of themselves. See generally Opinion in R78-3, 4; 35 PCB 243, (August 23, 1979), but especially at p. 250.

(May 28, 1981)] the Board finds that GTE has failed to prove that denial of variance would impose an arbitrary or unreasonable hardship. Also, the facts pleaded by GTE might well be persuasive if brought forward as mitigating factors in an enforcement action, the circumstances here, including GTE's general allegations of harm due to general economic and business problems, are insufficient to support grant of variance relief from Chapter 2.

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

ORDER

Petitioner, GTE Automatic Electric, Inc. is hereby denied the requested variance from Rules 103, 205(j), and 205(k)(3) of Chapter 2: Air Pollution for the period of July 1, 1980 to July 31, 1981.

IT IS SO ORDERED.

Board Members I. Goodman and N. Werner dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the Su day of September, 1981 by a vote of .

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board