

ILLINOIS POLLUTION CONTROL BOARD
September 21, 1978

ILLINOIS POWER CO. (BALDWIN STATION),)
)
) Petitioner,)
)
) v.) PCB 78-189
)
) ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

CONCURRING OPINION (by Mr. Dumelle):

The majority Opinion and Order gives Illinois Power the added protection of the possible enactment of R77-9 if such occurs prior to July 1, 1979. In addition, the "outside date" of June 1, 1979 is changed to July 1, 1979.

The argument for adding R77-9's possible enactment to that of R75-5's is that further proceedings under R75-5 might be needed after its enactment in order to fully protect Illinois Power Company.

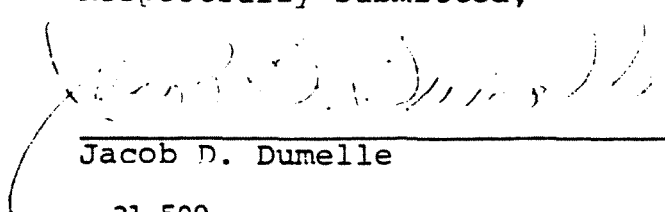
Since R75-5 is not yet final, no one can say if the Baldwin Station falls under the omnibus provision or requires a further site specific proceeding. But it can be argued that the Board's Order of February 2, 1978 in PCB 75-109 contemplated protection by R75-5 including any additional proceedings required by it.

My own feeling is that the economic study for R77-9 will not be completed by the Institute of Natural Resources in time for the Board to make a timely decision. The operative variance date will then become July 1, 1979.

Thus, this action (the inclusion of R77-9) is probably not necessary. And, to me, it may signal all other owners of rural coal burning power plants to file site specific regulations, thus hopelessly overloading the Board (in terms of possibly achieving timely decisions before July 1, 1979).

In conclusion, I believe that Illinois Power was implicitly protected by our Order referencing R75-5 and that a poor precedent of encouraging numerous site specific rule-makings has been created.

Respectfully submitted,



Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above concurring opinion was submitted on the 26th day of September, 1978.

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