

ILLINOIS POLLUTION CONTROL BOARD
October 17, 1996

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|-------------------------------|---|--------------------------------|
| COMMONWEALTH EDISON |) | |
| COMPANY (FISK, CRAWFORD, WILL |) | |
| COUNTY, and JOLIET GENERATING |) | |
| STATIONS), |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 97-72 |
| |) | (Provisional Variance - Water) |
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by C.A. Manning):

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), Commonwealth Edison Company (Commonwealth Edison), on behalf of its Fisk, Crawford, Will County, and Joliet generating stations, has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Commonwealth Edison to immediately implement the new alternate thermal standards established in In the Matter of: Petition of Commonwealth Edison Company for an Adjusted Standard from 35 Ill. Adm. Code 302.211(d) and (e) (October 3, 1996), AS 96-10. Such request for a provisional variance and the notification of recommendation were filed with the Board by the Agency on October 15, 1996. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two (2) days of this filing. The Agency, by and through its Director, Mary A. Gade, seeks a provisional variance for Commonwealth Edison in order to allow it to operate consistent with the AS 96-10 limits while the Agency completes its administrative process to formally modify each of Commonwealth Edison's National Pollutant Discharge Elimination System (NPDES) permits for these facilities.

Specifically, the Agency recommends that we grant Commonwealth Edison a 45-day provisional variance for its facilities located in Will and Cook Counties from the temperature standards and interim temperature limitations in Special Condition #5 of NPDES Permit No. IL0064254 for the Joliet Station #29, and from the temperature limitations as set forth in 35 Ill. Adm. Code 302.211(d) and (e), 304.141(a) and from the interim temperature limitations established by the Board in Commonwealth Edison v. IEPA and the Illinois Chapter of the Sierra Club (November 21, 1991), PCB 91-29, for the period beginning October 9, 1996 and continue until November 22, 1996.

The Agency recommends that the Board grant the requested provisional variance with specified conditions and anticipates that the requested provisional variance would have minimal

environmental impact on the receiving stream. The Agency is unaware of any public water supplies that the requested provisional variance would adversely impact. According to the Agency, no federal laws would be violated if the provisional variance is granted by the Board. The Agency finds that a denial of the requested provisional variance would create an arbitrary or unreasonable hardship on the petitioner.

Provisional variances are by their very nature temporary. The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. (See 415 ILCS 5/35 (b) & 36(c).) In provisional variances it is the responsibility of the Agency to make the technical determinations and finding of arbitrary or unreasonable hardship. The Board's responsibility is to adopt a formal order, to assure the formal maintenance of the record, to assure the enforceability of the variance, and to provide notification of the action by a press release.

Having received the Agency recommendation finding that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants Commonwealth Edison a provisional variance from the temperature standards and interim temperature limitations in Special Condition #5 of NPDES permit No. IL0064254 for the Joliet Station #29, and from the temperature limitations as set forth in 35 Ill. Adm. Code 302.211(d) and (e), 304.141(a) and from the interim temperature limitations established by the Board in Commonwealth Edison v. IEPA and the Illinois Chapter of the Sierra Club (November 21, 1991), PCB 91-29, on the following conditions:

1. The term of this provisional variance shall commence on October 9, 1996 and continue through November 22, 1996 or the modification of Commonwealth Edison's NPDES permits, whichever occurs first;
2. For the period of this provisional variance, Commonwealth Edison's Fisk, Crawford, Will County, and Joliet generating stations shall comply with the following alternate thermal standards at the I-55 bridge as limitations for discharge in lieu of the interim temperature limitations of Commonwealth Edison v. IEPA and the Illinois Chapter of the Sierra Club (November 21, 1991), PCB 91-29, and the requirements of in 35 Ill. Adm. Code 302.211(d) and (e):

October 85°F
November 75°F

3. The standards may be exceeded by no more than 3°F for no more than 2% of the hours in the 12-month period ending December 31, 1996, except at no time shall Commonwealth Edison's plant cause the water temperature at the I-55 bridge to exceed 93°F. Commonwealth Edison's plant continues to be subject to the Secondary Contact Standards at the point of discharge; and

- 4. The petitioner shall continue to measure the water temperature at the I-55 bridge on a continuous basis.

The petitioner shall execute a copy of a certificate of acceptance of this provisional variance and forward that copy to the Agency addressed as follows;

Illinois Environmental Protection Agency
 Attention: Mark T. Books
 Division of Water Pollution Control
 Compliance Assurance Section
 2200 Churchill Road
 P.O. Box 19276
 Springfield, Illinois 62794-9276

The petitioner shall forward that copy within ten (10) days of the date of this order of the Board, and the certificate of acceptance shall take the following form:

CERTIFICATION

I (We), _____, hereby accept and agree to be bound by all terms and conditions of the order of the Pollution Control Board in PCB 97-72, October 17, 1996.

 Petitioner

 Authorized Agent

 Title

 Date

IT IS SO ORDERED.

Board Members K.M. Hennessey and J. Theodore Meyer abstained.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the ____ day of _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board