

ILLINOIS POLLUTION CONTROL BOARD
August 3,, 1978

COMMONWEALTH EDISON COMPANY,)
)
) Petitioner,)
)
) v.) PCB 77-201
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

DISSENTING OPINION (by Mr. Dumelle):

My reason for dissenting in the grant of this variance is rooted in the feeling that the situation Edison finds itself in is largely self-imposed.

The applicable sulfur dioxide emission air regulation was first enacted on April 14, 1972. Compliance was to be accomplished by May 31, 1975.

The Board, in granting PCB 74-16 on January 3, 1975, gave Powerton more time to develop coal gasification. But six weeks later coal gasification was found to be too costly and dropped by Edison (see PCB 75-100 filed February 18, 1975).

The time when coal gasification was to be on line for Powerton Unit 5 was May, 1980 or five full years after the original compliance date.

On December 24, 1975, Edison executed a "compliance plan" for Powerton with the Illinois Environmental Protection Agency. This "plan" provided for a single scrubber to be installed and operative on half (one boiler) of either Powerton Unit 5 or 6 by January 1, 1980. And scrubbers for all other boilers (three) would come on line by July 1, 1983.

I can find no authority for the execution of the "compliance plan" with Edison by the Agency. The most distant date granted by the Board in PCB 74-16 was May, 1980. The dates running into July, 1983 simply were beyond any authority of the Agency to negotiate. Variances are granted by the Board, not by the Agency.

Therefore, Edison cannot claim reliance upon the "compliance plan" entered into with the Agency. And thus the

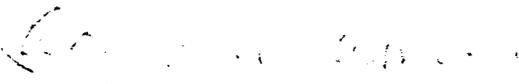
delays encountered at Powerton are self-imposed because Edison certainly knew the legal division of powers between Board and Agency.

Powerton has now gone three different routes toward meeting the Board's regulation. First was coal gasification by May, 1980. This vanished when costs inexplicably rose 336 percent in one year. (See PCB 75-100 petition, pp. 9-10.) Second came a four-scrubber program by July, 1983. Last, we have a single scrubber and low sulfur coal by July, 1979.

The decision here by Edison to burn low sulfur coal as against spending large amounts of capital on scrubbers or gasification equipment may be a corporate decision occasioned by the ease of "passing through" fuel adjustment costs to customers compared to the difficulty of raising capital by bond or stock issues. If this is true, then Illinois coal may never be burned at Powerton in great quantities unless Section 125 of the Clean Air can be invoked by the Governor and the President.

Had Edison used its time well since the beginning of 1974 it would not have been before us in this proceeding. The 66 months from January 1974 until July 1979 were ample to bring on line scrubbers at Powerton to continue using Illinois coal.

Respectfully submitted,


Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Board, do hereby certify that the above Dissenting Opinion was filed this 9th day of August, 1978.


Christan L. Moffett, Clerk
Pollution Control Board