

ILLINOIS POLLUTION CONTROL BOARD
August 21, 1980

IN THE MATTER OF:)
) R78-16
PARTICULATE EMISSION)
LIMITATIONS, RULE 203(g)(1))
OF CHAPTER 2.)

OPINION AND ORDER OF THE BOARD (by I. Goodman):

The Order of August 21, 1980 in R71-23 is incorporated herein.

On November 30, 1978, the Board proposed a review of Rule 203(g)(1) of its Air Pollution Control Rules and Regulations in light of recent statutory and judicial developments. Rule 203(g)(1), as adopted on April 13, 1972 in R71-23, specifies particulate emission limitations for certain sources using solid fuels exclusively. This rule was one of the three rules in R71-23 held invalid by the Illinois Supreme Court in Commonwealth Edison Company v. PCB, 62 Ill.2d 494, 343 N.E.2d 459 (1976), reh den March 25, 1976, and by the Third District Appellate Court in Ashland Chemical Company v. PCB, 64 Ill.App.3d 169, 381 N.E.2d 56 (1978). (See, also, Illinois State Chamber of Commerce, et al. v. PCB, No. 51671, Agenda No. 45, Appeal dismissed November 12, 1979.)

Both technological and economic hearings in this proceeding were held simultaneously with those for R77-15, R78-14, R78-15, and R78-17, and the record closed on June 13, 1980. At issue is not only the advisability of the specific emission limitations, but also, pursuant to Edison and Ashland, the advisability of the limitations in light of the requirement of simultaneous compliance with sulfur dioxide emission limitation regulations.

The Board finds, given the Illinois Environmental Protection Agency's (Agency's) mandate under §9.2 of the Illinois Environmental Protection Act (Act), that the technological feasibility and economic reasonableness of the particulate emission limitations in Rule 203(g)(1), especially in light of simultaneous compliance with sulfur dioxide emission limitations, will change upon the Board's promulgation of regulations proposed by the Agency pursuant to §9.2 of the Act. The Board, therefore, dismisses this proceeding but gives leave to any person or entity likely to be affected by Rule 203(g)(1) as originally adopted on April 13, 1972, and as readopted on July 7, 1977 in R71-23, to reopen the proceeding in R78-16 subsequent to the Agency's filing of proposals pursuant to §9.2 of the Act upon a showing that simultaneous compliance with such proposed sulfur dioxide regulations and Rule 203(g) is technologically infeasible or economically unreasonable.

IT IS SO ORDERED.

Mr. Werner abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 21st day of August, 1980 by a vote of 4-0.

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