

ILLINOIS POLLUTION CONTROL BOARD  
June 22, 1978

ILLINOIS POWER COMPANY	)	
(HENNEPIN STATION),	)	
	)	
Petitioner,	)	
	)	
	)	
v.	)	PCB 78-66
	)	
	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	

MR. SHELDON A. ZABEL OF SCHIFF, HARDIN & WAITE, APPEARED FOR THE PETITIONERS;  
HONORABLE WILLIAM J. SCOTT, ATTORNEY GENERAL FOR THE STATE OF ILLINOIS, BY MS. SUSAN SHUMWAY, APPEARED FOR THE RESPONDENT.

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

This case is before the Board upon a petition for variance filed by the Illinois Power Company (IPC) on March 13, 1978. IPC seeks a variance from Rules 103 and 204(g)(3) of the Board's Air Pollution Regulations for its sulfur dioxide emissions until December 21, 1978. Though IPC waived its right to a hearing in this matter, the Board did not receive sufficient notice in time to cancel the hearing. Hearing was held on May 17, 1978; no members of the public attended.

IPC is a public utility, and the subject of its petition is its Hennepin Station, one of IPC's five major generating stations. The Hennepin Station consists of two boilers and associated electric generators, having an aggregate capacity of 320 megawatts (MW). The boilers burn coal exclusively.

IPC alleges that, due to circumstances existing prior to the recent coal strike and aggravated by the United Mine Workers (UMW) strike, IPC is unable to comply with Rule 204(g)(3) and, therefore, is unable to obtain an operating permit. IPC alleges that, until signing a five year contract with Freeman United Mine Company

(Freeman), IPC had to obtain coal for its Hennepin Station through short-term or spot purchase agreements. This method resulted in a lack of uniformity in the quality of the coal supply. The Freeman contract was to take effect on January 1, 1978, but, on December 5, 1977, the Freeman mine was closed by the UMW strike. As a result of this occurrence, IPC claims that it was forced to increase the number of spot purchases and had to divert coal from its Havana Station, currently under construction.

IPC alleges that, under the circumstances, there could be no uniformity in the quality of the coal supplied to the Hennepin Station. Indeed, IPC feels that, because of the diversion of coal from the Havana Station, a higher number of samples above the 204(g)(3) limits resulted than would have occurred normally. Havana Station requires a higher quality (lower sulfur content) coal than the Hennepin Station; if the normal coal required for Hennepin had been available, there would have been fewer samples above the 204(g)(3) limits.

The UMW strike ended on March 26, 1978 but was still on-going at the time of filing of the petition. IPC estimates that, once regular deliveries of substantially similar coal are received and utilized at Hennepin, it will take 270 days after the end of the UMW strike, or until December 21, 1978, to comply with the 204(g)(3) limits.

The Agency recommends that the Board grant the request for a variance from Rule 204(g)(3), subject to certain conditions, and deny the request for a variance from Rule 103. The Agency is of the opinion that there will be no environmental damage caused if the request is granted, since the sulfur dioxide emissions will not exceed any substantive emission standard. The Agency also notes that if the variance from Rule 204(g)(3) is granted, IPC will be eligible to obtain an operating permit.

The Board finds that the granting of the variance from Rule 204(g)(3) is warranted in this case. IPC has shown good faith efforts to comply with the limitation set by 204(g)(3). Due to the long range effects of the UMW strike and the necessity of utilizing existing stockpiles, the Board finds that the 270 day variance is a reasonable length of time. The Board agrees with Petitioner that denial of the variance from Rule 204(g)(3) would impose an arbitrary and unreasonable hardship, since there are no substantive violations of sulfur dioxide emission standards, and there are no other viable alternatives available to IPC. The Board also finds that the petition for variance from Rule 103 should be denied, since it is unnecessary in light of the granting of the variance from Rule 204(g)(3).

The Board notes that Petitioner raised a question as to the correctness of the Agency's construction of Rule 204(g)(3). However, since Petitioner's request for a variance from the rule is being granted, it is unnecessary to rule on the question at this time.

The Board grants IPC's request for a variance from Rule 204(g)(3) until December 21, 1978 and denies their request for a variance from Rule 103.

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

ORDER

It is the Order of the Pollution Control Board that the Illinois Power Company be granted a variance from Rule 204(g)(3) of Chapter 2 of the Board's Regulations until December 21, 1978 for its Hennepin Station under the following conditions:

- 1) Within thirty (30) days of the date of this Order, the Petitioner shall apply to the Agency for interim operating permits to be valid for the duration of the variance.
- 2) Petitioner shall comply with Rules 204(c)(1)(B)(i) based on a sixty (60) day average, 204(e) and 308 of Chapter 2.
- 3) Sixty (60) days from the date of this Order and every sixty days thereafter, Petitioner shall submit sixty-day coal analysis reports to the Agency at:

Environmental Protection Agency  
Division of Air Pollution Control  
Region I - Field Operations Section  
Box 915  
Rockford, Illinois 61105

- 4) On or before September 22, 1978, Petitioner shall apply to the Agency for all necessary operating permits. Said permits shall demonstrate compliance with Rule 204(g)(3) of Chapter 2. If said permits are issued prior to December 21, 1978, this variance shall expire on the date of issuance.

- 5) Within 45 days of the adoption of this Order, Illinois Power Company shall execute and forward to the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 a Certification of Acceptance and Agreement to be bound to all terms and conditions of this Order. The 45 day period shall be held in abeyance during any period this matter is being appealed. The form of said certification shall be as follows:

CERTIFICATION

I (We), \_\_\_\_\_ having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 78-66 hereby accept said Order and agree to be bound by all of the terms and conditions thereof.

SIGNED \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

Petitioner's request for a variance from Rule 103 of Chapter 2 is denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 22<sup>ND</sup> day of June, 1978 by a vote of 5-0.

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