

ILLINOIS POLLUTION CONTROL BOARD
April 8, 1976

IN THE MATTER OF)
EMISSION STANDARDS) R71-23
)

ORDER OF THE BOARD (by Mr. Goodman):

In Commonwealth Edison Company v. The Pollution Control Board, Ill. 2d, NE 2d, the Supreme Court affirmed the holding of the Appellate Court which reversed the adoption of Rules 204(a)(1) and (c)(1)(A), sulfur dioxide emission standards, and Rule 203(g), particulate emission standards, and remanded the matter to the Board with the following instructions:

We recognize that possibly scientific evidence may have been developed since the hearing and the resultant Board opinion in this cause that may not demand a relaxation of these challenged rules. Accordingly, we remand this cause on this matter with instructions to the Board either to validate Rules 203(g) and 204(a)(1) and (c)(1)(A) in accordance with Section 27 of the Act or to prepare proper rules as substitutes. 25 Ill. App. 3rd 271.

In essence, the Court has determined that the record in R71-23 did not demonstrate that the Board considered the technical feasibility and economic reasonableness of these rules pursuant to Section 27 of the Environmental Protection Act, as in effect at that time. The Court, rather than voiding the regulations, chose to remand them to the Board, giving to the Board the alternative of simply validating the existing regulation by the inclusion of additional evidence regarding technical feasibility and economic reasonableness.

The Board hereby reopens the record in R71-23 for the purpose of validating Rules 203(g), 204(a)(1) and 204(c)(1)(A). The record in the Board's current proceedings on R75-5 and R74-2, consolidated, related to sulfur dioxide emissions, and the record in R71-23 are hereby mutually incorporated.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 8th day of April, 1976 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board