

ILLINOIS POLLUTION CONTROL BOARD
May 8, 1975

MT. CARMEL PUBLIC UTILITY COMPANY,)
Petitioner,)
)
)
v.) PCB 75-41
)
)
ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

INTERIM OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

This petition for variance was filed on January 27, 1975. It contains a waiver from a right to decision within ninety days. Petitioner, Mt. Carmel Public Utility Company (Mt. Carmel), seeks an extension of a variance from Rule 2-2.53 of the Rules and Regulations Governing the Control of Air Pollution and from Rule 203(g)(1)(B) of Pollution Control Board Regulations, Part II, Chapter 2 until December 31, 1975.

The City of Mt. Carmel, located in Wabash County, operates a facility for generating electricity and supplying process steam. The facility's boilers No. 1 and 4, the subject of this petition, utilize approximately 25,000 tons of coal per year with an approximate ash and sulfur content of 7.5% and 2.28%, respectively. Heating value of the coal is 12,026 BTU's per pound.

This operation has been the subject of numerous prior Board actions. For purposes of brevity the reader is referred to our Opinion in PCB 74-280, 14 PCB 211 for a summary of these actions. That Opinion, issued on October 17, 1974, granted Mt. Carmel a variance from Rule 2-2.53 until April 30, 1975 but required additional evidence to justify granting the variance for the full extent of the requested period (October 31, 1975). In this petition, Mt. Carmel seeks to supply such evidence and further seeks a new extension until December 31, 1975.

Mt. Carmel's compliance program consists of two steps. First, it intends to retire Boiler No. 4 upon the completion of an interconnection with Central Illinois Public Service (CIPS) at its substation at Albion. Second, it proposes to install equipment to control particulate emissions from Boiler No. 1.

The petition contains an extensive explanation of Mt. Carmel's attempts to secure completion of the interconnection. Segments of this interconnection have been constructed and completed. A 69 KV transmission line from the Company's generating station at Mt. Carmel to a substation located at the Amax Coal Mine near the Village of Keensburg was completed before January 30, 1973 as ordered by the Board in an Order entered on November 11, 1971 and extended on October 31, 1972. Another segment of 69 KV line from the Amax Coal Mine to the eastern terminal point of a proposed 138 KV line has also been completed. Mt. Carmel alleges that a third phase of this construction program - the acquisition of easements required for the 138 KV line - ran into opposition from landowners along the proposed route. The petition records the protracted legal steps, beginning on October 4, 1972, taken by Mt. Carmel to effectuate the necessary condemnations. Filing of the condemnation judgments with respect to the last remaining parcels of land was finally accomplished on October 1, 1974. Meanwhile, clearing operations and some erection of H-frame structures for the 138 KV line were commenced in early August, 1974. In the middle of November bad weather forced a temporary discontinuance, and construction operations have continued intermittently as the weather permits. Mt. Carmel expects to complete construction by December 31, 1975. Mt. Carmel alleges that it has already expended a sum totalling over \$850,000 in the construction of this interconnection. It estimates additional expenditures for completion of the 138 KV line at \$40,000.

The Environmental Protection Agency, in a Recommendation filed March 11, 1975, stated that it is of the opinion Mt. Carmel has made reasonable progress toward completing the interconnection, and that the delays did not appear to have been caused by the Company. Accordingly it recommended the grant of a variance for Boiler No. 4. We agree that a variance would be appropriate here, since the petitioner has acted in good faith, at a considerable expense and for a period of time stretching over several years, to achieve compliance.

We note that, unlike other cases in which we have denied variances based on interconnection proposals, the petitioner here has actually progressed toward construction and completion of the necessary lines as opposed to simply awaiting the approval of an interconnection agreement.

(See City of Highland v. EPA, PCB 73-288, 13 PCB 167 (July 25, 1974) and City of Carlyle v. EPA, PCB 73-264 (January 16, 1975).

With respect to Mt. Carmel's compliance program for Boiler No. 1, the Agency has recommended denial of the variance on the ground that the boiler can now operate on fuel oil. It recommended that the Company continue to seek an allocation by working with the Illinois Energy Office. The Agency granted Mt. Carmel a permit to convert this boiler from coal to dual fuel on January 16, 1974. It was taken out of service October 30, 1974 and conversion was completed by January 10, 1975 at a cost of over \$41,000 (expenditures to December 31, 1974). Mt. Carmel has now postponed the fuel oil operation of this boiler as a result of supply difficulties, and now proposes a program to install particulate control equipment to achieve compliance with Rule 203(g)(1)(B). Our Order of October 17, 1974 in PCB 74-280, granting Mt. Carmel a variance extension, criticized that petition for its omission of any discussion of the possibility of installing such control devices. The instant petition satisfies that omission. Moreover, it indicates that a mechanical dust collector for the system has already been ordered, at a cost of \$15,510, with delivery expected the last week in February, 1975. In addition, a new induced draft fan has been ordered, with delivery expected by July 1, 1975. Mt. Carmel alleges that since this latter delivery cannot be accomplished prior to the period of peak demand, the particulate control system cannot be completed prior to the winter of 1975.

In its petition and in a reply to the Agency Recommendation, filed on March 20, 1975, Mt. Carmel related its attempts to secure additional fuel oil. It expressed limited confidence in the promise of aid from the Illinois Energy Office in obtaining an additional allocation of fuel oil since the Federal Energy Administration had already denied an application on December 3, 1974. It did indicate, however, that it had written to the Illinois Energy Office and asked for advice and assistance in gaining the additional allocation.

We are of the opinion that Mt. Carmel has made out a case that it cannot at this time secure the necessary allocation to run its Boiler No. 1 on fuel oil. Again we find the sufficient degree of good faith here, both in the original conversion of the boiler and in the instant progress toward installation of control equipment, to normally warrant the grant of a variance until the controls are installed, or until an additional allocation is obtained.

We feel precluded, however, by a recent United States Supreme Court case, from granting a variance beyond July 1, 1975 -- the date Illinois is to have attained national primary ambient air standards under the Clean Air Act -- without a showing that the variance will not jeopardize such national standards. Train v. National Resources Defense Council, et al., 43 LW 4467 (April 16, 1975). In this instance, no information has been submitted indicating ambient air quality with respect to particulates with which to enable us to make such a determination. We therefore remand this case to allow the city 120 days within which to supply such data.

Finally, Mt. Carmel requests the release of a \$500,000 performance bond required by the Board on November 11, 1971. It cites the fact that it has already spent over one million dollars on its compliance plan - compared to an original estimate of \$680,000. It expects the completion of the program to cost an additional \$100,000, including \$60,000 for the particulate control system on Boiler No. 1 and \$40,000 for additional expenditures for the completion of the 138 KV line. It also cites expected difficulty in refinancing a \$270,000 bond issue due December 1, 1975 if the performance bond is not released because of the contingent liability involved. In light of Mt. Carmel's past performance, we accept the Agency Recommendation to lower the performance bond and lower it to \$25,000.

This Interim Opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

It is the Order of the Pollution Control Board that:

1. Petitioner, Mt. Carmel Public Utility Company, supply the Board, within 120 days of the date of this Order, with ambient air quality information with respect to particulates.

2. The Mt. Carmel Public Utility Company performance bond posted in PCB 71-15R to guarantee completion of its program of compliance shall be in the amount of \$25,000 instead of \$500,000 heretofore required under PCB 74-280.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Opinion and Order were adopted on the 8th day of May, 1975 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board