ILLINOIS POLLUTION CONTROL BOARD
January 16, 1975

CITY OF CARLYLE, Petitioner, v. ENVIRONMENTAL PROTECTION AGENCY, Respondent,	)	PCB 73-264

MR. JAMES E. BUCHMILLER, appeared on behalf of Petitioner;
MR. JOHN PALINCSAR, appeared on behalf of the Environmental Protection Agency;

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

The City of Carlyle ("Petitioner") filed a variance petition on June 26, 1973. On July 13, 1973 the Board determined that this petition was inadequate and ordered it dismissed with leave to file an amended variance petition. On September 4, 1973 petitioner filed an amended variance petition seeking relief from Rule 203(g)(1)(B) of the Air Pollution Regulations. Petitioner filed a motion for continuance and a waiver of the statutory 90-day decision rule on November 19, 1973 in order to conduct stack tests. Petitioner filed an amendment to its variance petition on February 15, 1974 reflecting the results of stack tests conducted on January 16 and 17, 1974. The Environmental Protection Agency ("Agency") filed a recommendation to deny the variance petition on May 30, 1974. No hearing was held in this matter.

Petitioner operates a municipal power plant located within the City of Carlyle in Clinton County. Petitioner's power plant has a capacity of 9,250 KW. The subject of this variance petition, boiler #2, has a capacity of 3,000 KW. Boiler #2 is a coal-fired, chain gate, stoker type of boiler. This boiler is served by a 160 foot stack which lacks any pollution control equipment. The stack tests conducted by petitioner show that boiler #2 emits 1.41 pounds per million Btus (lb/MBtu). Petitioner's February, 1974 amended variance petition seeks relief from Section 9(a) of the Environmental Protection Act, Rule 2-2.53 of the Rules and Regulations Governing the Control of Air Pollution (Air Rules), and Rules 103(b) and 104 of the Air Pollution Regulations.

Petitioner, together with 11 other municipalities are presently seeking an interconnection with Illinois Power Company and other members of the Illinois-Missouri power pool. This request was filed in December of 1974 before the Federal Power Commission ("FPC"). Petitioner alleges that to require compliance with the Act, the Air Rules, and the Air Pollution Regulations would be arbitrary and unreasonable during the pendency of the petition before the FPC. Petitioner alleges that it will be in compliance by May, 1975. Petitioner states that it is unable at this time to commit itself to a compliance program during the pendency of its petition before the FPC (Docket E-7514). Petitioner proposes to achieve compliance by interconnecting with Illinois Power Company after an FPC ruling to do so. Petitioner states that it will be in compliance because it will use boiler #2 for standby and will use equipment or fuel to achieve compliance, or may be able to retire the unit. If not ordered to connect, petitioner still alleges compliance by 1975.

The Agency recommends that the Board deny the variance request. The Agency alleges that without an order to interconnect by the FPC, that petitioner would be unable to be guaranteed a steady supply of fuel oil. This coupled with the Federal Energy Office requirement of mandatory use of coal in coal-burning facilities would prohibit the conversion of this unit to oil burning to achieve compliance. The Agency further argues that petitioner has not shown an economic hardship in that it has not had an electric rate increase since 1946. The Agency states that the boiler #2, which has been used since 1950, should be amortized for the value of its entire useful life and that either petitioner should install controls on boiler #2 or retire and replace the boiler.

The Agency alleges that if the FPC ordered interconnection, that because of the substantial savings of $341,250 interest from the delay in installation and $13,200 savings by the purchase of economy power, petitioner would be able to afford control equipment for boiler #2. The Agency further alleges that petitioner has pledged not to retire boiler #2 in the event of an order to interconnect with Illinois Power. The Agency alleges that petitioner has pledged the use of boiler #2 in its proceeding before the FPC (Agency Exhibit A, at pages 9, 15, and 20). The Agency further alleges that if the oil shortage and resulting supply problems persist, that petitioner would then be forced to use boiler #2 over other oil burning units at its power plant. Therefore the Agency alleges that even with an order of interconnection that petitioner should proceed to install controls on boiler #2.

The Board finds petitioner to be in admitted violation of Rule 2-2.53 of the Air Rules which sets a maximum of 0.6 lbs/MBtu for particulate emissions. Petitioner admits to discharging 1.41 lbs/MBtu of particulates. Petitioner's request is similar to that in City of Highland v. EPA, PCB 73-288, 13 PCB 167 (July 25, 1974) in which the Board dismissed the City of Highland variance petition. Both the City of Highland and Carlyle are co-petitioners in the proceeding before the FPC to seek an interconnection ruling. Petitioner has presented no compliance program to indicate the method by which it will achieve compliance by May, 1975. Petitioner proposes a delay while it seeks an FPC ruling. The petition before the FPC has been pending for a number of years (since at least May 1972) with no resolution in sight. Petitioner has pledged the use of boiler #2 as a standby unit in the event of an interconnection agreement, and proposes to use boiler #2 as a standby unit if not ordered to interconnect. The use of a unit on standby purposes would still require compliance with the numerical emission limitations. These limitations found in the Air Rules were first adopted on March 26, 1965. Petitioner has presented no ambient air quality data which reflect the effect of its emissions now in excess of allowable limits. Petitioner has presented no economic hardship which would demonstrate an arbitrary or unreasonable hardship if required to comply with the existing standards. For these reasons, the Board finds that petitioner is not entitled to the requested variance relief on the record before us.

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

ORDER

The variance request filed by the City of Carlyle is hereby denied without prejudice.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 16th day of January, 1975 by a vote of 4-0

Christan L. Moffett

Christan L. Moffett, Clerk
Illinois Pollution Control Board