

ILLINOIS POLLUTION CONTROL BOARD
September 7, 1995

COMMONWEALTH EDISON COMPANY)	
(FISK, CRAWFORD, WILL COUNTY)	
and JOLIET GENERATING)	
STATIONS),)	
)	
Petitioner,)	
)	
v.)	PCB 96-51
)	(Provisional Variance-Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), Commonwealth Edison Company (Commonwealth Edison), on behalf of its, Fisk, Crawford, Will County, and Joliet generating stations, has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Commonwealth Edison to increase the thermal discharge from these facilities. Such request for a provisional variance and the Notification of Recommendation were filed with the Board by the Agency on Tuesday, September 5, 1995. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two (2) days of this filing.

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b)), the Agency, by and through its Director, Mary A. Gade, seeks a provisional variance for Commonwealth Edison in order to allow it to operate due to increased electrical demands and outages of several of its generating units.

This recommendation is essentially that the Board extend a previously-granted thirty-two (32)-day provisional variance that expired August 31, 1995. The docket number of the previous provisional variance was PCB 96-26, granted on August 3, 1995. That prior provisional variance was itself an extension of the variance granted on June 29, 1995 in PCB 95-183.

Specifically, the Agency recommends that we grant Commonwealth Edison a eighteen (18)-day provisional variance for its facilities located in Will and Cook Counties from the temperature standards as set forth in 35 Ill. Adm. Code 302.211(d), 304.141(a) and from the Board's order in PCB 91-29, November 21, 1991, for the period beginning September 1, 1995 and continue until September 18, 1995.

The Agency recommends that the Board grant the requested provisional variance with specified conditions. The Agency anticipates that the requested provisional variance would have minimal environmental impact on the receiving stream. The Agency is unaware of any public water supplies that the requested provisional variance would adversely impact. The Agency maintains that a grant of a provisional variance would violate no federal laws. The Agency finds that a denial of the requested provisional variance would create an arbitrary or unreasonable hardship on the petitioner.

Provisional variances are by their very nature temporary. The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. (See 415 ILCS 5/35 (b) & 36(c)). In provisional variances it is the responsibility of the Agency to make the technical determinations and finding of arbitrary or unreasonable hardship. The Board's responsibility is to adopt a formal order, to assure the formal maintenance of the record, to assure the enforceability of the variance, and to provide notification of the action by a press release.

Having received the Agency recommendation finding that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants Commonwealth Edison a provisional variance from 35 Ill. Adm. Code 302.211(d), 304.141(a) and from the Board's order in PCB 91-29, November 21, 1991, on the following conditions:

1. The variance shall commence on September 1, 1995 and continue until September 18, 1995;
2. For the period of this provisional variance, Commonwealth Edison's Joliet, Will County, Crawford, and Fisk stations shall comply with a maximum temperature limit of 93 degree Fahrenheit, measured in the lower Des Plaines River at the I-55 Bridge. Also during this variance, any excursion hours over the Petitioner's National Pollutant Discharge Elimination Systems permit limit shall not be counted against the usual 1% excursion hour allowance;
3. Commonwealth Edison shall continue to measure the water temperature at the I-55 Bridge on a continuous basis and shall perform periodic surveillance of the river to ensure that no adverse environmental hardship is being caused by the higher water temperature.

Within ten (10) days of the date of this order of the Board Commonwealth Edison shall execute a copy of a Certificate of Acceptance of this provisional variance and forward that copy to the Agency addressed as follows:

Illinois Environmental Protection Agency
Bureau of Water, Compliance Assurance Section
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

Attention: Mark T. Books

The Certificate of Acceptance shall take the following form:

CERTIFICATION

I (We), _____,
hereby accept and agree to be bound by all terms
and conditions of the order of the Pollution
Control Board in PCB 96-51, September 7, 1995.

Petitioner

Authorized Agent

Title

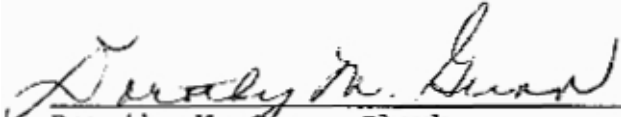
Date

IT IS SO ORDERED.

Board Member M. McFawn dissented.

Board Member J. Theodore Meyer voted present.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control
Board, do hereby certify that the above order was adopted on the
7th day of September, 1995, by a vote of
5-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board