

ILLINOIS POLLUTION CONTROL BOARD
April 6, 1995

ILLINOIS POWER COMPANY)
(BALDWIN POWER STATION),)
)
Petitioner,)
)
v.) PCB 95-121
) (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)), Illinois Power Company (Illinois Power) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to allow Illinois Power to continue operating during a period of repairs to its ash pond system. Illinois Power requires a provisional variance to allow flow from the fly ash cell to stabilize and to evaluate the permanent compliance options from the cell at a lower level. Such request for a provisional variance and the Notification of Recommendation were filed with the Board by the Agency on Tuesday, April 4, 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 Illinois Environmental Protection Agency (Agency), by and through its Director, Mary A. Gade, seeks a provisional variance for Illinois Power in order to allow it to continue operating during a period of repairs to its ash pond system.

Specifically, the Agency recommends that we grant Illinois Power a (forty-five) 45 day provisional variance for its facility located in St. Clair and Randolph Counties, from the requirements pertaining to total suspended solids as set forth in 35 Ill. Adm. Code 304.141(a) and 304.120, for the period beginning March 24, 1995 and continuing for a period not longer than forty-five (45)-days.

The Agency recommends that the Board grant the requested provisional variance with specified conditions. The Agency agrees that the repairs are necessary. 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 Illinois Power a provisional variance from 35 Ill. Adm. Code 304.141(a) and 304.120, on the following conditions:

1. The variance shall commence on March 24, 1995 and continuing for a period not longer than forty-five (45)-days;
2. Illinois Power shall notify the Agency of the appropriate repairs to be made as a results of the engineering study that is currently being conducted. Illinois Power shall confirm this notice in writing within five (5) days, addressed as follows:

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

Attention: Barbara Conner

3. During this provisional variance, the effluent total suspended solids discharge limit shall be 50 mg/l for a monthly average and 100 mg/l for a daily maximum (concentration limits). Illinois Power shall also continue to ensure compliance with other parameters described in its NPDES permit during this provisional variance period;
4. During this provisional variance, Illinois Power shall provide the best treatment practicable during the variance period.

The Illinois Power shall execute a copy of a Certificate of

Acceptance of this provisional variance and forward that copy to the Agency addressed as is the written notice required in the above condition; the petitioner shall forward that copy within ten (10) days of the date of this order of the Board, and 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 95-121, April 6, 1995.

Petitioner

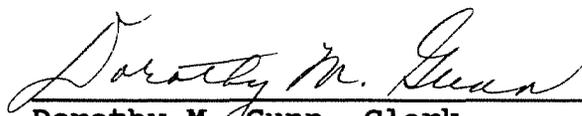
Authorized Agent

Title

Date

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 6th day of April, 1995, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board