

ILLINOIS POLLUTION CONTROL BOARD
June 17, 1993

ILLINOIS POWER COMPANY,)
)
 Petitioner,)
)
 v.) PCB 93-36
) (Provisional Variance)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

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

This matter comes before the Board on receipt of an Agency Motion to Amend Board Order dated June 16, 1993. In the context of a provisional variance, the Board construes this as an amended Agency recommendation.

The Agency seeks to change the effective dates of the provisional variance granted February 25, 1993. That order granted the petitioner, Illinois Power Company a 45-day provisional variance for its Randolph County facility from opacity standard and mass emission limit, as set forth in 35 Ill. Adm. Code 212.123 and 212.203, for the period from when the petitioner begins the loading of medium sulfur coal into the Unit 1 coal bunker, and continuing for 45 days. Illinois Power wants to burn Illinois medium-sulfur coal on a trial basis. Illinois Power cannot estimate the emissions that will result, so it has requested, and the Agency has recommended, that the Board grant this provisional variance during the trial. The Agency now asserts that it recently discovered that the petitioner may not be able to burn as requested. The Agency recommends that the Board grant the provisional variance (presumably otherwise on the terms previously granted) so that it expires on October 15, 1993¹ if has not already been performed.

The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. See Ill. Rev. Stat. 1991, ch. 111½, pars. 1035(b) & (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. For this reason, the Board granted the provisional

¹ The main body of the Agency's filing twice states October 15, 1993. The prayer at the end states October 1, 1993. We construe the October 1 date as a typographic error.

variance on February 25, 1993, as recommended by the Agency, despite the fact that the grant appeared open-ended on its face. Also for this reason, we vacate that prior grant and grant another provisional variance as recommended in the more recent amended Agency recommendation of June 16, 1993.

Having received the amended Agency recommendation finding that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby vacates the provisional variance granted the petitioner on February 25, 1993, and the Board hereby grants the petitioner a provisional variance from 35 Ill. Adm. Code 212.123 and 212.203, subject to the following conditions:

1. The term of this provisional variance shall commence when the petitioner, Illinois Power Company, initiates loading Illinois medium-sulfur coal at its Baldwin Unit 1 plant, and it shall expire after 45 days have elapsed, but in no case later than October 15, 1993;
2. The petitioner shall notify the Agency when it begins loading Illinois medium-sulfur coal at its Baldwin Unit 1 in writing, addressed as follows:

Mr. Donald E. Sutton, P.E.
Illinois Environmental Protection Agency
Division of Air Pollution Control
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

3. Illinois Power shall submit a stack test protocol to the Agency for Agency approval. The protocols should be sent to the Agency's permit section at the address provided in paragraph 2 and the Agency's offices in Collinsville and Maywood at the following addresses:

Mr. John Justice
Illinois Environmental Protection Agency
Division of Air Pollution Control
2009 Mall Street
Collinsville, IL 62234

Mr. Fred Smith
Illinois Environmental Protection Agency
1701 S. First Avenue
Sixth Floor
Maywood, IL 60153

4. Illinois Power shall submit copies of all stack test data acquired during the test burn period. A copy of this data should be sent to the Agency's permit section at the address provided in paragraph 2 and the Agency's offices

in Collinsville and Maywood at the addresses provided in paragraph 3;

- 5. Illinois Power shall conduct nitrogen oxides emission testing following the guidelines of USEPA Method 7;
- 6. Illinois Power shall update the regional office in Collinsville at the address provided in paragraph B on a weekly basis concerning the progress of the sulfur coal burning. If tests at full load indicate noncompliance, the petitioner shall explore all possibilities, including derating the unit and testing at a reduced load, during the 45-day period.
- 7. The petitioner 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 above condition 2; the petitioner shall forward that copy within 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 93-36, June 17, 1993.

Petitioner

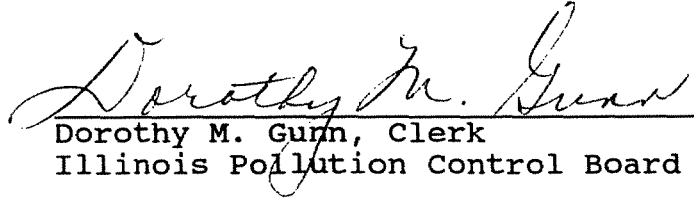
Authorized Agent

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 by the Board on the 17th day of June, 1993, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board