

ILLINOIS POLLUTION CONTROL BOARD  
August 15, 1985

ELECTRIC ENERGY, INC.                    )  
  )  
    Petitioner,                            )  
  )  
    v.                                     )  
  )  
ILLINOIS ENVIRONMENTAL                    )  
PROTECTION AGENCY,                        )  
  )  
    Respondent.                            )

PCB 85-39

OPINION AND ORDER OF THE BOARD (by R. C. Flemal):

This matter comes before the Board on a petition filed on April 4, 1985 by Electric Energy, Inc., (EEI) requesting a variance from the total suspended solids (TSS) limitation of 35 Ill. Adm. Code 304.124, as such applies to EEI's Joppa Plant Outfall 001. EEI requests that the variance extend to December 31, 1985. The Illinois Environmental Protection Agency (Agency) filed a motion for leave to file instanter and its recommendation on July 12, 1985 recommending that the variance be granted subject to conditions. Hearing was waived and none was held.

EEI operates a six unit coal fired steam electric generating station at Joppa, Massac County, Illinois with a total capacity of 1046 megawatts (gross). The station Employs about 325 people and in 1984 purchased approximately 3.2 million tons of coal, about 1.7 million tons of which were purchased from southern Illinois.

Residue from the coal burned in the boilers is routed to a 50 acre ash pond. Discharge from the pond is through Outfall 001 to an unnamed tributary of the Ohio River under authority of NPDES Permit IL0004171. Capacity in the ash pond has decreased more rapidly than anticipated, and as a consequence there is insufficient settling time to allow the effluent to meet the 15 mg/l TSS on a 30 day average and 30 mg/l TSS as a daily maximum, as specified in the NPDES Permit.

EEI intends to address the ash pond capacity problem by constructing an addition to the current pond. A construction permit to this end was granted to Petitioner by the Agency on May 28, 1984. Construction is presently in progress with completion scheduled for December 31, 1985. EEI contends that, when completed, the addition to the pond will allow the NPDES Permit levels to be attained. For the interim it requests that TSS limits be set at 75 mg/l on a 30 day average and 100 mg/l as a daily maximum.

The Agency agrees with Petitioner's request for the 100 mg/l TSS daily maximum limit, but disagrees with the requested 75 mg/l TSS on a 30 day average. The Agency notes that according to the Clean Water Act and its regulations Petitioner's facility is subject to federal Best Practicable Treatment technology requirements contained at 40 CFR §423.12(b)(4). The limitations there prohibit discharges in excess of 30 mg/l on a 30 day average. The Agency accordingly recommends that the variance be granted with a condition of a 30 mg/l 30 day average concentration of TSS.

E EI asserts that the only alternative to variance is derating of the generating units until construction of the addition to the pond is completed. Petitioner estimates that the percentage derating may be as high as 80%, but does not cite the cost that would be thus entailed. The Agency estimates, based on consolidated earnings for the 4 months to April 30, 1985, as reported by Moody's Corporate News, that an 80% reduction in income would produce a net income loss of \$392,800 over four months. This figure likely understates the loss that EEI would actually incur if it suffered an 80% reduction in income, as the Agency's calculations did not consider EEI's fixed costs, which would not decrease proportionately with revenue in the short run. Also not included in the estimate is the cost to the work force which would be incurred.

Petitioner asserts that no measurable impact would be expected in Ohio River water quality as a consequence of granting the requested relief. The Agency notes that concentrations of TSS in the Ohio River as measured at Lock and Dam 53 near Grand Chain, Illinois (downstream of Petitioner) by the U.S. Geological Survey in Water Year 1983 ranged from 9 mg/l to 260 mg/l. In comparison is the following record of TSS concentrations reported for Outfall 001 by EEI on its Discharge Monitoring Reports (Agency Recommendation, 14):

Month	<u>30 Day Avg. (mg/l)</u>	<u>Daily Max. (mg/l)</u>
04/85	7	8
03/85	15	19
02/85	10	18
01/85	24.5	37
12/84	24	24
11/84	23	58
10/84	10	10
09/84	19	19
08/84	26	26
07/84	28	28
06/84	18	18
05/84	1	1

(Prior to November, 1984 Petitioner sampled the effluent from Outfall 001 only once per month. Hence, prior to that time the daily 30 day average and daily maximum are the same.)

The Board notes that the 30 day average concentrations for the period of record of the Discharge Monitoring Reports are within the 30 mg/l limit recommended by the Agency. The Board therefore finds that the Agency's recommendation would constitute a reasonable limiting condition.

Based on the foregoing, the Board finds that requiring immediate compliance would constitute an arbitrary or unreasonable hardship considering the limited environmental impact. Accordingly, the requested variance is hereby granted, subject to conditions.

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

#### ORDER

Electric Energy, Inc., is hereby granted variance beginning this day from the total suspended solids limitations of 35 Ill. Adm. Code 304.124 for Outfall 001 of NPDES Permit IL0004171 with the following conditions:

1. Variance shall expire on December 31, 1985 or 30 days after completion of the expanded ash disposal pond, whichever is earlier.
2. During the period of the variance Total Suspended Solids (Storet 00530) shall not exceed 30 mg/l as a 30 day average concentration nor 100 mg/l as a daily maximum concentration.
3. Petitioner shall continue to monitor its effluent as required by its NPDES Permit.
4. Petitioner shall include a report outlining progress in constructing its expanded ash disposal pond with each month's Discharge Monitoring Report until the expanded facility is operational.
5. Petitioner shall inform the Agency in writing of completion of the expanded ash disposal pond within 5 days of said completion.
6. Petitioner shall submit a Certificate of Acceptance in the following form:

CERTIFICATION

We, Electric Energy, Inc., hereby accept and agree to be bound by all terms and conditions of the Order of the Pollution Control Board in PCB 85-39.

\_\_\_\_\_  
Electric Energy, Inc.

\_\_\_\_\_  
Authorized Agent

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

The report in Condition 5 and the certificate in Condition 6 shall be sent to:

Illinois Environmental Protection Agency  
Division of Water Pollution Control  
Compliance Assurance Section  
2200 Churchill Road  
Springfield, Illinois 62706

IT IS SO ORDERED

Jacob D. Dumelle concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 15<sup>th</sup> day of August, 1985, by a vote of 7-0.

Dorothy M. Gunn  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board