

ILLINOIS POLLUTION CONTROL BOARD
December 28, 1983

PEOPLE OF THE STATE OF ILLINOIS)
)
 v.) PCB 83-210
)
 CENTRAL ILLINOIS LIGHT COMPANY)
 E. D. EDWARDS STATION)
 (Certification No. 21RA-ILL-WPC-82-136))
)
 and)
)
 PEOPLE OF THE STATE OF ILLINOIS)
)
 v.) PCB 83-213
)
 CENTRAL ILLINOIS LIGHT COMPANY)
 DUCK CREEK STATION)
 (Certification No. 21 RA-ILL-WPC-78-34))

Revocation of Tax Certification.

JOHN VAN VRANKEN AND BARBARA A. CHASNOFF, ASSISTANT ATTORNEYS
GENERAL, APPEARED ON BEHALF OF PETITIONERS: AND

WILLIAM M. SHAY AND WILLIAM L. KASLEY APPEARED ON BEHALF OF
RESPONDENTS.

OPINION AND ORDER OF THE BOARD (By J. Theodore Meyer):

These matters come before the Board upon Proposal to Revoke Tax Certification adopted by the Board on December 6, 1983. On its own motion, the Board consolidates these two revocations since stipulations and agreements entered by the parties were identical except for the certification numbers. Tax Certification No. 21RA-ILL-WPC-82-136, issued August 21, 1981, covers the wastewater facility at E. D. Edwards Station. Tax Certification No. 21RA-ILL-WPC-78-34, issued March 13, 1978, covers the package wastewater treatment facility at the Duck Creek Station.

Recently enacted Public Act (P.A.) 83-0883, which became effective on September 9, 1983, amends the definition of "Pollution Control Facility" as contained in Section 21a-2 of the Illinois Revenue Act of 1939 (Ill. Rev. Stat. Ch. 120, par. 502a-2) in the following manner:

"For purposes of assessments made after January 1, 1983, "pollution control facilities" shall not include, however, a) any system, method, construction, device or appliance appurtenant thereto, designed, constructed, installed or operated for the primary purpose of (i) eliminating, containing, preventing or reducing radioactive contaminants or energy, or (ii) treating wastewater produced by the nuclear generation of electric power; b) any large diameter pipes or piping systems used to remove and disperse heat from water involved in the nuclear generation of electric power; or c) any equipment, construction, device or appliance appurtenant thereto, operated by any person other than a unit of government, whether within or outside of the territorial boundaries of a unit of local government, for sewage disposal or treatment.

The Pollution Control Board shall revoke any prior certification in conflict with this amendatory act of 1983 before January 1, 1984."

Pursuant to this statutory directive, the Board reviewed Pollution Control Facility Certifications and Applications for Certification which were referred to the Board by the Illinois Environmental Protection Agency for decertification under this language. On the basis of this information the Board believed that the facilities which are the subject of these certifications fell within subparagraph (c) of paragraph 502a-2 of the Illinois Revenue Act of 1939, as amended.

On December 19, 1983 CILCO filed a request for hearing and as required, a Statement of Facts in both matters. Therein CILCO acknowledged that the equipment certified was still in use. CILCO requested that the certifications be revoked solely because of the directive contained in the statutory revision cited above, and not due to non-compliance with applicable rules and regulations. As stated above, at the hearing provided by the Board and held on December 20, the parties filed a joint stipulation containing language similar to that contained in the request for hearing. Further it was stipulated that CILCO is not a governmental entity and that the facilities in question are used for sewage treatment or disposal purposes. (Ex. 1) (R. 26-29).

The Board finds that the wastewater treatment facilities as described in both Tax Certifications issued (Pet. Ex. 1), fall within Paragraph 502 a-2(c) of the Revenue Act. Both Tax Certifications are hereby revoked.

This Opinion and Order constitutes the Board's findings of fact and conclusions of law in these consolidated matters.

ORDER

Tax Certification Nos. 21RA-ILL-WPC-82-136 and 21RA-ILL-WPC-78-34 issued to Central Illinois Light Company are hereby revoked.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 28th day of December, 1983 by a vote of 7-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board