

ILLINOIS POLLUTION CONTROL BOARD  
June 5, 1986

ILLINOIS POWER COMPANY )  
(Hennepin Power Plant), )  
 )  
Petitioner, )  
 )  
v. ) PCB 85-119  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by J. D. Dumelle):

This matter comes before the Board upon a May 14, 1986, motion to rescind filed on behalf of the Illinois Power Company (IPC) and a response to that motion filed on behalf of the Illinois Environmental Protection Agency (Agency) on May 22, 1986. IPC requests that the Board rescind its order of May 9, 1986, which granted reconsideration and established a briefing schedule. IPC argues that the Board "prematurely and invalidly issued" that order since it was issued prior to IPC's timely response to the Agency's motion and argues further that the order is ambiguous.

The Board disagrees. On May 9, 1986, the Board had before it motions to reconsider filed by both parties. While the Board did not conclude that its earlier orders were either incorrect or ambiguous, it decided to inform the parties, through its May 9 order that it would reconsider. Since both parties had requested reconsideration, the Board on its own motion granted reconsideration generally.

As of May 9, the Board did not, and in fact could not, decide the underlying issues since, as IPC pointed out, there remained time to respond. Further, to insure both parties a full opportunity to develop their arguments, the Board offered an opportunity for additional briefs to be submitted. (It did not, however, as IPC implies, order additional briefs.) That briefing schedule continues through June 10, 1986 and the Board will accept briefs until that date. Thereafter, the Board will reconsider its entire opinion and order. Therefore, IPC's motion to rescind is hereby denied.

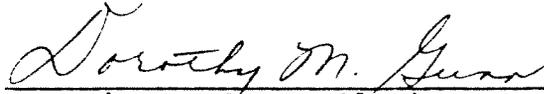
Finally, the Agency has moved to withdraw its brief dated May 14, 1986 "until the Board clarifies the scope of its reconsideration." While this order is intended to clarify the

scope, the Board is uncertain as to whether the Agency would agree. Therefore, the Board will strike that brief unless the Agency requests its consideration on or before June 10, 1986.

IT IS SO ORDERED.

Board Member J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 5<sup>th</sup> day of June, 1986 by a vote of 6-1.

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