

ILLINOIS POLLUTION CONTROL BOARD
April 22, 1976

UNION ELECTRIC COMPANY,)
)
 Petitioner,)
)
 v.) PCB 76-88
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by Mr. Goodman):

On April 1, 1976, Petitioner Union Electric Company filed a Petition for Variance from the hearing requirement of Rule 203(i)(5) of Chapter 3 for its Cahokia Power Plant. Rule 203(i)(5) provides, in pertinent part:

The owner or operator of a source of [certain thermal discharges] shall demonstrate in a hearing before this Board not less than 5 years nor more than 6 years after the effective date of these regulations...that discharges from that source have not caused and cannot reasonably be expected to cause significant ecological damage to the receiving waters. If such proof is not made to the satisfaction of the Board, appropriate corrective measures shall be ordered to be taken within a reasonable time as determined by the Board. (emphasis added).

Rule 203(i)(5) became effective on April 16, 1972. Petitioner would thus be required to participate in a Rule 203(i)(5) hearing sometime between April 16, 1977 and April 16, 1978. However, Petitioner's Cahokia Power Plant is to be decommissioned by the end of 1976. Petitioner, therefore, seeks variance from the hearing requirement of Rule 203(i)(5).

The Board finds that the Rule 203(i)(5) hearing requirement does not apply to a source which will be decommissioned prior to April 16, 1977. To require a hearing in such a case would be pointless in that even if the Board found corrective measures to be appropriate, such measures could not be implemented prior to the decommissioning of the source. Therefore, the Board finds that no variance is necessary in the present case, and the Petition for Variance is hereby dismissed without prejudice.

If the Cahokia Power Plant is not decommissioned or is recommissioned prior to April 16, 1977, the Rule 203(i)(5) hearing requirement would be applicable.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 22nd day of April, 1976 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board