

ILLINOIS POLLUTION CONTROL BOARD  
May 25, 1978

OHIO POWER COMPANY, )  
 )  
 Petitioner, )  
 )  
 vs. ) PCB 78-95  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondent. )

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

On March 27, 1978 Petitioner, Ohio Power, filed a petition to seek an extension of the variance granted to Petitioner by the Board in PCB 77-93, 26 PCB 69 (1977). The Board hereby incorporates the record of the PCB 77-93 proceeding herein. Petitioner seeks variance from Rule 408(a) of Chapter 3: Water Pollution Control until adoption by the Board of R77-10 or, if such rule change is denied, for a period extending one year from such denial.

Petitioner operates a coal transfer terminal (the Cook Coal Terminal) in Massac County, Illinois. Petitioner's facilities at its Cook Coal Terminal constitute a "waste water source" as defined in Rule 104 of Chapter 3 and thus would be required to meet the effluent standards of Rule 408(a) of Chapter 3.

On June 28, 1977 this Board granted Petitioner a variance from the total iron and total suspended solids limitations of Rule 408 of Chapter 3 for one year or until conclusion of the proceedings in R77-10 whichever would occur first. R77-10 is a rule change proposed by the Environmental Protection Agency which would exempt Petitioner's Coal Transfer Terminal from the effluent limitations of Chapter 3 and would subject runoff from the Terminal instead to the limitations of Chapter 4, treating the Terminal like a coal storage pile located at a mine.

The variance is needed for surface runoff from the coal storage area. Under Federal Regulations adopted pursuant to the Federal Water Pollution Control Act, Petitioner's facility is defined as a "coal preparation plant" (40 CFR 434.11(e)). Therefore, Petitioner's facility is required to apply the best practicable control technology currently available (BPT) in order to merit certain effluent limitations set by the

Administrator. The BPT limitations set for Petitioner's facility, as given in 40 CFR 434.22(b) are as follows:

Effluent characteristic	Effluent Limitations (mg/l)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Iron, total	7.0	3.5
TSS	70.0	35.0
pH	Within the range 6.0 to 9.0	

Petitioner holds NPDES Permit No. IL0042773, which subjects it to effluent limits for suspended solids of 15 mg/l and for iron of 2 mg/l.

Petitioner alleges arbitrary and unreasonable hardship if forced to attain compliance with Rule 408 of Chapter 3, after the expiration of its current variance on June 28, 1978, and before the conclusion of the proceedings in R77-10. The Agency agrees and recommends grant of the variance subject to several conditions.

The Board agrees that requiring compliance with Chapter 3 after the current variance has run but before R77-10 has been decided would cause Petitioner an arbitrary and unreasonable hardship. The Board will grant the variance subject to conditions until the R77-10 proceeding has been terminated or, if such rule change is denied, for a period of one year from such denial; however, such time shall not exceed five years from the date of this order. The Board will direct the Agency to issue a modified NPDES permit to Petitioner consistent with this order pursuant to Rule 914 of Chapter 3.

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

#### ORDER

It is the order of the Pollution Control Board that Ohio Power Company shall be granted a variance for its Cook Coal Terminal in Massac County, Illinois until the proceeding in R77-10 is terminated or, if such rule change is denied, for a period of one year from such denial; however, such time shall not exceed five years from the date of this order. The variance is subject to the following conditions:

1. Discharge from Petitioner's facility not exceed a concentration for suspended solids of 35 mg/l and for iron of 3.5 mg/l.

- 2. Within 45 days after the date of the Board herein the Petitioner shall execute and forward to the Illinois Environmental Protection Agency, Variance Section, 2200 Churchill Road, Springfield, Illinois 62706, a Certification of Acceptance and Agreement to be bound to all terms and conditions of the variance. This 45 day period shall be held in abeyance for any period during which this matter is appealed. The form of said Certification shall be as follows:

CERTIFICATION

I (We), \_\_\_\_\_, having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 78-95 hereby accept said Order and agree to be bound by all terms and conditions thereof.

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

The Agency, pursuant to Rule 914 of Chapter 3, shall modify NPDES permit No. IL0042773 consistent with the conditions set forth in this order including such interim effluent limitations as may reasonably be achieved through the application of best practicable operation and maintainance practices in the existing facility.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 25<sup>th</sup> day of May, 1978 by a vote of 5-0.

Christan L. Moffett  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board