

ILLINOIS POLLUTION CONTROL BOARD

July 8, 1976

UNION ELECTRIC COMPANY,)	
(VENICE POWER PLANT),)	
)	
Petitioner,)	
)	
)	
v.)	PCB 76-89
)	
)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by Mr. Goodman):

On April 1, 1976, Petitioner Union Electric Company (Union) filed a Petition for Variance before the Pollution Control Board (Board) from the five-year delay provided in Rule 203(i)(5) of the Water Regulations (Chapter 3). On May 6, 1976, the Environmental Protection Agency (Agency) filed its Recommendation. No hearing was held in this matter.

Union Electric Company is a public utility engaged in the production of electricity for sale. The Petition for Variance in the present case involves Union's Venice Power Plant in Venice, Illinois which is used to generate electricity primarily during periods of peak demand. The Venice Power Plant consists of six steam-electric generating units, totalling 506 megawatts capacity. These units were placed on line between 1942 and 1950. The plant's once-through cooling system discharges condenser cooling water (heated effluent) to the Mississippi River.

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. (emphasis added)

Because Rule 203(i)(5) was adopted on March 7, 1972, the required hearing is precluded until 1977. Union, however, requests a hearing for its Venice Power Plant prior to 1977.

In order to comply with its NPDES Permit No. IL000175, Union Electric must satisfy the United States Environmental Protection Agency that it has complied with Rule 203(i)(5). Union Electric, therefore, commissioned Equitable Environmental Health, Inc. (formerly Environmental Analysts, Inc.) to conduct an intensive, detailed investigation and analysis to determine the nature and extent of the thermal discharge plume and to assess the ecological effects of thermal discharges from the Venice Plant. The study has been completed, and final reports have been submitted to the Agency. Union Electric believes the final reports will demonstrate to the Board that thermal discharges from the Venice Power Plant have not caused and cannot reasonably be expected to cause significant ecological damage to the Mississippi River's biota.

Petitioner alleges that it will suffer an arbitrary and unreasonable hardship if it cannot make its 203(i)(5) demonstration until 1977 because 1) major expert witnesses familiar with the thermal effects study may not be available to testify before the Board in 1977; 2) the cost of instituting future additional studies or of retaining different experts to familiarize themselves with the completed study would be an unjustified and unreasonable expense; and 3) deferral of the Rule 203(i)(5) hearing would needlessly postpone Union Electric's satisfaction of its NPDES Permit requirements. Petitioner further alleges that granting the requested variance would impose no injury on the public.

The Agency recommends granting of the variance. Union Electric has operated its Venice Power Plant for twenty-five years, and the Agency believes that this period has provided Petitioner with adequate operating data to make the necessary 203(i)(5) demonstration. Furthermore, the Agency believes that no environmental harm will result if Union Electric is allowed to make its Rule 203(i)(5) demonstration as soon as possible.

The Board agrees with the Agency's conclusions and finds that denial of the variance in the present case would result in an arbitrary and unreasonable hardship to Union Electric. Union Electric is, therefore, granted variance from the five-year delay prior to hearing required by Rule 203(i)(5).

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 Union Electric Company be granted variance from the 5-year delay prior to the hearing required by Rule 203(i)(5) of Chapter 3.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 8th day of July, 1976 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board