

ILLINOIS POLLUTION CONTROL BOARD  
October 22, 1981

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 79-274  
 )  
COMMONWEALTH EDISON COMPANY, an )  
Illinois Corporation (Waukegan )  
Generating Station), )  
 )  
Respondent. )

MR. WILLIAM E. BLAKNEY AND MS. NANCY J. BENNETT, ASSISTANT ATTORNEYS GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT; MS. SUSAN B. PROCTOR, ISHAM, LINCOLN & BEAL, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board upon a complaint which was filed by the Illinois Environmental Protection Agency (Agency) on December 21, 1979, alleging that the Commonwealth Edison Company (Edison) violated Rules 408 and 901 of Chapter 3: Water Pollution, and Sections 12(a) and 12(f) of the Illinois Environmental Protection Act (Act). On January 28, 1980, Edison moved to consolidate this matter with PCB 79-272, -273, -275 and 78-272. That motion was denied by the Board on February 7, 1980. Hearing was held on September 4, 1981 at which time a settlement agreement was presented. No members of the public were present.

Edison owns and operates a facility at Greenwood Avenue and Lake Michigan in Waukegan which currently has three coal-fired or gas-fired power generating units and which discharges to Lake Michigan pursuant to NPDES Permit No. 0002259. On June 9, 1977, the Board granted Edison a variance for certain of these discharges until March 1, 1979 (PCB 77-13, 25 PCB 703).

Since at least November, 1977 through September, 1979, Edison has discharged contaminants from its Waukegan facility which exceeded the limits of the variance, the NPDES permit and Chapter 3. These violations are summarized below (Stip. 3-8):

<u>Date</u>	<u>Discharge Point</u>	<u>Contaminant</u>	<u>Violation</u>
11/17-3/79	001(c)	TSS	Rule 408
11/77-6/78	002	TSS and Iron	Rule 408
12/77-1/78	001(b)	Iron	Rule 408
2/78-4/78	001(b)	TSS	Rule 408
10/78-3/79	ash hopper	TSS	Rule 408
9/79	022	TSS	NPDES Permit
4/79 & 6/79 & 10/79	023	pH	NPDES Permit
7/79 and 9/79	023	TSS	NPDES Permit

Some of these violations also resulted in violations of the variance and the NPDES permit and, therefore, Rule 901 and Sections 12(a) and 12(f) of the Act.

The Agency and Edison agree that these violations created a potential for injury to and interference with the health, general welfare and physical property of the people of the State, and that a \$10,000 civil penalty should be assessed (Stip. 11-12). They also agree that Edison shall cease and desist from these violations (Stip. 12).

In order to assess whether the penalty is appropriate the Board would prefer to have more specific information regarding the environmental harm, if any, caused by these violations. However, given the points of discharge and the lack of any adverse public reaction at hearing, the Board finds the penalty to be reasonable. The Board therefore finds the stipulated agreement acceptable under Section 33(c) of the Act and Procedural Rule 331. The Board notes, however, that as part of the cease and desist order, the stipulation and proposal for settlement includes the non-violation of future-issued permits. The Board has deleted this in that one cannot cease and desist from a future act. As such, it is a nullity.

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

#### ORDER

1. Commonwealth Edison Company has violated Rules 408 and 901 of Chapter 3: Water Pollution, and Sections 12(a) and 12(f) of the Act.
2. It is hereby ordered that Edison shall cease and desist from any and all violations of Rules 408 and 901, and Sections 12(a) and 12(f) of the Act at its Waukegan gene-

rating station and from any and all violations of present NPDES permits issued regarding that station, and shall otherwise comply with all terms and conditions of the Stipulation and Proposal for Settlement filed on September 16, 1981.

3. Within 45 days of the date of this Order, Edison shall, by certified check or money order, pay the stipulated penalty of \$10,000 which is to be sent to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
2200 Churchill Road  
Springfield, Illinois 62706

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 22<sup>nd</sup> day of October, 1981 by a vote of 5-0.

  
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Christan L. Moffett, clerk  
Illinois Pollution Control Board