

ILLINOIS POLLUTION CONTROL BOARD  
April 4, 1974

CENTRAL ILLINOIS LIGHT COMPANY )  
PETITIONER )  
)  
)  
v. ) PCB 73-65  
)  
)  
ENVIRONMENTAL PROTECTION AGENCY )  
RESPONDENT )  
)

ORDER OF THE BOARD (by Mr. Marder)

This case comes to the Board on Petition of Central Illinois Light Company (CILCO) for Rehearing and Reconsideration of Opinion.

The Board, in its Opinion of March 7, 1974, dismissed a variance request from Rule 204 (c) of Air Regulations, Chapter 2, by CILCO as premature. It was determined by the Board that because Rule 204 (c) is not effective until May, 1975, the Board could not grant this variance because there is in fact no violation, since the rule does not yet exist (Opinion dated March 7, 1974, P. 2). The Board concluded that since a variance is no more than a shield from prosecution from Board Rules and Regulations, a variance is not proper without a violation. Since the Petition was not ripe for adjudication, the Board could not grant the requested relief.

The Board has taken notice of the extensive time and funds which went into the creation of this record, and has suggested that it be incorporated as part of any future variance record.

In the Petition now under consideration, CILCO argues certain conclusions of the March 7, 1974, Opinion of the Board. The conclusions reached in that Opinion are strictly informational and do not apply to the question here considered.

CILCO further argues that it cannot receive operating permits as required by Rule 103 (b) (6) (G) of Chapter 2 without a compliance plan or proof of compliance. The Board agrees with this point, but reaches no conclusions as to its validity. This question was never in issue during the case. CILCO's sole request was variance from Rule 204 (c). In fact, this question was never presented until CILCO's final brief was filed with the Board.

The Board does not agree that it is estopped from reaching this decision. This decision was made only after a full study of the record in question.

Therefore, this motion to reconsider is denied.

IT IS SO ORDERED.

Mr. Henss dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Order was adopted by the Board on the 4th day of April, 1974, by a vote of 4 to 1.

Christan L. Moffett