

ILLINOIS POLLUTION CONTROL BOARD  
May 22, 1975

ILLINOIS POWER COMPANY, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 75-109  
 )  
 ENVIRONMENTAL PROTECTION )  
 AGENCY, )  
 )  
 Respondent. )

INTERIM ORDER OF THE BOARD (by Mr. Zeitlin):

Illinois Power Company filed the Petition for Variance in this matter for its Baldwin Electric Power Generating Station on March 7, 1975. Thereafter, on April 4, 1975, the Board entered an Interim Order requiring that Petitioner Illinois Power submit certain additional information, as required by Rule 401(a)(bi)-401(a)(ix) of the Board's Procedural Rules. Illinois Power, on May 16, 1975, submitted an Amended Petition for Variance with the compliance plan required by the Board's earlier Order.


We must again request additional information before finding that the Amended Variance Petition in this matter is adequate. After the Board rendered its Interim Order on April 4, 1975, the United States Supreme Court, on April 16, 1975, handed down the decision of Train v. Natural Resources Defense Council. 43 U.S.L.W. 4467. Under that decision, this Board cannot grant a Variance absent a showing that such grant will not result in a violation of the national ambient air quality standards, or failure to maintain those standards. See, King-Seeley Co. v. EPA, PCB 75-159 (April 24, 1975) (Interim Order of the Board); See also, Great Lakes Carbon Corp. v. EPA, PCB 75-85 (May 22, 1975). Such a showing has not been made by Illinois Power in its Amended Petition.

While the Board feels that the circumstances leading to this further requirement of more information are unfortunate, we have no option in the matter, as we interpret the Train decision.

Petitioner Illinois Power shall, within 45 days within the date of this Order, file an Amended Petition, correcting the deficiency noted above. Failure to timely file such an Amended Petition shall render the Petition subject to dismissal for inadequacy. The 90 day decision period set by statute shall run from the date of filing of the second Amended Petition.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board hereby certify that the above Interim Order was adopted on the 22<sup>nd</sup> day of May, 1975 by a vote of 5 to 0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board