

ILLINOIS POLLUTION CONTROL BOARD
May 15, 1997

COMMONWEALTH EDISON)	
COMPANY (Zion Power Station),)	
)	
Petitioner,)	
)	
v.)	PCB 97-202
)	(Provisional Variance - Water)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

Pursuant to Section 35(b) of the Environmental Protection Act (Act) (415 ILCS 5/35(b) (1994)), Commonwealth Edison Company, Zion Power Station (petitioner) has requested that the Illinois Environmental Protection Agency (Agency) recommend that the Board grant a provisional variance to the petitioner. Such request for a provisional variance and the notification of recommendation were filed with the Board by the Agency on May 14, 1997. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two (2) days of this filing.

The Agency, by and through its director, Mary A. Gade, seeks a provisional variance pursuant to Section 35(b) of the Act (415 ILCS 5/35(b)) to allow petitioner to continue to operate its electric generating facility while it conducts treatment on the Component Cooling Water System.

Specifically, the Agency recommends that we grant petitioner a 45-day provisional variance for its Lake County facility from the effluent discharge requirements, as set forth in 35 Ill. Adm. Code 304.141(b) and 309.102. This variance period shall commence on a date in May 1997 when treatment of the Component Cooling Water System begins and shall continue for 45 days, or until final treatment is completed, or upon the issuance of petitioner's NPDES permit, whichever occurs first.

The Agency recommends that the Board grant the requested provisional variance with specified conditions and agrees that the repairs are necessary. The Agency anticipates that the requested provisional variance would have minimal environmental impact on the receiving stream. The Agency is unaware of any public water supplies that the requested provisional variance would adversely impact. According to the Agency, no federal laws would be violated if the provisional variance is granted by the Board. The Agency believes that a denial of the requested provisional variance would create an arbitrary or unreasonable hardship on the petitioner.

Provisional variances are by their very nature temporary. The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. (See 415 ILCS 5/35(b) and 5/36(c) (1994)). In provisional variances, it is the responsibility of the Agency to make the technical determinations and finding of arbitrary or unreasonable hardship. The Board's responsibility is to adopt a formal order, to assure the formal maintenance of the record, to assure the enforceability of the variance, and to provide notification of the action by a press release.

Having received the Agency recommendation that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants the petitioner a provisional variance from 35 Ill. Adm. Code 304.141(b) and 309.102, on the following conditions:

1. The term of this provisional variance shall commence on a date in May 1997 when treatment of the Component Cooling Water System begins and shall continue for 45 days, or until final treatment is completed, or upon the issuance of petitioner's NPDES permit, whichever ever occurs first.
2. The petitioner shall notify Chris Kallis of the Agency's Maywood regional office by telephone, at 708/338-7900 at the start of treatment and completion of treatment on the Component Cooling Water System. Petitioner shall confirm this notice in writing within five (5) days, addressed as noted in condition (5) below.
3. During the term of this provisional variance, petitioner shall limit copper from outfall 001b to 0.5 milligrams per liter. Copper shall be sampled from the Station's Lake Discharge Tanks after treatment and compliance verified prior to discharge through Outfall 001b.
4. If a violation is detected from the Lake Discharge Tanks, petitioner shall recycle waste for further treatment and testing until sufficient treatment is completed to attain the limit for copper noted in condition (3) above.
5. Monitoring results of all testing and dates of treatment shall be tabulated and submitted to the Agency for the period of this variance. This information shall be sent to the following address:

Illinois Environmental Protection Agency
ATTN: Dan Ray
Bureau of Water, Compliance Assurance Section
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

The petitioner shall execute a copy of a certificate of acceptance of this provisional variance and forward that copy to the Agency addressed as is the written notice required in the above condition; the petitioner shall forward that copy within ten (10) days of the date of this order of the Board, and the certificate of acceptance shall take the following form:

CERTIFICATION

I (We), _____, hereby accept and agree to be bound by all terms and conditions of the order of the Pollution Control Board in PCB 97-202, May 15, 1997.

Petitioner

Authorized Agent

Title

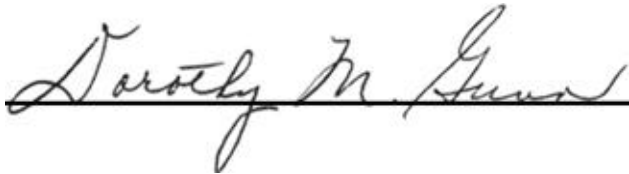
Date

IT IS SO ORDERED.

Board Member K.M. Hennessey abstained.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 15th day of May, 1997, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board