

ILLINOIS POLLUTION CONTROL BOARD
July 8, 1998

ILLINOIS POWER COMPANY)	
(Baldwin Power Station),)	
)	
Petitioner,)	
)	
v.)	PCB 99-2
)	(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) (1996)), Illinois Power Company, Baldwin Power Station, located near the City of Baldwin in St. Clair and Randolph Counties (petitioner), has requested that the Board grant a provisional variance from certain conditions of 35 Ill. Adm. Code 304.120 and 304.141(b). These provisions prohibit discharges not specifically allowed by permit and discharges that fail to meet certain standards for effluents containing deoxygenated waste. The request for a provisional variance and the notification of recommendation were filed with the Board by the Illinois Environmental Protection Agency (Agency) on July 6, 1998. Pursuant to Section 35(b) of the Act, the Board must issue the variance within two days of this filing.

Pursuant to Section 35(b) of the Act (415 ILCS 5/35(b) (1996)), the Agency, by and through its Director, Mary A. Gade, seeks a provisional variance to allow petitioner to continue to operate its power station while maintenance work is completed on its wastewater treatment facility. The Agency recommends that the Board grant the requested provisional variance with specified conditions. The Agency agrees that the modification is 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. The Agency maintains that a grant of a provisional variance would violate no federal laws. The Agency believes that a denial of the requested provisional variance would create an arbitrary or unreasonable hardship on the petitioner.

Specifically, the Agency recommends that the Board grant petitioner a 45-day provisional variance for its St. Clair and Randolph Counties facility from conditions and effluent discharge limits, as set forth in 35 Ill. Adm. Code 304.120 and 304.141(b). This variance period is recommended to commence when the maintenance work has begun and to continue until the wastewater treatment facility returns to compliance, but not longer than 45 days.

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), 36(c) (1996). 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 petitioner a provisional variance from 35 Ill. Adm. Code 304.120 and 304.141(b), subject to the following conditions:

1. This variance period shall commence on that date in July 1998, when petitioner notifies Barb Conner of the Illinois Environmental Protection Agency by telephone at 217/782-9720 that maintenance work has begun. This variance shall continue until the wastewater treatment facility returns to compliance, but not longer than 45 days.
2. Petitioner shall meet the monthly average effluent concentration limit of 80 milligrams per liter for total suspended solids and biochemical oxygen demand with no daily maximum concentration limit. Petitioner shall sample for these parameters two times per week during the variance period. Petitioner shall continue to meet the additional effluent limits as specified in its National Pollution Discharge Elimination System Permit No. IL0000043.
3. Petitioner shall notify Barb Conner at the Agency by telephone, at 217/782-9720, when the wastewater treatment facility returns to compliance. Petitioner shall confirm this notice in writing within five (5) days, addressed as follows:

Illinois Environmental Protection Agency
Bureau of Water, Compliance Assurance Section
Attn: Barb Conner
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4. Petitioner shall operate its wastewater treatment facility so as to produce the best effluent practicable.

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 (3). 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 99-2, July 8, 1998.

Petitioner

Authorized Agent

Title

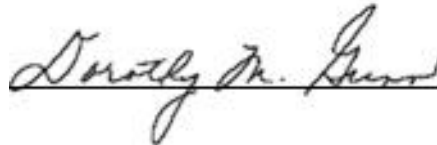
Date

IT IS SO ORDERED.

Board Member K.M. Hennessey abstained.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; 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 8th day of July 1998 by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board