

ILLINOIS POLLUTION CONTROL BOARD
October 3, 2002

EXELON GENERATION COMPANY, LLC,)
(Dresden Nuclear Generating Station),)
)
Petitioner,)
)
v.) PCB 03-40
) (Provisional Variance - Water)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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

On October 1, 2002, the Illinois Environmental Protection Agency (Agency) recommended that the Board grant a 10-day provisional variance beginning on October 12, 2002, to Exelon Generation Company, LLC (Exelon). The provisional variance from certain thermal discharge limitations in Exelon's National Pollution Discharge Elimination System (NPDES) permit would allow Exelon to perform essential maintenance on the lift pump electrical switchgear and operate in the open cycle mode at its nuclear-fueled steam electric generating facility. Specifically, Exelon seeks provisional variance from:

1. Special Condition 4(A), which requires the maximum temperature rise above natural temperatures not to exceed five degrees at the edge of the mixing zone while operating in closed cycle mode;
2. Special Condition 4(D), which requires operation in a closed cycle mode from October 1 to June 15; and
3. Special Condition 4(G), which allows bypass of the cooling pond only when both generating units are out of service.

Exelon's facility is located at the confluence of the Des Plaines and Kankakee Rivers at Illinois River mile 272.3 near Morris, Grundy County. The Agency states that failure to grant the provisional variance would impose an arbitrary or unreasonable hardship on Exelon.

Section 35(b) of the Environmental Protection Act (415 ILCS 5/35(b) (2000)) provides:

The Board shall grant provisional variances, only upon notification from the Agency that compliance on a short term basis with any rule or regulation, requirement or order of the Board, or with any permit requirement would impose an arbitrary or unreasonable hardship. Such provisional variances shall be issued

within 2 working days of notification from the Agency. 415 ILCS 5/35(b) (2000);
see also 35 Ill. Adm. Code 104.302.

A provisional variance lasts for no more than 45 days, but the Board can extend the time period up to an additional 45 days on the Agency's recommendation. Provisional variances granted to one person cannot exceed a total of 90 days during any calendar year. 415 ILCS 5/36(c) (2000); 35 Ill. Adm. Code 104.308.

The Board grants Exelon a provisional variance from the thermal discharge limits contained in special conditions 4(A), 4(D), and 4(G) of its NPDES permit number IL0002224, subject to the following conditions:

1. This variance shall begin when Exelon notifies the Agency that the lift station has been taken out of service on October 12, 2002, and continue for ten days (240 consecutive hours) from that date or until completion of the project, whichever occurs earlier.
2. During the variance period, Exelon shall monitor and record the intake, discharge, and Dresden Lock and Dam temperatures on a continuous basis so that an accurate temperature can be supplied to the Agency upon demand.
3. During the variance period, Exelon shall conduct visual inspections three times daily in the vicinity of the intake and the discharge areas to assess any mortalities to fish and other aquatic life, and to document the effects of the increased flow and the increased thermal output to the river. If any unnatural or offensive environmental impacts are identified, Exelon shall notify the Agency immediately.
4. Exelon shall document environmental conditions during the term of the provisional variance, including the activities described in (2) and (3) above, and submit the documentation to the Agency, at the address listed below, within 30 days after the provisional variance expires.
5. Exelon shall immediately implement biological activities to characterize how fish and other aquatic life respond to the thermal conditions resulting from the provisional variance; document these activities; and submit the documentation to the Agency, at the address listed below, within 30 days after the provisional variance expires.
6. Exelon shall immediately notify the Agency of any unusual conditions, including mortalities to fish or other aquatic life; immediately take action to remedy the problem; investigate and document the cause and seriousness of the unusual conditions while providing updates to the Agency as changes occur until normal conditions return; notify the Agency when normal conditions return; and submit the documentation to the Agency, at the address listed below, within 30 days after normal conditions return.

- 7. Exelon shall develop and implement a response and recovery plan to address any adverse environmental impact due to thermal conditions resulting from the provisional variance including loss and damage to aquatic life.
- 8. Exelon shall notify Jeb McGhee of the Agency by telephone at 217/782-9864 when maintenance is complete and Exelon has returned to a closed cycle, as required by NPDES permit number IL0002224. Written confirmation shall be sent within five business days to the following address:

Illinois Environmental Protection Agency
 Bureau of Water, Compliance Assurance Section
 Attention: Jeb McGhee
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, Illinois 62794-9276

IT IS SO ORDERED.

If Exelon chooses to accept this provisional variance, it must execute a Certificate of Acceptance of all terms and conditions of this provisional variance and, within ten days after the date of the above order, forward the executed certificate to the Agency at the above address. The form of the certificate is as follows:

CERTIFICATE OF ACCEPTANCE

Exelon accepts and agrees to be bound by all terms and conditions of the Pollution Control Board's October 3, 2002 order in PCB 03-40.

 Petitioner

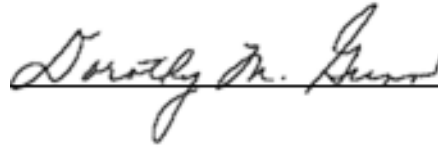
 Authorized Agent

 Title

 Date

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 3, 2002, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board