

ILLINOIS POLLUTION CONTROL BOARD
August 20, 1987

COMMONWEALTH EDISON COMPANY,)
)
) Petitioner,)
)
) v.) PCB 87-40
)
)
) ILLINOIS ENVIRONMENTAL)
) PROTECTION AGENCY,)
)
) Respondent.)

ORDER OF THE BOARD (by J. Marlin):

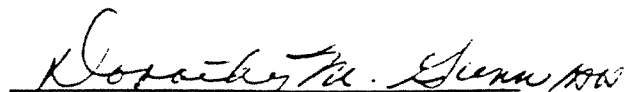
On June 29, 1987, Commonwealth Edison Company (Edison) filed a Motion to Dismiss its Petition for Variance. Edison bases its motion "on the ground that it presently appears that there is no substantial likelihood of a violation of the temperature standards from which a variance is sought." The Illinois Environmental Protection Agency never filed a response to this motion.

It is difficult for the Board to envision circumstances when the Board would deny a petitioner's motion to dismiss its own variance proceeding thereby compelling the petitioner to proceed with the variance proceeding against its will. Consequently, the Board hereby grants Edison's Motion to Dismiss.

It is important to note, though, that by granting Edison's motion, the Board is in no way making any finding as to whether Edison's discharge is in compliance. In other words, the Board has not accepted Edison's reasoning in support of its motion. The Board is not at this time making a determination as to whether or not heat is a limiting factor on aquatic life in the "five mile stretch" (see prior variance opinions: 30 PCB 315, 42 PCB 55 and 62 PCB 01). In addition, the disposition of this motion does not in any way address Edison's pending Petition for Determination under Section 302.211(f), docketed as PCB 87-93.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 20th day of August, 1987, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board