

ILLINOIS POLLUTION CONTROL BOARD
July 19, 1984

ILLINOIS POWER COMPANY,)
)
 Petitioner,)
)
 v.) PCB 84-75
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)


SUPPLEMENTAL STATEMENT OF THE BOARD (by J. D. Dumelle):

On June 18, 1984, the Board adopted an Opinion and Order granting a provisional variance to the Illinois Power Company from 35 Ill. Adm. Code 304.124(a) and 304.141(a) as well as certain conditions in its NPDES permit. The Board notes that it is without power to grant variances from permit conditions in that so doing would improperly infringe upon the permitting authority of the Illinois Environmental Protection Agency (Agency). See Landfill, Inc. v. PCB 74 Ill. 2d 541, 387 N.E. 2d 258 (1978).

The Board granted provisional variance from the permit conditions in this matter based upon the recommendation of the Agency. The Board notes, however, that there may be a legal cloud over that portion of the Board's order. On the other hand, given the Agency's recommendation, it appears that the Agency has in effect agreed to a permit modification, and for that reason the Board will not disturb its June 18, 1984 Order.

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 19~~th~~ day of July, 1984 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board