

Attachment 6

SEP 14 1983

ILLINOIS POLLUTION CONTROL BOARD
September 8, 1983

ILLINOIS POWER COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 79-7
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

MR. SHELDON A. ZABEL AND MS. CARLOYN A. LOWN OF SCHIFF, HARDIN & WAITE APPEARED ON BEHALF OF THE ILLINOIS POWER COMPANY.

MR. JOSEPH R. PODLEWSKI, JR., ATTORNEY, APPEARED ON BEHALF OF THE ENVIRONMENTAL PROTECTION AGENCY.

ORDER OF THE BOARD (by J.D. Dumelle):

On March 31, 1983 the Illinois Power Company (IPC) filed a Petition to Amend Order requesting the Board amend its February 15, 1979 Order herein. That Opinion and Order, entered pursuant to Rule 204(e)(3) of Chapter 2: Air Pollution, imposed specific emission limitations for sulfur dioxide on IPC's Baldwin power station. On April 21, 1983 the Board entered a second Opinion and Order in this matter granting the requested relief. On May 3, 1983, the Illinois Environmental Protection Agency (Agency) submitted the April 21, 1983 Order to the United States Environmental Protection Agency (USEPA) as a supplement to the revision to the Illinois State Implementation Plan (SIP) pending before USEPA since the submission of the Board's original Order herein of February 15, 1979. However, on May 13, 1983 USEPA informed the Agency that in its opinion the Order of April 21, 1983 could not be considered as part of the SIP submittal unless a public hearing was held. Therefore, on May 18, 1983 IPC filed a motion with the Board requesting that a hearing be scheduled. That motion was granted and hearing was held on July 22, 1983 at which IPC presented two witnesses and the Agency presented none. No members of the public testified. However, a letter from Steve Rothblatt, Chief of the Air and Radiation Branch of Region V of USEPA, did submit comments which were included in the record and to which IPC responded on July 27, 1983.

Since the Agency's presentation of the Board's February 15, 1979 Opinion and Order as an amendment to the State Implementation Plan (SIP), USEPA has been reviewing the sufficiency of those limitations and questions the use of a particular air quality model with respect to its accuracy in predicting compliance with the secondary air quality standard. USEPA asserts that the CRSTER model is superior to the MPSDM model in predicting attainment of primary and secondary standards. IPC disagrees and believes that it can prove that the MPSDM model is superior. Both models have been used and both predict compliance with the primary standard while only the CRSTER model predicts compliance with the secondary standard. However, since USEPA agrees with the Board that the limitation will assure compliance with the primary sulfur dioxide standard, it has suggested that it could approve the emission limitations for primary compliance as a SIP amendment if the Board were to order a compliance schedule for attainment of the secondary standard.

None of the evidence or testimony presented at hearing provides any reason for the Board to alter its reasoning concerning the disposition of this matter. As the Board stated in its April 21, 1983 Order, "holding a hearing to satisfy Rule 204(e) would be perfunctory" in that "the original Rule 204(e) process, including the hearing, provided a basis for the original Order" which is less restrictive than the amended order requested at this time (PCB 79-7 Order, p. 2). The hearing did, in fact, elicit little new, substantive information, and largely served to reaffirm IPC's legitimate need for the requested relief, except for USEPA's comments which indicate that there may be some impediments to USEPA approval of that relief as a SIP revision. In its response, however, "IPC submits that USEPA's Letter has not shown any basis for the Board not to adopt the proposal."

While the Board will not adopt an Order which is a nullity, the Board agrees that the letter is not a sufficient basis for denial. The SIP approval process is complex and denial cannot be presumed on the basis of USEPA's comment. IPC has taken the position that it can adequately respond to USEPA's concern, and neither IPCB nor the Agency has recommended any modification of the Order entered on April 21. Since they, rather than the Board, are the parties who must pursue the SIP revision, the Board will not presume to substitute its judgment as to acceptability of the Order as a SIP revision absent a compelling reason to do so.

The Board, therefore, hereby repropose the Order entered on April 21, 1983 as set out below:

ORDER

It is the Order of the Pollution Control Board that:

1. Illinois Power Company be granted a site-specific mass emission limitation for sulfur dioxide for its Baldwin Power

Plant of 101,966 pounds of sulfur dioxide per hour in the aggregate and an emission rate not to exceed 6 pounds of sulfur dioxide per million Btu's of heat input as determined pursuant to Rule 204(e)(3);

~~2. Illinois Power Company shall submit to the Illinois Environmental Protection Agency modeling and monitoring demonstration(s) comparatively evaluating the ambient air quality models known as CRSTER and MPSDM for purposes of determining which model more accurately describes the ambient air quality impact of the Baldwin Plant.~~

~~3. The Illinois Environmental Protection Agency shall, as part of its permit review process, review the demonstration(s) required by paragraph 2 hereof and determine whether it establishes that the emission limitation in paragraph 1 provide for compliance with primary and secondary ambient air quality standards.~~

~~a) If the Illinois Environmental Protection Agency concludes that primary and secondary compliance is demonstrated, it shall notify the Board in writing, and submit the appropriate information to the United States Environmental Protection Agency and thereafter paragraph 4 hereof shall have no further force and effect.~~

~~b) If the Illinois Environmental Protection Agency concludes that primary and secondary compliance has not been demonstrated, subject to the review, and the decisions on review provided for by the Illinois Environmental Protection Act, Illinois Power Company shall comply with the provisions of paragraph 4 hereof and Illinois Environmental Protection Agency shall impose such permit conditions in the permits for the Baldwin Plant as are necessary therefore.~~

~~4. Subject to the foregoing, the Illinois Power Company shall undertake and implement as expeditiously as is practical, but no later than December 31, 1989, unless amended by further order of this Board, a program at the Baldwin Plant to achieve compliance with a sulfur dioxide emission limitation of 74,300 pounds of sulfur dioxide per hour or such other limitation as shall be determined in accordance with then applicable United States Environmental Protection Agency guidelines and requirements, necessary to achieve compliance with the secondary sulfur dioxide ambient air quality standards. The Illinois Environmental Protection Agency may impose in operating permits, subject to review as provided in the Illinois Environmental Protection Act, such reasonable interim compliance and reporting progress towards fulfillment of the requirements of this paragraph.~~

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 8th day of September, 1983 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board