

Cause #00-75V

Name: Cinergy Wabash River Repowering Plant, Terre Haute

Administrative Law Judge: William Teeguarden

Date: January 3, 2001

Commission action: Affirmed

FINDINGS OF FACT

1. The FPBSC is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5, the Indiana Elevator Code, the proposed new Indiana Elevator Code, and 674 IAC 12 apply to this proceeding.
3. The FPBSC is the state agency with the authority to grant variances to Indiana Building Codes.
4. At all times relevant to this proceeding, Cinergy operated a power generating station in West Terre Haute, Indiana.
5. In August of 2000, Cinergy applied for a Variance from the Indiana Elevator Code (Variance Number 00-9-28) which would allow a newly installed elevator to meet the standard of ANSI A 17.1 part 15, Section 1502.9 of the 1991 Code which was retained by the New Elevator Code.
6. ANSI A 17.1 Section 1502.9 of the Indiana Elevator Code (1987 Code) requires a lower speed and capacity than do the newer codes.
7. At the hearing, the administrative law judge took official notice pursuant to IC 4-21.5-3-26(f) of the Variance application and the minutes of the FPBSC which deal with this issue.
8. At the September meeting, the application was tabled because proof of notice to the local building official had not yet arrived.
9. At the October FPBSC meeting, the elevator industry representative to the FPBSC was not present nor was any representative of Cinergy.
10. The minutes of the October meeting state “Variance 00-9-28 Wabash River Repowering Plant, West Terre Haute, SBC project #100462 had no Representative in attendance. It was moved . . . to deny the Variance It was voted upon and carried.”
11. During the hearing, Albert Marschant, the Chair of the ASME Committee which drafts elevator code revisions testified.

12. Marschant indicated that adopted codes often are surpassed by technology before changes can be adopted and therefore should be considered as guidelines.
13. The design of the special purpose personnel elevator in question conforms with the two most recent model codes and is not unsafe.
14. The administrative law judge is aware that over the last year or two, the FPBSC has frequently granted similar variances including Variance 00-12-12, Alcoa Aluminum at the December meeting.
15. Commissioner Siler, when present, adds a condition to any such approval; that condition being "The installation shall meet the current requirement of ANSI A 17.1 part 15 and that testing be observed by the Division of Elevator Safety."
15. Subject to the above condition the Variance should be granted.

NONFINAL ORDER

Variance 00-9-28 is hereby approved subject to the condition that testing shall be observed by a representative of the Division of Elevator Safety to ascertain installation and operation meets the current ANSI 17.1 part 15 code.