



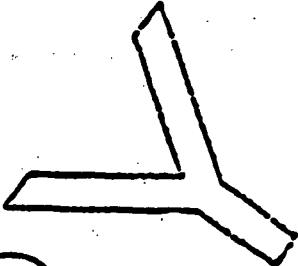
TYRONE C. FAHNER
~~WILLIAM L. SCOTT~~
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

September 22, 1980

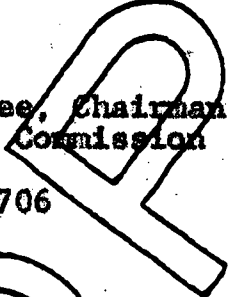
FILE NO. 80-029

MEETINGS:

Majority Requirement for the
Illinois Energy Resources
Commission to Approve or
Reject Proposed Projects



Honorable Kenneth V. Buzbee, Chairman
Illinois Energy Resources Commission
612 South Second Street
Springfield, Illinois 62706



Dear Chairman Buzbee:

I have your letter wherein you inquire whether the approval of coal and energy development projects under section 4 of "AN ACT creating the Illinois Energy Resources Commission and defining its powers and duties" (Ill. Rev. Stat. 1979, ch. 96 1/2, par. 104) requires the concurrence of a majority of all the members of the Commission or merely a majority of those present at a meeting at which a quorum is present. For the reasons hereinafter stated, it is my opinion that a majority vote of a quorum present is sufficient to approve or reject a proposed project.

Section 4 provides in pertinent part as follows:

"All proposed projects under the program of capital development of coal resources funded through the sale of general obligation bonds * * * shall be submitted for review and by a majority vote approval or rejection by the Commission. The Commission shall review and by a majority vote approve or reject each such project and a dollar cost range. Such review and approval or rejection shall be made within 45 days of the receipt of each proposal by the Commission.

* * *

(Emphasis added.)

Section 4 merely requires that proposed projects be approved by the Commission by a majority vote. There is no language in the section which specifically or impliedly requires the concurrence of a majority of all of the members of the Commission.

The general common law rule for action by an assembly of persons entrusted with powers in matters of public concern is that, in the absence of a statute to the contrary, any action by a board requires that a quorum participate therein, and that a majority of the quorum concur. (People ex rel. Compton v. Penn (1975), 33 Ill. App. 3d 372, 376.) This common law principle is almost universally accepted. See, Ho Chong Tsao v. Immigration Naturalization Service (5th Cir. 1976), 538 F.2d 667, 669; F.T.C. v. Flotill Products (1967), 389 U.S. 179, 183; Public Service V. Federal Power Comm'n (D.C. Cir. 1974), 543 F.2d 757, 776; Missouri Pacific Railway Co. v. Kansas (1918), 248 U.S. 276, 284; 1976 Ill. Att'y Gen. Op. 238. In the absence

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of a clear statutory expression abrogating common law precedents, the common law remains the law in Illinois. Smith v. Roberts (1977), 54 Ill. App. 3d 910; People v. Barrett (1943), 382 Ill. 321.

Therefore, since there is no evidence in the language of section 4 of an intention to abrogate the common law rule, it is my opinion that a majority vote of a quorum present at the meeting called pursuant to statutory direction is sufficient to approve or reject a project under review by the Commission.

Very truly yours,

A T T O R N E Y G E N E R A L