

ILLINOIS POLLUTION CONTROL BOARD  
March 19, 1987

CITIZENS UTILITIES COMPANY )  
OF ILLINOIS, )  
 )  
Petitioner, )  
 )  
v. ) PCB 86-185  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by J. Anderson):

On March 9, 1987 Citizens filed a motion for additional hearing and to postpone the briefing schedule pending such hearing. Citizens asserts that the purpose of hearing would be to update the record with developments concerning certain contractual negotiations. Citizens also asserts that based on this new information, it plans "to revise and update its proposed compliance schedule". The Agency filed a response on March 17, requesting that the motion be denied unless Citizens filed a waiver or an amended petition. On March 19, Citizens filed a 60 day waiver of the decision deadline.

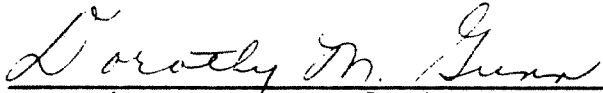
While the Board is, as a matter of course, interested in having as full a record developed for its review as is possible, the manner in which Citizens seeks to bring this information into the record is not procedurally sound. Introduction of new information and a new compliance plan for the first time at hearing would impair the ability of the Agency and other previous hearing participants to carefully assess such new information and to present any amendment to their previous positions concerning grant of variance. The Board will accordingly direct Citizens to file an amended petition within 14 days of the date of this Order, and the Agency to file any amendment to its previous recommendation within 14 days thereafter. Upon the filing of an amended petition, the Hearing Officer is authorized to schedule an additional hearing. During the interim, the briefing schedule established by the Hearing Officer on January 13 is stayed. The Hearing Officer has authority to modify the schedule as he may deem appropriate.

Finally, the Board wishes to address two other points. First, even as of March 9 when the motion was filed requesting a March hearing date, the request was impossible to grant, given the 21 day notice of hearing publication requirement. Second,

Citizens' motion notes that the "Agency has already taken the position that, by virtue of the [January 12, 1987] amendment to the petition, the Board decision is not due until May 12, 1987". This "Agency position" is in fact the Board's consistent holding concerning amended petitions. Thus, the filing of an amended petition pursuant to this Order will restart the 120 day decision timeclock. The Board notes that, as the Agency asserted, matter of practicality, the Board could not have honored Citizens request for an additional hearing and have rendered a decision by May 12, 1987, given the 30 day lead time necessary to properly notice a hearing, the two week period after hearing for preparation and delivery of transcripts to the Board, and the customary one month period for Board discussion and deliberation of a decision at two bi-weekly Board meetings. There may be circumstances in Citizens situation which would result in imposition of a hardship were the Board to take a full 120 days after the filing of an amended petition in which to reach a decision. If this is the case, Citizens is encouraged to present such circumstances at hearing and to specify the date by which decision would be desirable, to allow the Board to determine whether decision could or should be expedited.

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<sup>th</sup> day of March, 1987 by a vote of 6-0.

  
\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board