ILLINOIS POLLUTION CONTROL BOARD April 16, 2015

| PEOPLE OF THE STATE OF ILLINOIS, |) | |
|----------------------------------|------|----------|
| |) | |
| Complainant, |) | |
| |) | |
| V. |) | PCB 15- |
| |) | (Enforce |
| ILLINOIS AMERICAN WATER COMPAN | JY,) | |
| |) | |
| Respondent. |) | |

PCB 15-155 (Enforcement - Water)

ORDER OF THE BOARD (by D. Glosser):

On January 30, 2015, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Illinois American Water Company (Illinois American). The complaint concerns Illinois American's community sanitary sewer systems, including one located in Mount Prospect, Cook County and one in Lisle, DuPage County. On February 5, 2015, the Board accepted the complaint for hearing and directed the hearing officer to proceed expeditiously to hearing. <u>People of the State of Illinois v. Illinois American Water Company</u>, PCB 15-155 (Feb. 5, 2015).

On April 1, 2015, Illinois American filed a motion for admission *pro hac vice* of Dale A. Guariglia (Mot.) accompanied by the appearances of attorney Dale A. Guarigulia and attorney Erin L. Brooks. In the motion, filed pursuant to Section 101.400 of the Board's procedural rules, Illinois American states only that "Dale A. Guariglia is in good standing and admitted to practice before all state courts in the state of Missouri." 35 Ill. Adm. Code 101.400; Mot. at 1.

The Illinois Supreme Court recently changed the process for permitting out-of-state attorneys to appear *pro hac vice* in Illinois by amending its Rule 707. Ill. S. Ct. R. 707 (eff. July 1, 2013). Amended Rule 707 applies to cases "before an agency or administrative tribunal of the State of Illinois . . . if the representation by the out-of-state attorney constitutes the practice of law in Illinois or the agency or tribunal requires that a representative be an attorney." Ill. S. Ct. R. 707(c)(3). The Board therefore finds that Rule 707 applies to adjudicatory proceedings before the Board.

For Mr. Guariglia and Ms. Brooks to represent Illinois American, they must comply with Supreme Court Rule 707. Mr. Guariglia's motion to appear *pro hac vice* does not mention Rule 707, and the Board has not received a motion to appear *pro hac vice* from Ms. Brooks. Under these circumstances, the Board denies the pending *pro hac vice* motion.

Rule 707 establishes a procedure by which "an eligible out-of-state attorney . . . is permitted to appear as counsel and provide legal services in the proceeding *without order of the tribunal*." Ill. S. Ct. R. 707(a) (emphasis added). As out of state attorneys seeking to represent Illinois American before the Board, Mr. Guariglia and Ms. Brooks may file new appearances with the Board. The appearances must include the out-of-state attorney's representation that he

or she is in, and will maintain throughout the proceeding, compliance with Rule 707. One requirement of Rule 707 is "the filing of an appearance of an active status Illinois attorney associated with the [out-of-state] attorney in the proceeding." Ill. S. Ct. R. 707(a). Therefore, each out-of-state attorney's appearance must identify the active status Illinois attorney with whom the out-of-state attorney is associated in this proceeding, as well as the date on which the active status Illinois attorney filed an appearance. The Board realizes the possibility that Ms. Brooks is an attorney licensed to practice law in the State of Illinois, but nothing filed with the Board at this time makes Ms. Brooks' licensure clear.

For the reasons above, the Board denies Illinois American's motion to appear *pro hac vice*.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 16, 2015, by a vote of 5 to 0.

In T. Therian

John T. Therriault, Clerk Illinois Pollution Control Board