

ILLINOIS POLLUTION CONTROL BOARD
November 10, 1977

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-112
)
 THE METROPOLITAN SANITARY DISTRICT)
 OF GREATER CHICAGO,)
)
 Respondent.)

INTERIM ORDER OF THE BOARD (by Mr. Dumelle):

On October 25, 1977 the Complainant and the Respondent requested an interlocutory appeal of a ruling by the Hearing Officer in this case. Since the ruling in question could prejudice the rights of both parties to state their positions in an orderly fashion the Board hereby accepts this appeal.

The Hearing Officer ruled that Complainant could not present any future citizen testimony on the occurrence or non-occurrence of odors unless this testimony deviated substantially from prior testimony.

The Complainant feels that it cannot adequately state its position without presenting a significant number of witnesses and that the Hearing Officer has exceeded his discretion in controlling the conduct of this hearing. Complainant points out that it is probably shortening these proceedings by calling citizen witnesses as a part of its case in chief instead of having them testify as interested individuals.

The Respondent feels that the Hearing Officer should be reversed because his ruling prejudices its position. Respondent also contends that the Hearing Officer exceeded his authority and acted illegally.


While the Hearing Officer should be commended for his efforts towards a speedy resolution, his ruling must be and is hereby reversed. The Complainant cannot be prevented from proving its case and the Respondent cannot be denied its opportunity to challenge that proof. The Board recognizes the significant expense incurred to date in this cause and urges the parties to shorten the proceedings wherever possible consistent with justice.

The record shows some dispute as to potential economy or efficiency from the use of written direct testimony. The Hearing Officer's discretionary authority to reject this alternative is hereby affirmed.

IT IS SO ORDERED.

Mr. James Young abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Order was adopted on the 10th day of November, 1977 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board