

ILLINOIS POLLUTION CONTROL BOARD  
January 8, 1976

PEOPLE OF THE STATE OF ILLINOIS, )  
Complainant, )  
 )  
v. ) PCB 75-116  
 )  
CITIZENS UTILITIES COMPANY OF )  
ILLINOIS, )  
Respondent. )

ORDER OF THE BOARD (by Mr. Goodman):

This matter comes before the Pollution Control Board (Board) upon the motion filed by Respondent on December 18, 1975, to modify the Interim Opinion and Order of the Board decided December 4, 1975. A hearing in this matter was held on October 20, 1975, at which a "Settlement Stipulation" was submitted to the Board. The Stipulation provided that Respondent pay the sum of \$1,000.00 to the general revenue fund of the State of Illinois "in lieu of a civil penalty." In its Interim Opinion and Order, the Board rejected the Settlement Stipulation.

Respondent requests the Board to delete the following language from its Interim Opinion and Order:

The Board finds that a penalty is appropriate here, considering that the compliance program is one of general upkeep and that the reason for violation was apparently the result of Respondent's failure to properly maintain its public water supply facility.

Respondent asserts that such language constitutes a finding of violation and penalty and, therefore, violates the provision in the Settlement Stipulation voiding the Stipulation if the Board rejects any portion thereof.

Respondent's motion is denied. As indicated in the Board's Opinion, parties can only enter into binding stipulations as to facts and not as to legal conclusions. Read as a whole, the Board's Opinion indicates that, based upon the facts stipulated to, the legal conclusion reached by the parties--that no civil penalty was warranted--was incorrect. However, the Order of the Board does not find a violation and penalty. The Order reads:

It is the Order of the Board that the October 20, 1975, Settlement Stipulation be and is, hereby, rejected. The parties are herewith ordered to hearing or amendment of their settlement proposal not inconsistent with today's Interim Opinion.

Therefore, because the Order of the Board in its December 4, 1975 Interim Opinion and Order does not constitute a finding of violation and penalty, Respondent's Motion is denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 8<sup>th</sup> day of January, 1976 by a vote of 4-0.



Christan L. Moffett, Clerk  
Illinois Pollution Control Board