

ILLINOIS POLLUTION CONTROL BOARD  
April 26, 1990

CITIZENS UTILITIES COMPANY )  
OF ILLINOIS, )  
 )  
Petitioner, )  
 )  
v. ) PCB 85-140  
 ) (Permit Appeal)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by M. Nardulli):

This matter comes before the Board upon remand by the Illinois Appellate Court, Third Judicial District. (Citizens Utilities Co. of Illinois v. PCB, No. 3-89-0203 (January 5, 1990).) The appellate court mandate issued on February 22, 1990.

On January 5, 1989, the Board entered an opinion and order upholding the Illinois Environmental Protection Agency's (Agency) imposition of a condition in Citizens' NPDES permit. Citizens filed a petition for rehearing requesting that the Board consider evidence of portions of the record in a site-specific rulemaking then pending before the Board. Citizens asserted that this evidence tended to refute some of the Agency's contentions which were accepted by the Board in upholding the Agency's permit decision. The Board denied Citizens' motion for rehearing on the basis of the Board's interpretation of the scope of Board review in a permit review. Citizens appealed.

Relying on section 105.102(b) of the Board's regulations, the appellate court held that the Board misconstrued its scope of review in a permit review and should have considered the evidence from the rulemaking. Therefore, the court remanded the matter to the Board "for a hearing consistent with requirements of the Act and section 105.102(b) ... ."

Hearing must be scheduled within 14 days of the date of this order and completed within 60 days of the date of this order. The hearing officer shall inform the Clerk of the Board of the time and location of the hearing as expeditiously as possible but at least 40 days in advance of the hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list and all actual exhibits to the Board within 5 days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and in no event later than 70

days from the date of this order.

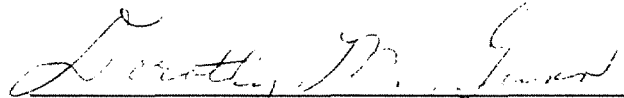
If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt, the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible.

Within 10 days of accepting this case, the hearing officer shall enter a Hearing Officer Scheduling Order governing completion of the record. The order shall set a date certain for each aspect of the case including: briefing schedule, hearing date, completion of discovery (if necessary) and prehearing conference (if necessary). The hearing Officer Schedule Order may be modified if necessary by entry of a complete new scheduling order.

This order will not appear in the Board's Opinion Volumes.

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 26<sup>th</sup> day of April, 1990, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board