

ILLINOIS POLLUTION CONTROL BOARD  
August 20, 1987

IN THE MATTER OF: )  
 )  
AMENDMENTS TO 35 ILL. ADM. CODE ) R86-10  
211 & 215 ORGANIC MATERIAL EMISSION )  
STANDARDS AND LIMITATIONS FOR )  
SYNTHESIZED PHARMACEUTICAL )  
MANUFACTURING PLANTS. )

ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board upon an August 12, 1987 motion for interlocutory appeal of Hearing Officer's Order, filed by the Illinois Environmental Protection Agency (Agency). The Board recognizes that the time for response to this motion does not expire until August 24, 1987. However, due to the nature of this proceeding and the time factors involved, the Board deems it necessary and appropriate to grant the motion, in part, at this time. The Board will, in this Order address the issue of Abbott Laboratories' participation at the hearing scheduled for August 25, 1987. Remaining issues raised in the appeal will be addressed subsequent to the expiration of the response period.

The Agency's interlocutory appeal requests the Board to reverse a ruling made in the Hearing Officer's Order dated August 10, 1987. The Hearing Officer ruled that Abbott need not present its position at the hearing scheduled for August 25, 1987. At that hearing, the Agency is scheduled to present its second amended proposal which was filed on July 27, 1987, and Abbott is scheduled to question the Agency's witnesses thereon. The Agency asserts that the Hearing Officer's rationale for not requiring Abbott to present its position at that hearing is that Abbott did not receive a certain technical report until 13 days before the hearing and that that is insufficient time to prepare its testimony. The Agency further asserts that this rationale ignores the fact that Abbott has had the Agency's proposal since July 24, 1987 and that the data included in that report was data the Agency received from Abbott originally. The Agency concludes that Abbott has had the information for a sufficient length of time to enable it to present its position at the August 25, 1987 hearing, and therefore requests that the Board reverse the Hearing Officer's Order.

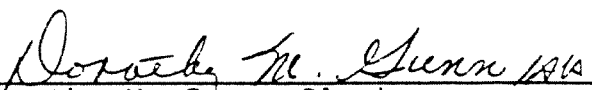
The Board shares what it believes is the Agency's underlying concern: that this rulemaking proceed swiftly to its ultimate conclusion because of imminent deadlines. However, the Board is not persuaded that the Hearing Officer was incorrect in ruling that Abbott should not be required to proceed with its

presentation at the August 25, 1987 hearing. Therefore, the Agency's appeal on this issue is denied, and the hearing will proceed as outlined in the Hearing Officer's Order. The Board's next Order in this matter will discuss any procedures the Board deems necessary to expedite conclusion of this rulemaking, taking into account the progress made at the August 25 hearing.

IT IS SO ORDERED.

Board Member Bill Forcade dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 20<sup>th</sup> day of August, 1987 by a vote of 5-1.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board