

ILLINOIS POLLUTION CONTROL BOARD
May 8, 1975

PEOPLE OF THE STATE OF ILLINOIS,)
 Complainant,)
)
 v.) PCB 75-116
)
CITIZENS UTILITIES, INC.,)
 an Illinois Corporation,)
 Respondent.)

INTERIM ORDER AND OPINION OF THE BOARD (by Mr. Goodman):

This matter comes before the Pollution Control Board (Board) on Respondent's motion to dismiss. Respondent's first contention is that as there is a pending action before the Illinois Commerce Commission in which Citizens Utilities is a respondent, the Board should dismiss the instant action in order to avoid duplicative or inconsistent orders. As the Board is the only agency having jurisdiction to determine violations of the Environmental Protection Act, we find that the possibility of inconsistent orders or duplicity is sufficiently remote so as not to warrant dismissal on those grounds.

The second, third, and eighth contentions of the Respondent are substantially similar to those of Star Utility, PCB 75-118, and are not supported by the law. As we have explained in the People v. Star Utility, et al opinion, the Attorney General has standing to bring actions before the Board and no conflict of interest arises solely from the fact that the Attorney General also represents the Illinois Commerce Commission. The issue of the Board's authority to impose monetary penalties and cease and desist orders has been resolved by the courts of Illinois in favor of the Board, Cobin v. P.C.B. et al, 16 Ill.App.3d. 958, 397 NE2d 191 (1974); City of Monmouth v. E.P.A. et al, 57 Ill.2d. 482, 313 NE2d. 161 (1974); Ford v. E.P.A. et al, 91 Ill.App.3d. 711, 292 NE2d. 540 (1973); City of Waukegan v. P.C.B., 57 Ill.2d. 170, 311 NE2d. 146 (1974).

Section 18 of the Act is not so vague, indefinite, ambiguous, without standards, overly broad, or arbitrary so as to be unconstitutional, under either the State or Federal Constitutions.

The Board finds that the allegations in the complaint as to dates, location, events, nature, extent, duration, and strength of discharge or emissions conform to the pleading

rules as promulgated by the Board and give the Respondent sufficient notice of the acts therein complained of so as to reasonably allow Respondent to prepare a defense.

As to its sixth contention, the Respondent apparently takes the position that since the public water supply regulations with respect to maximum iron content in finished water does not become effective until January 1, 1978, there can be no violation of section 18 of the Act. As compliance with regulations is only a prima facie defense to a violation of the Act, it is the Board's position that one may comply with the PCB regulations and yet violate the Act. The Board also holds that where water is discolored and unpalatable, it may be unfit for ordinary domestic consumption and therefore those facts may constitute a violation of section 18 of the Act.

It is the opinion of the Board that the Respondent's motion to dismiss be denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 8th day of May, 1975 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board