

ILLINOIS POLLUTION CONTROL BOARD
August 14, 1975

PEOPLE OF THE STATE OF ILLINOIS,)
 Complainant,)
)
 v.) PCB 75-95
) PCB 75-118
STAR UTILITY COMPANY,)
 an Illinois Corporation, and)
MIDWEST UTILITY COMPANY,)
 an Illinois Corporation,)
 Respondents.)

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

On July 17, 1975, Complainant in the above captioned cause filed a Motion for Leave to File an Amended Complaint. Respondent, on July 29, 1975, filed its objections to this motion. The Board deals with these objections as follows:

1. The Environmental Protection Agency (Agency) is hereby joined as a party to the proceeding. Respondent contends that the Agency may be joined in an action only as an Intervenor under Procedural Rule 310 or as a party Respondent under Rule 303(c). Procedural Rule 303(c) states, in part, "If a person not a party has an interest which the order may effect, the Board on its own initiative or on application, may direct him to be made a party." Rule 303(c) does not refer exclusively to Party Respondents. The Agency is charged under Section 4 of the Environmental Protection Act with surveillance and enforcement duties under the Act. Clearly, as the Agency has an interest in the environment of Illinois and that environment will be affected by any Order of the Board, the Agency is an interested party within the meaning of Rule 303(c). Complainant's motion contained in part, the Agency's request, via its counsel, the Attorney General, to be made a party. This, in conjunction with the Agency's obvious interest, is sufficient "application" under Rule 303(c).

2. Complainant's Motion to File an Amended Complaint is granted. Respondent's contentions as to the Attorney General's multiple representations of the People, the Agency and the Board constituting a violation of law is totally without merit. Furthermore, Complainant's motion is timely in view of the discovery of additional violations of the Act. The purpose of an amended complaint is to facilitate a complete resolution of the issues in an action.

3. ¶7 of Count I of the amended complaint is stricken. Count I of the Amended Complaint is identical to Complainant's original complaint in PCB 75-95 to which the Board Order of March 26, 1975, applies.

4. For the same reasoning as above, ¶V of Respondent's March 11, 1975 Motion to Dismiss, seeking to strike ¶9 of the complaint is hereby applied to the amended complaint and will be taken with the case.

5. Respondent's Motion To Dismiss Count II of the Amended Complaint, is denied. As Count II is identical to the original complaint in PCB 75-118, said motion is denied on the same grounds stated in the Board Order of May 8, 1975.

6. Counts III, IV, and V are adequate under the Procedural Rule 304(c) notice pleading requirements.

7. Respondent's contentions as to the applicability of deadline extensions under Rule 404(f) and 409 of the Water Regulations are groundless in the face of the express wording of the regulation applying the extension only to municipalities and sanitary districts.

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 14th day of August, 1975 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board