

ILLINOIS POLLUTION CONTROL BOARD
October 3, 1972

ENVIRONMENTAL PROTECTION AGENCY)
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 v.) # 72-271
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 ILLINOIS POWER CO. (BALDWIN STATION))

Order of the Board on Motion for Appeal (by Mr. Currie):

Illinois Power asks us to authorize an interlocutory appeal from our denial of its motion to dismiss on various constitutional grounds. We have rejected the arguments raised by the motion to dismiss in earlier decisions, e.g., EPA v. Granite City Steel Co., #70-34, 1 PCB 315 (March 17, 1971); EPA v. Modern Plating Corp., # 70-38, 1 PCB 531 (May 3, 1971), and we rejected them in this case for reasons given in those opinions.

The law does not favor interlocutory appeals. See City of Evanston v. Pollution Control Board, Ill. App. 1st District 1972, dismissing an appeal from an interlocutory order although the appeal asserted constitutional questions, as here, going to the Board's authority to act at all in the case sought to be reviewed. The normal procedure is to complete the trial process before trying to appeal, to avoid piecemeal litigation and interruption of expeditious trial procedure. To complete the hearing may well result in mooting the appeal should the company prevail on the merits, and time is likely to be saved by pursuing that route in the long run rather than by risking the time and effort of two separate appeals.

To authorize interlocutory appeals every time questions of our authority are raised would mean the Board would have to refrain from doing the job assigned it by the General Assembly until some future date when our authority is upheld by the ultimate appellate court. We cannot thus abdicate our statutory responsibilities. The motion is denied. Review may be sought in the usual course following a final Board decision.

I, Christan Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Order on Motion for Appeal this 3 rd day of October, 1972, by a vote of 3-0.

