

STATE OF ILLINOIS
DEPARTMENT OF LABOR

IN THE MATTER OF:	)	
	)	
PLUMBING CONTRACTORS	)	
ASSOCIATION OF GREATER CHICAGO	)	FILE NO. 2027-H-CC08-2361
AND TERRY PLUMBING,	)	
c/o Christina Warnick, Esq. & Megan Wilkes, Esq.	)	
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mwilkes@lanerlaw.com	)	
	)	
OBJECTORS,	)	
	)	
LIUNA Great Plains Laborers District Council and	)	
its subsidiary and affiliate local unions	)	
c/o Timothy J. Ryan, Esq	)	
trvanrromidwestlaborers.org	)	
	)	
Chicago Journeymen Plumbers Local 130, UA	)	
c/o Gregory W. Hosé, Esq., and	)	
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	)	
Martin Flanagan, a member of the Laborers'	)	
International Union of North America Local 1 and	)	
the Construction and General Laborers' District	)	
Council of Chicago and Vicinity	)	
c/o George Rapidis, Esq., James Connolly Jr., Esq.	)	
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	)	
Donald Finn, a member of the International	)	
Brotherhood of Electrical Workers,	)	
Local Union No. 134, AFL-CIO, and	)	
the International Brotherhood of Electrical Workers,	)	
Local Union No. 134, AFL-CIO	)	
c/o Matthew J. Cleveland, Esq.	)	

mcleveland@local134.org)
)
John Alghrim, Member and Director of Contract)
Negotiations for IUOE Local 150, AFL-CIO and)
IUOE Local 150, AFL-CIO; Brian Gilham, Member)
and President/Business Manager of IUOE Local 841)
AFL-CIO and IUOE Local 841, AFL-CIO;)
Tony O'Brien, Member and Business Manager)
of the IUOE Local 649, AFL-CIO and IUOE)
Local 649, AFL-CIO)
c/o Marc R. Poulos, Esq., Melissa L. Binetti, Esq.,)
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)

PETITIONERS)

v.)
)

JANE R. FLANAGAN, DIRECTOR of the)
ILLINOIS DEPARTMENT OF LABOR,)
THE ILLINOIS DEPARTMENT OF)
LABOR,)
c/o Stephanie Barton, Esq. & Sean Imburgia, Esq.)
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)

RESPONDENTS.)

ORDER

THIS MATTER comes before the Administrative Law Judge (“ALJ”) Michelle S. Bryant-Smith on Respondents Jane R. Flanagan, Director of the Illinois Department of Labor, and the Illinois Department of Labor’s (“Respondents” or “Department”) Motion to Dismiss Objectors’ Objection and Request for Hearing and to Deny Objectors’ Request for Extension of Time.

The ALJ, having reviewed Respondents’ Motion to Dismiss, Objectors Plumbing Contractors Association of Greater Chicago and Terry Plumbing’s (“Objectors”) Combined Response in Opposition and Reply in Support of their Request for Extension of Time, Respondents’ Reply, the authorities cited by the parties, and the record in this matter, and being otherwise fully advised, hereby enters the following Order:

FINDINGS OF FACT:

1. On July 15, 2026, the Illinois Department of Labor published on its official website the prevailing wage schedule for each county in the State of Illinois pursuant to Section 9 of the Illinois Prevailing Wage Act (“PWA”), 820 ILCS 130/9.
2. Excluding July 15, 2026, from the computation of time pursuant to 56 Ill. Adm. Code § 120.130(b), the thirtieth day following publication was Friday, August 14, 2026.
3. On August 14, 2026, Objectors placed their written Objection and Request for Hearing (“Objection”) in the United States mail.
4. On August 14, 2026, at 9:07 p.m., Objectors also transmitted their Objection to the Department by email.
5. On August 14, 2026, at 10:20 p.m., Objectors transmitted by email a Request for Extension of Time to File Objections (“Request for Extension”).
6. In support of the Request for Extension, Objectors stated that the Objection was prepared and finalized on August 14, 2026, and that unforeseen time-sensitive professional obligations and administrative staffing disruptions prevented physical delivery to the Department’s Chicago office before 5:00 p.m.
7. On August 17, 2026, the Department received the Objection transmitted through the United States mail. Objectors also delivered the Objection by hand on August 17, 2026.
8. On August 21, 2026, the Department issued a Notice of Hearing and subsequently convened a pre-hearing conference on September 2, 2026.
9. On September 1, 2026, Respondents filed their Motion to Dismiss Objectors’ Objection and Request for Hearing and to Deny Objectors’ Request for Extension of Time.
10. On September 2, 2026, the parties appeared before the ALJ for the scheduled pre-hearing conference, at which argument was heard concerning Respondents’ Motion to Dismiss. The ALJ thereafter established a briefing schedule.
11. Objectors timely filed their Combined Response in Opposition to Respondents’ Motion to Dismiss and Reply in Support of their Request for Extension of Time on September 8, 2026.

12. Respondents timely filed their Reply in Support of their Motion to Dismiss on September 15, 2026.

RELEVANT LAW:

Section 9 of the PWA provides, in relevant part:

“At any time within 30 days after the Department of Labor has published on its official web site a prevailing wage schedule, any person affected thereby may object in writing to the determination or such part thereof as they may deem objectionable by filing a written notice with the Department of Labor stating the specified grounds of the objection.” **820 ILCS 130/9.**

Administrative hearings before the Department are governed by 56 Ill. Adm. Code Part 120. See 56 Ill. Adm. Code § 120.100.

Section 120.130(a) provides that when the Act or Part 120 requires the filing of a document, the document must be received by the Department before the official closing time of the receiving office on the final day of the applicable time limit. Filings received after 5:00 p.m. are considered filed on the following business day.

Section 120.130(b) governs computation of time and requests for extensions. It provides, in relevant part:

“A request for an extension of time to file a document shall be filed no later than 5:00 p.m. at the Chicago Office on the date on which the document is due. Requests for extensions of time filed within three days after the due date must be grounded upon circumstances not reasonably foreseeable in advance.”

56 Ill. Adm. Code § 120.130(b).

Section 120.130(c) permits filing by certified or First-Class mail, messenger service, private delivery service, or personal delivery to the Department’s Chicago office. Filing by electronic transmission, including email, is not accepted unless specifically requested or ordered by the ALJ.

Finally, § 120.130(d) distinguishes service from filing. The date of service may be the date a document is deposited in the United States mail; however, the date of filing is the date the matter is received by the Department.

Illinois courts recognize that administrative agencies derive their authority from statute and must exercise that authority in conformity with their governing statutes. See *Fredman Brothers Furniture Co. v. Department of Revenue*, 109 Ill. 2d 202 (1985); *Klopfers v. Court of Claims*, 286 Ill. App. 3d 499 (1997); *Weatherly v. Human Rights*

Comm'n, 338 Ill. App. 3d 433 (2003); *Goral v. Dart*, 2020 IL 125085. Administrative rules properly adopted pursuant to statutory authority have the force and effect of law. *Granite City Division of National Steel Co. v. Illinois Pollution Control Board*, 155 Ill. 2d 149 (1993).

ARGUMENT AND CONCLUSION

Respondents argue that Objectors failed to file their Objection within the thirty-day period prescribed by Section 9 of the PWA and that the untimely filing precludes the Department from proceeding to adjudicate the Objection. Objectors contend that Respondents improperly characterize the filing deadline as jurisdictional and argue that Section 120.130(b) permits the ALJ to grant an extension based upon the circumstances presented.

The ALJ finds that the Objection was not timely filed.

The Department published the applicable prevailing wage schedule on July 15, 2026. The thirtieth and final day for filing an objection was therefore Friday, August 14, 2026. Section 120.130(a) requires a document subject to a filing deadline to be received by the Department before the Department's official closing time on the final day of the filing period. Section 120.130(d) further distinguishes between service and filing: depositing a document in the United States mail establishes the date of service, while the date of filing is the date the Department receives the document.

Although Objectors placed their Objection in the United States mail on August 14, 2026, the Department did not receive it until August 17, 2026. Accordingly, the mailed Objection was filed on August 17, 2026, after expiration of the thirty-day period.

The August 14, 2026, email transmission does not alter this conclusion. Section 120.130(c) expressly provides that filing by email will not be accepted unless specifically requested or ordered by the ALJ. No such authorization existed when Objectors transmitted their Objection. Moreover, the email was transmitted at approximately 9:07 p.m., after the Department's 5:00 p.m. closing time. Even if email filing had been authorized, § 120.130(a) provides that a filing received after 5:00 p.m. is considered filed on the following business day.

The ALJ is also unpersuaded by Objectors' argument that application of § 120.130 improperly narrows the thirty-day period established by Section 9. Section 9 establishes the statutory period within which an affected person must file a written objection. Part 120 establishes the procedural requirements governing when and how filing occurs before the Department. These provisions are complementary. Section 120.130 does not shorten the thirty-day period; it defines the requirements for accomplishing a filing within that period.

The ALJ has also considered Objectors' reliance upon *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325 (2002), and their argument that Respondents improperly characterize every statutory or regulatory filing requirement as jurisdictional. *Belleville Toyota*, however, concerned the constitutionally conferred original jurisdiction of Illinois circuit courts and distinguished that jurisdiction from adjudicatory authority derived from statute. Here, the right to challenge the Department's prevailing wage schedule and the Department's authority to hear that challenge arise from Section 9 of the PWA.

Section 9 requires an affected person to initiate that statutory process by filing a written objection within thirty days of publication. Consistent with *Fredman Brothers*, *Weatherly*, *Klopper*, and *Goral*, the ALJ concludes that compliance with the statutory filing requirement is a prerequisite to proceeding upon an objection under Section 9. Because Objectors did not timely file their Objection, the Department may not proceed to adjudicate its merits.

Objectors' Request for Extension does not cure the untimely filing.

Section 120.130(b) provides that a request for extension shall be filed no later than 5:00 p.m. on the date the underlying document is due and further addresses requests filed within three days after the due date where the request is grounded upon circumstances not reasonably foreseeable in advance. Objectors transmitted their Request for Extension by email at approximately 10:20 p.m. on August 14, 2026. The request therefore was not submitted before the 5:00 p.m. deadline and was transmitted through a method of filing not authorized under § 120.130(c).

Moreover, even assuming, without deciding, that § 120.130(b) permits the ALJ to consider an extension request seeking relief from the filing deadline applicable to a Section 9 objection, Objectors have not established sufficient grounds to grant the requested relief.

Objectors cite unexpected time-sensitive professional obligations and administrative staffing disruptions occurring immediately before the deadline. Although those circumstances may have caused difficulty on August 14, 2026, Objectors had thirty days following publication of the prevailing wage schedule to prepare and file their Objection or seek an extension. On the record presented, Objectors have not established why the circumstances identified could not reasonably have been anticipated or accommodated during the filing period or why a timely request for extension could not have been filed.

The ALJ has also considered Objectors' contention that Respondents suffered no prejudice from the delay. The absence of demonstrated prejudice does not, however, establish compliance with the filing requirements of Section 9 and § 120.130, nor does it provide an independent basis for disregarding those requirements.

Likewise, the Department's issuance of a Notice of Hearing before Respondents raised the timeliness issue does not cure the filing defect. Once the issue was presented, the ALJ was required to determine whether the Objection had been timely filed before proceeding to its merits.

Accordingly, the ALJ finds that Objectors failed to timely file their Objection and Request for Hearing pursuant to Section 9 of the PWA and 56 Ill. Adm. Code § 120.130. The ALJ further finds that Objectors' Request for Extension does not provide a basis to excuse the untimely filing.

IT IS HEREBY ORDERED THAT:

1. Respondents' Motion to Dismiss Objectors' Objection and Request for Hearing is **GRANTED**;
2. Objectors' Request for Extension of Time to File Objections is **DENIED**;
3. Objectors Plumbing Contractors Association of Greater Chicago and Terry Plumbing's Objection and Request for Hearing is **DISMISSED** as untimely filed pursuant to 820 ILCS 130/9 and 56 Ill. Adm. Code § 120.130;
4. All pending Petitions to Intervene are **MOOT**;
5. Any hearing presently scheduled on the merits of the Objection is **VACATED**; and
6. This matter is **CLOSED** before the Illinois Department of Labor Hearings Division.

Entered: September 18, 2026

/s/ Michelle S. Bryant- Smith
Michelle S. Bryant-Smith
Administrative Law Judge
Illinois Department of Labor
115 S. LaSalle Street, 37th Floor
Chicago, IL 60603
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dol.hearings@illinois.gov

NOTICE: Pursuant to 56 Ill. Admin. Code § 120.301(i), any party seeking review of the Administrative Law Judge's granting of a motion to dismiss may file a written Request for Review with the Director within fifteen (15) calendar days from the date of this Order, stating the specific grounds for review. A copy of the Request for Review must be served upon all other parties immediately upon filing. If a Request for Review is not filed within fifteen (15) calendar days from the date of this Order, the decision of the Administrative Law Judge shall become final.

The Request must be in writing, must identify the applicable State File Number, and must state the specific grounds upon which the party contends this Order should be reviewed. The filing party must demonstrate that a copy of the Motion has been served upon all other parties. Any opposing party may file a response within five (5) days from the date of the Request and must serve a copy of the response upon all other parties.

Any Request for Review must be prominently identified as such and filed with the Director, at the Illinois Department of Labor, 115 S. LaSalle Street, 37th Floor, Chicago, Illinois 60603, or by email at DOL.hearings@illinois.gov, within the applicable fifteen (15) calendar-day period. A written decision shall be issued with notice to all parties.