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IN THE MATTER OF:)
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PLUMBING CONTRACTORS)
ASSOCIATION OF GREATER CHICAGO)
AND TERRY PLUMBING,)
)
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Objectors,) State File No. 2027-H-CC08-2361
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- and -)
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)
JANE FLANAGAN, Director of the Illinois)
Department of Labor, and the ILLINOIS)
DEPARTMENT OF LABOR,)
)
)
Respondents.)

NOW COME Objectors, Plumbing Contractors Association of Greater Chicago and Terry Plumbing (collectively, “Objectors”), by and through their attorneys, Laner Muchin, Ltd., and submit this Combined Response in Opposition to Respondents Director Jane R. Flanagan and the Illinois Department of Labor (collectively, “Respondents”) Motion to Dismiss the Objection and Request for Hearing and Reply In Support of Objectors’ Request for Extension of Time.

At minimum, the circumstances justify granting the requested extension and allowing Objectors to be heard on their Objection, particularly because Objectors filed within the timeframe required by the statutory text, Respondents identify no concrete prejudice from a brief extension, and the Department's hearing notice and administrative process contemplate adjudication of Section 9/Section 4 objections. In support, Objectors state as follows:

I. PROCEDURAL BACKGROUND

In accordance with Section 9 of the Illinois Prevailing Wage Act, 820 ILCS 130/9 (the “PWA”), the Illinois Department of Labor published the prevailing wage schedule on July 15, 2026. Excluding that date, the thirtieth day following that date was Friday, August 14, 2026. *See* 56 Ill. Admin. Code §120.130(b). Objectors transmitted their Objection and Request for Hearing (“Objection”) by U.S. Mail on August 14, 2026, prior to 5pm (**Exhibit A-1**); by email on August 14, 2026, at 9:07 p.m. (**Exhibit A-2**); and by Hand Delivery on August 17, 2026 (**Exhibit A-3**). Objectors also filed a Request for Extension of Time to File Objections (“Request for Extension”), *Instante*r, under 56 Ill. Admin. Code §120.130(b), on August 14, 2026, at 10:20 p.m. (**Exhibit B**).

On September 1, 2026, Respondents filed their Motion to Dismiss Objectors’ Objection and Request for Hearing and Deny its Request for Extension of Time, arguing the Objection was neither timely filed nor properly served on August 14, 2026.

On August 21, 2026, the Department issued an Order setting the matter for hearing on September 25, 2026, before Administrative Law Judge Michelle Bryant-Smith (“ALJ”).

LIUNA Great Plains Laborers District Council and its subsidiary and affiliate local unions (the “Great Plains Laborers”) filed a Petition to Intervene on September 1, 2026. Subsequently, on September 2, 2026, LIUNA Local 1 and the Construction and General Laborers’ District Council of Chicago and Vicinity and its subsidiary and affiliate local unions (the “Chicago Laborers District Council”); the International Union of Operating Engineers Local 150, AFL-CIO (“IUOE Local 150”); and John Alghrim (member), Journeyman Plumbers Local 130, U.A. (“Plumbers Local 130”); and International Brotherhood of Electrical Workers, Local Union No. 134, AFL-CIO and Donald Finn (member) (“IBEW Local 134”) each filed their respective Petitions to Intervene.

On September 2, 2026, the Parties and all potential Intervenors appeared before the ALJ for the scheduled pre-hearing conference in this matter. The ALJ denied Objectors' oral motion to stay briefing and entered a Briefing Order on Respondents' Motion to Dismiss and to Deny Objectors' Motion for Extension of Time.

II. ARGUMENT

A. Respondents Have Not Established That Dismissal Is Required as a Matter of Subject Matter Jurisdiction.

To succeed on their Motion to Dismiss, Respondents must do more than identify an applicable filing deadline; they must show that Section 9 of the PWA makes the asserted filing deadline a condition of the Department's authority to hear the Objection and Request for Hearing. They have not made that showing.

Respondents conflate a mandatory filing rule with a jurisdictional limitation and, thus, have not made that showing. Illinois courts distinguish between statutory limits that define a tribunal's adjudicatory authority and procedural claim-processing rules that govern how and when parties must act. *See, e.g., Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325, 334-35, 770 N.E.2d 177 (2002) (distinguishing subject matter jurisdiction from statutory prerequisites and procedural requirements).

Relying on cases addressing untimely administrative filings under different statutory schemes, Respondents characterize the 30-day filing deadline as an absolute jurisdictional bar. *See Weatherly v. Human Rights Comm'n*, 338 Ill. App. 3d 433, 788 N.E.2d 1175 (2003) (Illinois Human Rights Act); *Goral v. Dart*, 2020 IL 125085, ¶ 41, 181 N.E.3d 736, 745-46 (Cook County Sheriff's Merit Board). Section 9 of the PWA requires a written notice of objection within 30 days after publication, 820 ILCS 130/9, but Respondents identify no language stating that an after-hours receipt or filing-method issue under Part 120 divests the Department or the Administrative Law

Judge of authority to act. To the contrary, the Department’s filing rule expressly permits extensions of time for filing documents. 56 Ill. Admin. Code § 120.130(b). Reading subsections (a) and (c) as an absolute jurisdictional bar would nullify subsection (b) precisely when relief from a filing deadline matters most.

The better reading of the statutory and procedural scheme is that Section 9 of the PWA establishes the Objection deadline, while §120.130(b) of the Illinois Administrative Code supplies procedural mechanisms—including extensions of time—for the Department’s administration of its own contested-case process. This reading is consistent with the Department’s prior recognition that an Administrative Law Judge may consider relief from a procedural defect in the form of an extension of time to file under §120.130(b). *Mid-America Carpenters Regional Council v. Jane R. Flanagan, et al.*, State File No. 2022-H-RP01-2337 (April 20, 2022, Chief ALJ Claudia D. Manley)

B. The Department’s Rules Should Not Be Applied to Defeat the Right to a Hearing Where Objectors Provided Timely Written Notice under the PWA and Promptly Sought Relief.

Section 9 of the PWA requires a written notice stating the specific grounds of objection. 820 ILCS 130/9. Specifically stating that:

“*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.” (emphasis added)

Respondents acknowledge that Objectors sent, and the Department received, a written Objection and Request for Hearing on August 14, 2026 - the date Respondents identify as the thirtieth day following the publication of the prevailing wage rates. By Respondents own admission, Objectors filed a notice, and the Department received that notice, within the unambiguous requirements of the statutory framework of the PWA.

Respondents' contentions concern the method and receipt under the Department's procedural rules, including 56 Ill. Admin. Code § 120.130(a) and (c). But those rules appear in the Department's rules of procedure in administrative hearings, not the PWA itself, which is the mechanism establishing the statutory right to object and request a hearing. Furthermore, this same rule expressly authorizes extensions of time, which contemplates requests for extension of time up to three days after the due date. ("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. Admin. Code § 120.130(b))).

Under the Department's own reasoning, because the PWA grants a statutory right to file objections within 30 days, the Department cannot use procedural rulemaking to narrow that right by limiting the statute's open-ended "at any time" language to filings received before 5:00 p.m. Because this administrative body has subject matter jurisdiction to consider Objectors' Request for Extension, the Administrative Code and equitable considerations support granting that request.

Treating a procedural defect, such as this filing issue, as curable through an extension of time gives effect to the full statutory scheme and the remedial purpose of Section 9 of the PWA. By contrast, treating the issue as a jurisdictional bar would deprive the ALJ of authority to act, effectively nullify the extension provision, and undermine the PWA's intent. It would also turn the filing deadline into an automatic forfeiture even though Objectors acted promptly, delivered the Objection on the date required by statute, and caused no demonstrated prejudice.

The Administrative Law Judge has authority to manage the contested-case process under Section 9 of the PWA and should exercise that authority to accept the Objection and allow it to proceed to hearing as timely filed under the plain language of the PWA and the Department's

procedural rules. Doing so would further the PWA's objectives, serve the purpose of the hearing process, and permit the parties' dispute to be resolved on a complete record.

C. Good Cause Exists to Grant a Brief Extension and Permit the Objection to Be Heard.

Objectors' request for an extension is narrow and reasonable. Objectors did not ignore the proceeding; they transmitted, and the Department received, a written objection on August 14, 2026, and sought relief so that the Objection may be considered. Objectors technical defect, if any, in the manner or time of filing can be addressed by granting the extension and setting an orderly schedule. The equities favor allowing the Objectors to be heard on the substance of their objection rather than imposing dismissal as a disproportionate consequence.

D. Respondents Identify No Prejudice That Would Result From the Requested Extension.

Respondents do not identify witnesses lost, evidence compromised, or any substantive harm caused by allowing the Objection to proceed. The Department and ALJ remain able to manage the hearing schedule, require appropriate filings, and address any administrative concerns, as evidenced by the Pre-Hearing Conference on September 2, 2026. By contrast, denying the extension would permanently deprive Objectors of the opportunity to challenge the prevailing wage schedule. The balance of prejudice, therefore, strongly favors granting the extension.

E. The ALJ Should Exercise Authority to Accept the Filing

Respondents' position would convert the filing rule into an automatic forfeiture even where the affected parties acted promptly and where no prejudice has been shown. The ALJ has the authority and the discretion to administer the contested-case process and should exercise that authority and discretion to permit the Objection to be accepted. Doing so would advance the purpose of the hearing process and allow the parties' dispute to be resolved on a complete record.

III. CONCLUSION

Because the Objection was filed with and received by the Department within the timeframe established by the governing statute, and because this tribunal has authority to extend the narrower, non-statutory deadlines imposed by the administrative rules, Objectors respectfully request that the ALJ deny Respondents' Motion to Dismiss; grant Objectors Plumbing Contractors Association of Greater Chicago and Terry Plumbing's Motion for Extension of Time to File Objection; accept Objectors' Objection and Request for Hearing; set an appropriate schedule for further proceedings; and grant any other relief that is just and proper.

Dated: September 8, 2026

Respectfully submitted,
Plumbing Contractors Association of Greater
Chicago and Terry Plumbing
By:



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**STATE OF ILLINOIS - DEPARTMENT OF LABOR
115 S. LASALLE STREET, 37th Floor
CHICAGO, ILLINOIS 60601**

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JANE FLANAGAN, Director of the Illinois	)	
Department of Labor, and the ILLINOIS	)	
DEPARTMENT OF LABOR,	)	
	)	
Respondents.	)	

CERTIFICATE OF SERVICE

I certify that on September 8, 2026, I served the foregoing *Objectors' Combined Response in Opposition to Respondents' Motion to Dismiss and Reply in Support of Objectors' Motion for Extension of Time to File* in State File No. 2027-H-CC08-23691 via email, as indicated below:

Respondents' Counsel: Stephanie Barton, Esq. Deputy General Counsel, Illinois Department of Labor 524 S 2nd Street, Suite 400 Springfield, IL 62701 Email: (Stephanie.Barton@illinois.gov)

Proposed Intervenor's Counsel:

LIUNA Great Plains Laborers District Council and its subsidiary and affiliate local unions c/o Timothy J. Ryan (tryan@midwestlaborers.org)

Martin Flanagan, Member of LIUNA Local 1 and Construction and General Laborers' District Council of Chicago and Vicinity c/o James Connolly Jr. (JC2@LIUNAFour.com); Joanna Barrera (JBarrera@LIUNACHicago.org); Mary Colleen Kilbride (CKilbride@LIUNACHicago.org); Jeremy Esparza (JEsparza@LaborersLocalOne.com); George Rapidis, Labor-Management Cooperation Committee (GRapidis@LDCLMCC.com)

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 (mpoulos@iiiffc.org); Melissa L. Binetti (mbinetti@iiiffc.org); Kara M. Principe (kprincipe@iiiffc.org); Joseph P. Sweeney (jsweeney@iiiffc.org)

IBEW Local Union No. 134, AFL-CIO and Member Donald Finn c/o Matthew J. Cleveland, General Counsel IBEW, Local No. 134 (mcleveland@local134.org)

Journeyman Plumbers Local 130, U.A. c/o Kyle R. Sullivan (ksullivan@gregoriolaw.com); Greg Hose (ghose@gregoriolaw.com)

Administrative Law Judge Bryant Smith: Honorable Michelle Bryant-Smith, Administrative Law Judge, Illinois Department of Labor, 115 S. LaSalle Street, 37th FL, Chicago, IL 60601; DOL.Hearings@Illinois.gov

*/s/ Christina K. Wernick*_____

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