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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter Of:)	
)	
JOHNS MANVILLE, a Delaware corporation,)	
)	
JM,)	PCB No. 14-3
)	
v.)	
)	
ILLINOIS DEPARTMENT OF TRANSPORTATION,)	
)	
Respondent.)	

COMPLAINANT’S MOTION FOR LEAVE TO FILE ITS POST-HEARING BRIEF IN EXCESS OF 50 PAGES

Complainant JOHNS MANVILLE (“JM”) hereby moves for leave to file its Post-Hearing Brief in excess of 50 pages, pursuant to 35 Ill. Admin. Code 101.302(k). In support thereof, JM states as follows:

1. On June 24, 2015, the Hearing Officer ordered JM to file its Post-Hearing Brief on or before August 12, 2016. This was memorialized in the July 12, 2016 Hearing Report.
2. Because JM believes, for the reasons stated in this Motion, that it cannot adequately address the factual and legal issues implicated in this case within the 50-page limitation set forth in 35 Ill. Admin. Code 101.302(k), JM respectfully requests that it be given leave to file its Post-Hearing Brief, filed concurrently herewith, in excess of 50 pages.
3. Hearing in this matter took place over five full days, May 23-25 and June 23-24, 2016. Over this lengthy trial, more than 100 exhibits were admitted into evidence and ten witnesses, including three expert witnesses, were examined, cross-examined, and oftentimes, re-examined and re-cross-examined. In fact, the transcript of hearing constitutes almost 1700 pages.

4. Further, JM's Complaint alleges violations of at least three different provisions of the Environmental Protection Act, as well as violations of the historical versions of those provisions.

5. Given the volume of the evidence presented at trial and the nature of JM's claims against IDOT, while JM has done its best to streamline and condense its recitation of the relevant facts and law for the Board, in order to address fully and adequately address the factual and legal predicates for JM's claims and for fashioning a remedy against IDOT, and to address why many of IDOT's arguments and assertions are not supported by the record evidence, JM seeks permission to submit its Post-Hearing Brief consisting of up to 58 pages (exclusive of exhibits).

6. Both the Hearing Officer and IDOT have been aware that JM may need to file an oversized brief. (Transcript of June 24, p. 267:12-268:4.) IDOT is not prejudiced by such a request and JM would not oppose a similar request for additional pages by IDOT.

CONCLUSION

WHEREFORE, Complainant JOHNS MANVILLE respectfully requests that it be given leave to file its Post-Hearing Brief in excess of 50 pages.

Dated: August 12, 2016

Respectfully submitted,

BRYAN CAVE LLP

Attorneys for Johns Manville

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