

ILLINOIS POLLUTION CONTROL BOARD

August 7, 2014

ENABLE MISSISSIPPI RIVER)	
TRANSMISSION, LLC, f/k/a)	
CENTERPOINT ENERGY – MISSISSIPPI)	
RIVER TRANSMISSION, LLC,)	
)	
Petitioner,)	
)	
v.)	PCB 12-14
)	(Permit Appeal – CAAPP)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J.A. Burke):

On October 20, 2011, the Board accepted for hearing a petition submitted by Centerpoint Energy – Mississippi River Transmission, LLC (Petitioner), for review of an Illinois Environmental Protection Agency (Agency) determination. The determination involved issuing petitioner a revised Clean Air Act Permit Program permit to operate a natural gas compressor station located along Summerfield Road in St. Jacob, Madison County.

On July 23, 2014, petitioner filed a motion for name change (Mot. 1). Petitioner notes that its name has been changed to Enable Mississippi River Transmission, LLC, as a result of a transaction. Mot. 1 at 1. The Agency does not oppose the motion. *Id.* The Board grants petitioner’s motion.

On July 28, 2014, petitioner filed a motion for *pro hac vice* admission of Briana J. Clifton (Mot. 2). Ms. Clifton is licensed and registered in the State of Oklahoma. Mot. 2 at 1. The motion was filed pursuant to Section 101.400(a)(3) of the Board’s procedural rules. *Id.*, citing 35 Ill. Adm. Code 101.400(a)(3).

The Illinois Supreme Court recently overhauled the process for permitting out-of-state attorneys to appear *pro hac vice* in Illinois by amending its Rule 707. Ill. S. Ct. R. 707 (eff. July 1, 2013). This rule applies to cases “before an agency or administrative tribunal of the State of Illinois . . . if the representation by the out-of-state attorney constitutes the practice of law in Illinois or the agency or tribunal requires that a representative be an attorney.” Ill. S. Ct. R. 707(c)(3). The Board has held that the Supreme Court’s amended Rule 707 applies to proceedings before the Board. Sierra Club v. Ameren Energy Medina Valley Cogen, LLC and FutureGen Industrial Alliance Inc., PCB 14-134, slip op. at 2 (July 24, 2014).

For Ms. Clifton to represent petitioner, she must comply with Supreme Court Rule 707. The Rule establishes a procedure by which “an eligible out-of-state attorney . . . is permitted to

appear as counsel and provide legal services in the proceeding without order of the tribunal.” Ill. S. Ct. R. 707(a). For example, the Rule requires the filing of an appearance of an active status Illinois attorney associated with the out-of-state attorney in the proceeding. Ill. S. Ct. R. 707(a).

The Board therefore denies petitioner’s *pro hac vice* motion. While the Board is planning to propose amendments to its procedural rules to reflect the Supreme Court’s changes to Rule 707, in the meantime, the Board will permit out-of-state attorneys to appear *pro hac vice* in an adjudicatory proceeding if the attorney complies with Rule 707. Ms. Clifton may file a new appearance with the Board if she so chooses. The appearance must include Ms. Clifton’s representation that she is in, and will maintain throughout the proceeding, compliance with Rule 707. Ms. Clifton must also identify the active status Illinois attorney with whom she is associated in this proceeding, as well as the date on which the active status Illinois attorney filed an appearance. The Board notes that attorneys Garry Keele and Bryan Fuller, who were permitted to appear in this proceeding prior to July 1, 2013, need not comply with these new requirements.

For the reasons above, the Board grants the motion to change petitioner’s name and denies the motion for *pro hac vice* admission. The Clerk of the Board is directed to make the name change in the caption of the case as it appears in this order.

IT IS SO ORDERED.

I, Don A. Brown, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 7, 2014, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above the printed name and title.

Don A. Brown, Assistant Clerk
Illinois Pollution Control Board