

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

The Battery Recycling Company, Inc.,

RESPONDENT

Docket No. EPCRA-02-2011-4301

JOINT MOTION FOR CONTINUANCE

To the Honorable Court:

COME NOW Complainant, the United States Environmental Protection Agency and Respondent, The Battery Recycling Company, Inc. by and through their attorneys of record and respectfully aver and pray as follows:

1. Pursuant to this Honorable Court's Order on Motion for Continuance, dated August 20, 2012, the parties were granted, for good cause shown, under Section 22.7(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Rules of Practice), 40 C.F.R. § 22.7(b), until October 29, 2012, to file a Consent Agreement and Final Order (CAFO) or prehearing exchange.
2. That on August 27, September 10, September 24, October 8, and October 22, 2012, Complainant submitted the status reports, as required under the August 20 Order, apprising this Honorable Court on the progress made toward resolving this matter.
3. That the August 27, September 10, and September 24, 2012 status reports state that on August 16, 2012, Complainant submitted a letter to Respondent's

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counsel, requesting an answer to the follow-up questions Industrial Economics, Inc. (IE) had, by August 31, 2012, in order to complete the ability-to-pay analysis.

4. That the October 8, 2012 status report states that on October 3, 2012, Complainant contacted Respondent's counsel and submitted a letter requesting an answer to the follow-up questions IE had in order to complete the ability-to-pay analysis.
5. That the October 22, 2012 status report states that on October 17, 2012, Complainant contacted Respondent's counsel and was advised that a partial answer to IE's follow-up questions would be submitted the next day. Respondent's counsel explained that the information requested by EPA was substantial and required financial data that Respondent did not have readily available. Furthermore, Respondent's counsel explained that as the result of the financial crisis facing the Company and the resulting reductions in personnel, it was very difficult to obtain the information requested.
6. That the October 22, 2012 status report also states that on October 18, 2012, Respondent submitted a partial answer to IE's follow-up questions, that Respondent was gathering some additional financial information to complete its answer, and that Respondent requested an additional ten days to complete its answer.
7. That on October 18, 2012, Complainant forwarded Respondent's answers to IE, whereby IE indicated that it would start working with the partial answers Respondent provided and integrate the remaining answers, once received.
8. That after IE completes the ability-to-pay analysis, the parties must secure appropriate approval and signature in order to settle this matter and file a fully-executed CAFO.

9. That the parties agree that requesting an additional sixty (60) days, until Friday, December 21, 2012, in order to reach an agreement and file a CAFO is a reasonable time-frame, to properly account for any other unforeseen circumstances that may arise.
10. That the parties believe that fully and diligently entertaining Respondent's inability to pay position, prior to engaging in prehearing exchange, is good cause for granting the parties additional time to file a fully-executed CAFO, will promote judicial economy, and will reduce both parties expenditure of significant amounts of time and financial resources.

WHEREFORE it is respectfully requested that this Honorable Court grant a continuance of sixty (60) days, until Friday, December 21, 2012, to file a fully-executed CAFO.

RESPECTFULLY SUBMITTED in Guaynabo, Puerto Rico, this 25th day of October, 2012.



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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Joint Motion for Continuance** was sent in the following manner to the addresses listed below:

Original and Copy by **Overnight**:

Karen Maples
Regional Hearing Clerk
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Copy by **Overnight**:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
1099 14th Street, N.W., Suite 350
Washington, DC 20005

Copy by **Regular Mail and PDF**:

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Dated: 10/25/2012


Aileen Sánchez, Program Support Assistant
EPA, Region 2, Office of Regional Counsel