

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC**

_____ )	
<i>In the Matter of:</i> )	
)	
<b>Nicor Gas</b> )	<b>DOCKET NO. TSCA-HQ-2015-5017</b>
<b>1844 Ferry Road</b> )	
<b>Naperville, Illinois 60563</b> )	<b>UNOPPOSED MOTION TO WITHDRAW</b>
)	<b>COMPLAINT WITH PREJUDICE</b>
)	
<b>Respondent.</b> )	
_____ )	

Pursuant to the authority set forth at 40 C.F.R. § 22.16(a), Complainant, United States Environmental Protection Agency ("EPA"), moves the presiding Administrative Law Judge for leave to withdraw the Complaint and Notice of Opportunity for Hearing ("Complaint") in this matter, as provided in 40 C.F.R. § 22.14(d). Complainant's reasons for requesting withdrawal of the Complaint with prejudice are set forth below.

1. The Complaint in this action was filed on September 15, 2015. The Complaint's three counts alleged that Nicor failed to comply with conditions of the PCB use authorization after discovering PCBs at concentrations greater than or equal to 50 ppm in its natural gas pipeline system in violation of section 15(3)(B) of TSCA, 15 U.S.C. § 2614(3)(B) and its implementing regulations at 40 C.F.R. § 761.30(i). The civil penalty calculated for the alleged violations was \$311,454.50.
2. Respondent filed an Answer in this action on October 21, 2015.
3. Complainant filed Complainant's Initial Prehearing Exchange on August 5, 2016.
4. Respondent filed Respondent's Initial Prehearing Exchange on August 26, 2016.
5. Complainant filed Complainant's Rebuttal Prehearing Exchange on October 7, 2016.
6. The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties provide at 40 C.F.R. § 22.14(d) that the Complainant may, after the Respondent has filed an Answer, withdraw all or part of a Complaint without prejudice upon motion granted by the Presiding Officer. In conjunction with 40 C.F.R. 22.14(d), pursuant to authority in 40 C.F.R. 22.4(c)(10) providing the Presiding Office the ability to take all measures necessary for efficient, fair and impartial adjudication of issues arising in proceedings, Complainant requests withdrawal with prejudice.
7. After reviewing the filings noted above, Complainant concludes that withdrawing the Complaint is in the best interests of both parties and serves the public interest. Moreover, Respondent will not be prejudiced if Complainant is permitted to withdraw the Complaint with prejudice at this time.

8. EPA has consulted with Respondent's counsel and Respondent's counsel does not oppose this motion understanding that the Complaint will be dismissed with prejudice.

9. For the reasons set forth herein, Complainant requests that the Administrative Law Judge grant Complainant's request to withdraw the Complaint.

Respectfully Submitted,

Counsel for EPA:

2-17-2017

Date

/s/ \_\_\_\_\_

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Waste and Chemical Enforcement Division  
Office of Civil Enforcement, MC 2249A  
U.S. Environmental Protection Agency  
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**CERTIFICATE OF SERVICE**

I hereby certify that the original of the Unopposed Motion to Withdraw Complaint with Prejudice, Docket No. TSCA-HQ-2015-5017, has been submitted electronically using the OALJ E-Filing System.

A copy was sent by email to:

Mark R. Ter Molen  
Mayer Brown LLP  
mtermolen@mayerbrown.com

2-17-2017  
Date

/s/ \_\_\_\_\_

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