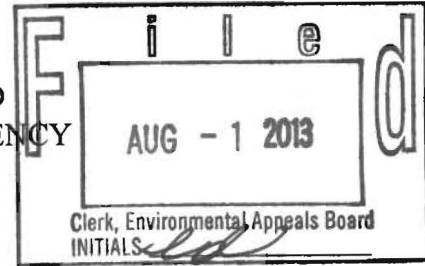


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)	
)	
Energy Answers Arecibo, LLC)	PSD Appeal Nos.: 13-05, 13-06, 13-07,
Arecibo Puerto Rico)	13-08, & 13-09
Renewable Energy Project)	
)	

ORDER GRANTING MOTION TO FILE CONSOLIDATED RESPONSE
BUT DENYING IN PART MOTION FOR EXTENSION

On July 2, 2013, the Coalition of Organizations Against Incinerators (La Coalicion de Organizaciones Anti-Incineracion) (“the Coalition”) filed a Motion for Extension of Time to File Petition for Review of the final Prevention of Significant Deterioration (“PSD”) permit that U.S. EPA Region 2 (“Region”) issued to Energy Answers Arecibo, LLC (“Final Permit”). The Final Permit was issued on June 11, 2013, for the construction of the Arecibo Puerto Rico Renewable Energy Project. The Environmental Appeals Board (“Board” or “EAB”) granted, in part, that motion and set a filing deadline for the Coalition’s petition for review of July 22, 2013. In granting that extension, the Board noted that the original filing deadline for petitions for review of the Final Permit was July 15, 2013. *See* Order Granting in Part Extension of Time to File Petition for Review at 7 n.6 (July 11, 2013) (Docket No. 6). The Board also ordered that responses to the Coalition’s petition would be due August 12, 2013. *Id.* at 7.

Between July 12, 2013 and July 23, 2013, the Board has received five separate petitions for review of the Final Permit.¹ On July 26, 2013, the permittee in this matter, Energy Answers Arecibo (“Energy Answers”) filed a motion in which it seeks to file one consolidated response to all of the petitions in this matter by August 15, 2013, in the interest of efficiency and to avoid duplication of effort.² Energy Answers represents that the Region joins in the motion with respect to PSD Appeal Nos. 13-05 through 13-08 but that, with respect to PSD Appeal No. 13-09, filed on July 23, 2013, the Region intends to file a separate motion for summary dismissal. *See* Energy Answers Arecibo, LLC’s Amended Motion for an Extension of Time and Consolidated Response to Appeal Nos. 13-05, 13-06, 13-07, 13-08 and 13-09 (July 30, 2013) (Docket No. 14). On July 31, 2013, the Region filed a motion to dismiss PSD Appeal 13-09 (filed by Waldemar Natalio Flores Flores and Aleida Centeno Rodríguez) as untimely.

Pursuant to 40 C.F.R. § 124.19(n), and in the interest of efficiency and avoiding duplication of effort or the unnecessary expenditure of resources, the Board determines that

¹ The five petitions for review filed in this matter are: (1) PSD Appeal No. 13-06, filed by Martha G. Quiñones Domínguez (July 12, 2013) (Docket No. 7); (2) PSD Appeal No. 13-07, filed by Eliza Llenza (July 16, 2013) (Docket No. 8); (3) PDS Appeal No. 13-08, filed by Cristina Galán (July 16, 2013) (Docket No. 9); (4) PSD Appeal No. 13-05, filed by the Coalition of Organizations Against Incinerators (July 22, 2013) (Docket No. 10) (July 22, 2013); and (5) PSD Appeal No. 13-09, filed by Waldemar Natalio Flores Flores and Aleida Centeno Rodríguez (July 23, 2013) (Docket No. 11).

²At the time Energy Answers’ filed this motion, only four petitions (13-05 through 13-08) were identified. In response to a petition jointly filed by Mr. Flores and Ms. Centeno on July 23, 2013 (PSD Appeal No. 13-09), Energy Answers amended its motion to include the fifth petition. *See Energy Answers Arecibo, LLC’s Amended Motion for an Extension of Time and Consolidated Response to Appeal Nos. 13-05, 13-06, 13-07, 13-08 and 13-09* (July 30, 2013) (Docket No. 14).

Energy Answers and the Region may each file one consolidated response to the petitions for review in this matter.

In its motion, however, Energy Answers erroneously assumes that 40 C.F.R. § 124.20(d) extends the previous Board-ordered deadline by three days to August 15, 2013. *See* Energy Answers Motion for an Extension of Time and Consolidated Response at 1-2 (July 26, 2013) (Docket No. 12). That regulation provides that “[w]henver a party or interested person has the right or is required to act *within a prescribed period after the service of notice * * * by mail* three days shall be added to the prescribed time.” As the language implies, this provision applies where a deadline to act is based on a prescribed number of days after a document is served. The provision does not operate to extend a specific deadline ordered by the Board. Thus, the Board-ordered deadline for responses to the Coalition’s petition is August 12, 2013, not three days later. Energy Answer has not requested additional time beyond the existing deadline and the Board declines to extend that deadline by three additional days. As such, the Region and Energy Answers each have until **August 12, 2013**, to file consolidated responses to the petitions.

The Board advises all parties that the Board will migrate to a new eFiling System on August 12, 2013. This system will replace the Central Data Exchange (CDX) as the portal for electronically filing documents with the Board. All users, including those currently registered with CDX, must register with EPA’s eFiling Login/Registration system in order to file documents with the Board electronically in the new system. Once registered, users will be able to access the new eFiling System beginning on August 12, 2013. **Because registration can take**

1-2 business days to process, all current and future users are encouraged to begin the process as soon as possible to ensure timely access the EAB eFiling System. For more information and for a link to the new registration system, please visit the Board's website at www.epa.gov/eab.

The Board will consider separately the Region's motion for summary dismissal of PSD Appeal 13-09, as well as the timeliness of each petition filed.

Based on the foregoing, the Board GRANTS, in part, Energy Answers' Motion for an Extension of Time and Consolidated Response to PSD Appeal Nos. 13-05 through 13-09. Energy Answers and the Region may each file one consolidated response to the petitions for review in this matter. Consolidated responses to the petitions for review are due **August 12, 2013**.³

So Ordered.

Dated:

August 1, 2013

ENVIRONMENTAL APPEALS BOARD

By: *Kathie A. Stein*

Kathie A. Stein

Environmental Appeals Judge

³ A document is considered filed on the date that it is *received* by the Board. See 40 C.F.R. § 124.19(a)(3) (2013).

CERTIFICATE OF SERVICE

I certify that copies of the foregoing Order Granting Motion to File Consolidated Response but Denying in Part Motion for Extension in the matter of Energy Answers Arecibo, LLC, Arecibo Puerto Rico Renewable Energy Project, PSD Appeal Nos. 13-05 through 13-09, were sent to the following persons in the manner indicated:

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Dated: **AUG - 1 2013**


Annette Duncan
Secretary