

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

In re:)	
)	
GENERAL ELECTRIC COMPANY)	RCRA Appeal Nos. 16-01, 16-02,
)	16-04, 16-04, and 16-05
Modification of RCRA Corrective Action)	
Permit No. MAD002084093)	

**GE’S ASSENT TO REGION’S MOTION TO EXTEND TIME AND CONSOLIDATE
REVIEW OF PETITIONS AND OPPOSITION TO EXPANSION OF WORD LIMITS**

The General Electric Company (“GE”) assents to the December 6, 2016 motion of Region 1 of the United States Environmental Protection Agency (“the Region”) insofar as it seeks to (a) extend the deadline for the Region’s response to the five petitions for this Board’s review of its final permit modification decision to January 31, 2016; and (b) consolidate the Board’s review of the five petitions. The Region also requests complete discretion in how it allocates a requested 56,000 words to respond to the petitions.¹ GE opposes this one aspect of the Region’s motion because it is inconsistent with a previous ruling of this Board with which GE has already complied.

Specifically, as grounds for its opposition, GE states:

- In its November 8, 2016 order, the Board established a 17,000-word limit for both GE’s petition *and* the Region’s response, and also established an 8,500 word limit for GE’s reply to the Region’s response (premised on the assumption that the Region’s response would be 17,000 words).

¹ The Region’s requested word limit of 56,000 exceeds the totality of the words of the five petitions (approximately 45,000 words).

- Now, after GE has already submitted a petition that complies with the Board's November 8 order, the Region seeks the discretion to utilize up to 56,000 words to respond to GE's petition. GE respectfully submits that the Region should comply with the word limit set in the Board's November 8 order, consistent with the concept embodied in 40 C.F.R. § 124.19(e)(3) that the petitioner and the Region should have the same number of words to present their arguments to this Board.
- GE attempted to discuss with the Region whether it would accept any limit on the number of words it would dedicate to a response to GE's petition other than 56,000 words. The Region refused.
- Contrary to the Region's suggestion in its motion, the "attribution of specific words" of the Region's response to GE's petition would not be at all difficult since most of GE's arguments were not made in any other petition.

For these reasons, GE opposes the Region's request to modify the Board's November 8, 2016 order that the Region's response to GE's petition be limited to 17,000 words. In the event that the Board grants the Region more than 17,000 words to respond to GE's petition, GE respectfully requests an expansion of the word limit for its reply and an appropriate extension of the time in which that reply will be submitted.

Respectfully submitted,

Of Counsel:

Thomas H. Hill
Associate General Counsel
GENERAL ELECTRIC COMPANY
801 Main Avenue
The Towers at Merritt River
Norwalk, CT 06851

Of Counsel:

Roderic J. McLaren
Executive Counsel – Environmental
Remediation
GENERAL ELECTRIC COMPANY
159 Plastics Avenue
Pittsfield, MA 01201

/s/ Jeffrey R. Porter

Jeffrey R. Porter
Andrew Nathanson
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY &
POPEO, P.C.
One Financial Center
Boston, MA 02111
(617) 542-6000
JRPorter@mintz.com

/s/ James R. Bieke

James R. Bieke
SIDLEY AUSTIN, LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000
jbieke@sidley.com

Attorneys for Petitioner General Electric Company

Dated: December 8, 2016

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of December, 2016, I served one copy of the foregoing Permittee's Assent to Region's Motion to Extend Time and Consolidate Review of Petitions and Opposition to Expansion of Word Limits on each of the following:

Timothy Conway
Senior Enforcement Counsel
U.S. Environment Protection Agency, Region 1
Five Post Office Square, Suite 100
Boston, MA 02109-3912
(By express commercial delivery service)

Benno Friedman
Housatonic River Initiative, Inc.
P.O. Box 321
Lenoxdale, MA 01242-0321
(By first-class mail)

C. Jeffrey Cook
9 Palomino Drive
Pittsfield, MA 01201
(By first-class mail)

Benjamin A. Krass
Pawa Law Group, P.C.
1280 Centre Street
Newton, MA 02459
(By express commercial delivery service)

Jane Winn
Berkshire Environmental Action Team, Inc.
29 Highland Way
Pittsfield, MA 01201-2413
(By first-class mail)

Kathleen E. Connolly
Louison, Costello, Condon & Pfaffe, LLP
101 Summer Street
Boston, MA 02110
(By first-class mail)

/s/ James R. Bieke

James R. Bieke