



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

U.S. ENVIRONMENTAL PROTECTION AGENCY-REG. II
2012 AUG 23 A 8:29
REGIONAL HEARINGS CLERK

In the Matter of:
The Battery Recycling Company, Inc.,
Respondent.

Docket No. EPCRA-02-2011-2301

ORDER ON MOTION FOR CONTINUANCE

As you were previous notified, I am designated to preside over the above-captioned matter. This action was initiated on March 1, 2011, by the United States Environmental Protection Agency, Region 2, Division of Enforcement and Compliance Assistance ("Complainant" or "EPA"), filing an Administrative Complaint against Respondent, The Battery Recycling Company, Inc., under Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act ("Superfund"), 42 U.S.C. §§ 11001 et seq., also known as the Emergency Planning and Community Right to Know Act of 1986 ("EPCRA"). By Prehearing Order dated May 23, 2012, Complainant was ordered to file a Consent Agreement and Final Order ("CAFO") or its Initial Prehearing Exchange no later than July 6, 2012.

On July 3, 2012, on motion from Complainant, the undersigned issued an Order on Motion for Continuance ("Extension Order") to allow Complainant time to evaluate Respondent's financial information and conduct an ability to pay analysis. That Extension Order established new deadlines for this proceeding. On August 9, 2012,1 Complainant filed a second Unopposed Motion for Continuance requesting a ninety (90) day extension because "due to unforeseen circumstances," Complainant was unable to engage the services of Industrial Economics, Inc. ("IE") to perform an Ability-to-Pay ("ATP") Analysis to substantiate Respondent's inability to pay position. Mot. at 1-2. The Motion asserts that on August 8, 2012, Complainant resolved the issues related to engaging the services of IE; however, the ATP Analysis has not yet been performed, and Respondent's counsel indicated agreement with this Motion. Mot. at 2.

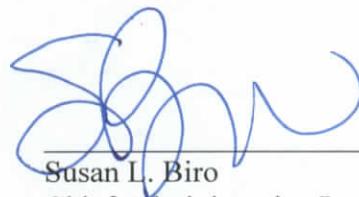
1 Complainant's Unopposed Motion For Continuance ("Motion") states that the Motion was submitted on June 9, 2012; however, the attached Certificate of Service states that the Motion was filed August 9, 2012.

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 (40 C.F.R. § 22.7(b)) provides that the Presiding Officer may grant an extension of time for filing any document upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties.

After considering the prejudices to the parties, the Motion is hereby **GRANTED** for good cause shown. Complainant must submit a status report every two weeks until Complainant files either a CAFO or its Initial Prehearing Exchange and is warned that future extension requests will not be viewed favorably. Accordingly, the deadlines set forth in the July 3, 2012 Extension Order are modified as follows:

<b>August 27, 2012</b>	Complainant's Status Report
<b>September 10, 2012</b>	Complainant's Status Report
<b>September 24, 2012</b>	Complainant's Status Report
<b>October 8, 2012</b>	Complainant's Status Report
<b>October 22, 2012</b>	Complainant's Status Report
<b>October 29, 2012</b>	Complainant's Initial Prehearing Exchange or CAFO
<b>November 19, 2012</b>	Respondent's Prehearing Exchange
<b>December 3, 2012</b>	Complainant's Rebuttal Prehearing Exchange

**SO ORDERED.**



Susan L. Biro  
Chief Administrative Law Judge

Dated: August 20, 2012  
Washington, DC

In the Matter of The Battery Recycling Company, Inc., Respondent  
Docket No. EPCRA-02-2011-4301

CERTIFICATE OF SERVICE

I certify that the foregoing **Order On Motion For Continuance**, dated August 20, 2012, was sent this day in the following manner to the addressees listed below.

  
\_\_\_\_\_  
Maria Whiting-Beale  
Staff Assistant

Dated: August 20, 2012

Original And One Copy By Regular Mail To:

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