



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

U.S. ENVIRONMENTAL PROTECTION AGENCY-REG.11
2012 JUL -5 P 3 20
REGIONAL HEARING CLERK

In the Matter of:)
) Docket No. CAA-02-2011-1204
TAPI Puerto Rico, Inc.,)
)
Respondent.)

ORDER ON MOTIONS REQUESTING EXTENSION OF TIME AND ORDER TO SHOW CAUSE

This action was initiated on September 13, 2011, by the United States Environmental Protection Agency, Region 2, Caribbean Environmental Protection Division ("Complainant" or "EPA"), filing an Administrative Complaint against Respondent, TAPI Puerto Rico, Inc., under Section 113(d) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(d). By Order dated November 14, 2011, the undersigned was designated to preside over this proceeding. By Prehearing Order dated November 29, 2011, Complainant was ordered to file a Consent Agreement and Final Order ("CAFO") or its Initial Prehearing Exchange by January 6, 2012. Respondent was ordered to file its Prehearing Exchange by January 27, 2012. Finally, the undersigned ordered Complainant to file its Rebuttal Prehearing Exchange by February 10, 2012.

This Tribunal is in receipt of Complainant's Initial Prehearing Exchange. On January 31, 2012, the undersigned granted Respondent additional time to file their Prehearing Exchange. Respondent has failed to file either a Prehearing Exchange or a statement electing only to conduct cross-examination of Complainant's witnesses as its manner of defense, as required by the Prehearing Order. In addition, Respondent has not filed a motion requesting an extension of the filing deadline.

The undersigned has previously granted the parties a stay in proceedings four times. Most recently, on May 23, 2012, the undersigned issued an Order on Joint Motion Requesting Extension of Time to File Consent Agreement and Final Order and Order to Show Cause ("Order"). The Order granted the parties's joint request for a stay in proceedings until May 31, 2012. The parties were ordered to file a completely executed Consent Agreement and Final Order ("CAFO") by May 31, 2012. Alternatively, if the CAFO was not filed by that date, the Respondent was ordered to show cause why it failed to meet the filing deadline set by the January 31, 2012 Order on Motion Requesting Extension of Time to File Respondent's

Prehearing Exchange and why a default order should not be entered for failing to meet this deadline.

The parties did not file a fully executed CAFO by May 31, 2012 and did not seek an extension of time or further stay prior to that date. On June 1, 2012, Complainant submitted a Motion Requesting Extension of Time to File CA/FO, requesting an additional ten days within which to file the CAFO. On June 14, 2012, Complainant submitted another Motion Requesting Extension of Time to File CA/FO, requesting a final extension of seven days within which to file the CAFO. Finally, on June 21, 2012, Complainant submitted a Motion Requesting Extension of Time, requesting an addition seven days within which to file the CAFO. All three requests are hereinafter referred to collectively as the "Motions."

The Rules of Practice state that the undersigned "shall . . . avoid delay" and may take measures necessary "for the efficient, fair and impartial adjudication of issues." 40 C.F.R. § 22.4(c). Section 22.7(b) of the Rules of Practice (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.

Upon consideration of the Motions and the reasons presented therein, the undersigned finds that Complainant has failed to show good cause for granting the Motions. Further, the June 1, 2012 Motion was untimely and unaccompanied by a motion for leave to file out of time and, therefore, must be denied as untimely. The parties have been granted several extensions of time and/or stays in this proceeding for the opportunity to file a fully executed CAFO. Each request for a brief extension or stay indicated that only a short amount of time was needed to file the CAFO. Complainant has not offered any compelling reason why this proceeding should not continue as set forth in the Prehearing Order.

Under Section 22.17(a) of the Rules of Practice, 40 C.F.R. § 22.17(a), a party may be found to be in default upon failure to comply with the information exchange requirements of Section 22.19(a) of the Rules of Practice, 40 C.F.R. § 22.19(a), or an order of the Administrative Law Judge. As of the date of this Order, Respondent has yet to submit is Prehearing Exchange.

The Motions are hereby **DENIED**. Respondent is **ordered to show cause**, if any, on or before **July 6, 2012**, why it failed to meet the filing deadline set by the January 31, 2012 Order on Motion Requesting Extension of Time to File Respondent's Prehearing Exchange and why a default order should not be entered against it for failing to meet this deadline.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'S. Biro', written over a horizontal line.

Susan L. Biro
Chief Administrative Law Judge

Dated: July 2, 2012
Washington, D.C.

**In the Matter of TAPI Puerto Rico, Inc. Respondent.
Docket No. CAA-02-2011-1204**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Motions Requesting Extension of Time and Order to Show Cause**, issued by Susan Bio, Chief Administrative Law Judge, dated July 2, 2012, in the following manner to the addressees listed below.



Mary Angeles
Legal Staff Assistant

Original and One Copy by Facsimile and Regular Mail to:

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**Dated: July 2, 2012
Washington, DC**