

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

The Battery Recycling Company, Inc.,

RESPONDENT

DOCKET NUMBER
EPCRA-02-2011-4301

MOTION FOR CONTINUANCE

To the Honorable Court:

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
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REGIONAL HEARING
CLERK

COMES NOW the United States Environmental Protection Agency, Complainant in the instant matter, and very respectfully avers and prays as follows:

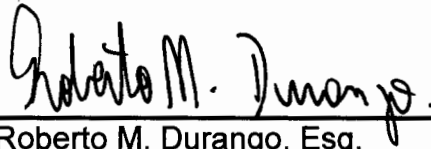
1. Pursuant to this Honorable Court's Prehearing Order, dated May 23, 2012, the parties were directed to engage in a settlement conference on or before June 8, 2012, and Complainant was directed to file a Status Report on the status of settlement by no later than June 15, 2012.
2. That on Friday, June 8, 2012, Respondent submitted updated financial statements, balance sheets, and income statements, in order for Complainant to conduct an ability-to-pay analysis (ATP Analysis) regarding the proposed penalty.
3. That on Thursday, June 14, 2012, Complainant filed the Status Report, as directed by this Honorable Court, apprising this Honorable Court that Complainant is in the process of engaging an outside contractor to conduct an

ATP Analysis in order to fully and diligently entertain Respondent's inability to pay position.

4. That on or about Monday, June 20, 2012, Complainant engaged the services of Industrial Economics, Inc. (IEc).
5. That on Wednesday, June 27, 2012, Complainant requested that Respondent submit a copy of its 2011 Tax Returns, to provide the most up-to-date and relevant information to IEc.
6. That IEc has indicated that the ATP Analysis will be completed on or about the week of July 9, 2012.
7. That after IEc completes the ATP Analysis, the parties must secure appropriate approval and signature in order to settle this matter and execute a Consent Agreement and Final Order (CA/FO).
8. That Complainant believes that fully and diligently entertaining Respondent's inability to pay position, prior to engaging in prehearing exchange, is good cause for granting the parties additional time to file a fully-executed CA/FO, will promote judicial economy, and will reduce both parties expenditure of significant amounts of time and financial resources.
9. That the undersigned contacted Respondent's counsel, who indicated agreement with requesting that this Honorable Court grant a continuance to the Prehearing Order to allow the parties additional time to evaluate Respondent's ability-to-pay position, prior to engaging in pre-hearing exchange.

WHEREFORE it is respectfully requested that this Honorable Court grant a continuance of forty-five (45) days, until Monday, August 13, 2012, to file a fully-executed CA/FO.

Respectfully submitted in San Juan, Puerto Rico, on this 28th day of June, 2012.



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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Motion for Continuance**, dated June 28, 2012, was sent in the following manner to the addresses listed below:

Original and Copy by **Overnight**:

Karen Maples
Regional Hearing Clerk
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Copy by **Overnight**:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
1099 14th Street, N.W., Suite 350
Washington, DC 20005

Copy by **Regular Mail and PDF**:

Carlos Colón-Franceschi, Esq.
Toro, Colón, Mullet, Rivera & Sifre, P.S.C.
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416 Ponce de León Avenue
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San Juan, Puerto Rico 00918

Dated: 6/28/12


Aileen Sánchez, Program Support Assistant
EPA, Region 2, Office of Regional Counsel