



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)
)
KT Performance, Inc.,) **Docket No. CAA-HQ-2018-8385**
)
Respondent.)

**ORDER GRANTING UNOPPOSED MOTION FOR EXTENSION OF TIME
TO ANSWER, MOVE, OR OTHERWISE PLEAD**

This proceeding was initiated on April 30, 2018, when the Director of the Air Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, United States Environmental Protection Agency (“Complainant”), filed a Complaint against KT Performance, Inc. (“Respondent”), pursuant to Section 205(c)(1) of the Clean Air Act, 42 U.S.C. § 7524(c)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 (“Rules of Practice” or “Rules”).

The Rules of Practice provide, in pertinent part, that a complainant shall serve on a respondent, or a representative authorized to receive service on the respondent’s behalf, a copy of the signed original of the complaint by personal delivery, certified mail with return receipt requested, or any reliable commercial delivery service that provides written verification of delivery. 40 C.F.R. § 22.5(b)(1). Service of the complaint is deemed complete when the return receipt is signed. 40 C.F.R. § 22.7(c). Within 30 days after service of the complaint, an answer to the complaint is due. 40 C.F.R. § 22.15(a). In computing any period of time prescribed or allowed by the Rules of Practice, Saturdays, Sundays, and Federal holidays are included, but when a stated time expires on a Saturday, Sunday, or Federal holiday, the stated time period is extended to include the next business day. 40 C.F.R. § 22.7(a). Additionally, where a document is served by U.S. mail or commercial delivery service, the time allowed for the serving of a responsive document is extended by three days. 40 C.F.R. § 22.7(c).

The record of the present proceeding reflects that the Complaint was served on Respondent’s duly authorized representative by certified mail with return receipt requested and that the return receipt was signed on May 4, 2018. Thus, in accordance with the foregoing Rules of Practice, Respondent’s answer is due on June 7, 2018. On June 5, 2018, however, Respondent filed an Unopposed Motion of Respondent KT Performance Inc. for Extension of Time to Answer, Move, or Otherwise Plead (“Motion”), in which Respondent seeks “an extension of time to Wednesday, June 20, 2018, to answer, move, or otherwise plead to the Complaint filed in this action.” As grounds for its request, Respondent asserts that since the filing of the Complaint, the parties have engaged in efforts to resolve the matters alleged, and that the

extension of time may allow the parties to achieve full resolution of this matter. Finally, Respondent represents that Complainant does not oppose its request.

The Rules of Practice provide that I “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; or upon its own initiative.” 40 C.F.R. § 22.7(b). With respect to the timeliness of a motion for an extension of time, the Rules direct that it “shall be filed sufficiently in advance of the due date so as to allow other parties reasonable opportunity to respond and to allow the Presiding Officer . . . reasonable opportunity to issue an order.” *Id.*

Here, the Motion was timely, and it shows good cause for an extension of the deadline to file an answer to the Complaint. Moreover, Complainant does not object to it. Accordingly, the Motion is hereby **GRANTED**. As requested by Respondent, it shall answer, move, or otherwise plead to the Complaint no later than **June 20, 2018**.



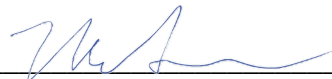
Susan L. Biro
Chief Administrative Law Judge

Dated: June 6, 2018
Washington, D.C.

In the Matter of *KT Performance, Inc.*, Respondent.
Docket No. CAA-HQ-2018-8385

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Granting Unopposed Motion for Extension of Time to Answer, Move, or Otherwise Plead**, dated June 6, 2018, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.



Mary Angeles
Paralegal Specialist

Original and One Copy by Personal Delivery to:
Mary Angeles, Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Ave., NW
Washington, DC 20004

Copy by Electronic Mail to:
Edward Kulschinsky, Attorney Advisor
Air Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Email: kulschinsky.edward@epa.gov
For Complainant

Copy by Electronic and Regular Mail to:
Robert J. Karl
Eric B. Gallon
Porter, Wright, Morris & Arthur, LLP
41 South High Street
Columbus, OH 43215
Email: rkarl@porterwright.com
Email: egallon@porterwright.com
For Respondent

Dated: June 6, 2018
Washington, D.C.