



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

In the Matter of:)
)
Norco Corporation,) **Docket No. CAA-09-2024-0025**
)
Respondent.)

**ORDER GRANTING MOTION FOR LEAVE TO FILE OUT OF TIME AND EXTENDING REBUTTAL
PREHEARING EXCHANGE DEADLINE**

I am in receipt of Respondent Norco Corporation’s Prehearing Exchange and the accompanying motion for leave to file out of time, both filed on April 17, 2024. Respondent’s Prehearing Exchange (Apr. 17, 2024); Mot. of Leave to File Out of Time (Apr. 17, 2024) (the “Motion”). For the following reasons, Respondent’s request for leave to file out of time is **GRANTED** and Complainant’s Rebuttal Prehearing Exchange deadline is extended to accommodate review of Respondent’s submission.

On January 31, 2024, upon being designated to preside over this proceeding, I issued a Prehearing Order in which I set deadlines for various prehearing procedures, including a mandatory prehearing exchange of information by the parties pursuant to Section 22.19(a) of the Rules of Practice that govern this proceeding, 40 C.F.R. § 22.19(a). Prehearing Order 4 (Jan. 31, 2024). In particular, I ordered Complainant to file its Initial Prehearing Exchange no later than March 15, 2024, Respondent to file its Prehearing Exchange no later than April 5, 2024, and Complainant to file its Rebuttal Prehearing Exchange no later than April 19, 2024. Prehearing Order 4. Complainant timely filed its Initial Prehearing Exchange on February 28, 2024. Conversely, Respondent did not file a Prehearing Exchange by the April 5 deadline.

On April 12, 2024, Respondent’s representative, A.G. Hollenstein, engaged in a telephone conversation with the Tribunal’s staff attorney during which he expressed confusion about whether Respondent’s past information exchanges with Complainant’s counsel constituted a Prehearing Exchange. Later that same day, Respondent submitted two documents to the OALJ E-Filing portal: (1) a copy of Respondent’s previously-filed Preliminary Statement, and (2) a Word document containing two paragraphs that stated Respondent was “sorry to be filing late” and that requested dismissal of this case. On April 15, 2024, a member of the Tribunal’s staff emailed Respondent and Complainant’s counsel to address various procedural issues with the two attempted filings, including that (1) Respondent had already submitted a Preliminary Statement; (2) in contrast, Respondent had not yet filed a Prehearing Exchange; and (3) because the Prehearing Exchange was past due, it now needed to be accompanied by a Motion for Leave to File Out of Time.

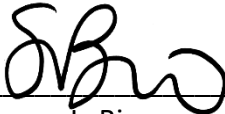
On Wednesday, April 17, 2024, Respondent filed its Prehearing Exchange along with the Motion. Respondent's Prehearing Exchange; Mot. The Motion consists of a single sentence, which notes that the Respondent did not file a timely Prehearing Exchange and requests leave to file out of time. Mot.

Ordinarily, the Rules of Practice require motions to "[s]tate the grounds therefor, with particularity," 40 C.F.R. § 22.16(a)(2), which the Motion does not do. However, the Rules also broadly empower the Presiding Officer to "[r]ule upon motions, requests, and offers of proof, and issue all necessary orders," and "[d]o all other acts and take all measures necessary for the maintenance of order and for the efficient, fair and impartial adjudication of issues arising in proceedings governed by these [Rules]." 40 C.F.R. § 22.4(c)(2), (10). The Rules further provide 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; *or upon its own initiative.*" 40 C.F.R. § 22.7(b) (emphasis added).

Here, the record and Respondent's communications with the Tribunal's staff indicate that Respondent earnestly misunderstood its Prehearing Exchange obligations. Respondent, who is proceeding *pro se*, has since made repeated good-faith attempts to comply with those requirements. On these facts, I find that fairness and judicial efficiency support allowing Respondent to file its Prehearing Exchange out of time. See 40 C.F.R. §§ 22.4(c)(2)(10), 22.7(b).

For the foregoing reasons, the Motion is **GRANTED**. In addition, to allow Complainant sufficient time to review and respond to Respondent's newly-submitted Prehearing Exchange, Complainant's Rebuttal Prehearing Exchange deadline is hereby extended to **May 3, 2024**.

SO ORDERED.



Susan L. Biro
Chief Administrative Law Judge

Dated: April 18, 2024
Washington, D.C.

In the Matter of *Norco Corporation*, Respondent.
Docket No. CAA-09-2024-0025

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Granting Motion for Leave to File Out of Time and Extending Rebuttal Prehearing Exchange Deadline**, dated April 18, 2024, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.

Stefanie Neale

Stefanie Neale
Attorney-Advisor

Original by OALJ E-Filing System to:
Mary Angeles, Headquarters Hearing Clerk
Office of Administrative Law Judges
U.S. Environmental Protection Agency
<https://yosemite.epa.gov/OA/EAB/EAB-ALJ Upload.nsf>

Copy by Electronic Mail to:
Jacob Finkle
Denise Leong
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 9
Email: finkle.jacob@epa.gov
leong.denise@epa.gov
Counsel for Complainant

A.G. Hollenstein
President
Norco Corporation
Email: ag@norcocorp.com
Respondent

Dated: April 18, 2024
Washington, D.C.