



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

In the Matter of: )  
 )  
New York State ) Docket No. CWA-02-2016-3403  
Department of Transportation, )  
 )  
Respondent. )

**ORDER GRANTING JOINT MOTION FOR EXTENSION OF TIME  
TO FILE POST-HEARING BRIEFS**

The hearing in this matter was conducted April 3-5, 2018, in Albany, New York. After the Headquarters Hearing Clerk received the official transcript of testimony taken at the hearing, electronic copies of this transcript were provided by email to counsel for the parties. An audio recording of the hearing was also subsequently provided by email to counsel for the parties.

On May 10, 2018, I issued an Order Scheduling Post-Hearing Submissions, which established deadlines for the parties to file any motion to conform the transcript to the actual testimony and post-hearing briefs. At the request of the parties, those deadlines have been extended multiple times for good cause shown, namely, that review and correction of the transcript have proven to be especially difficult given the number of errors contained therein. The deadline for Complainant to file its Initial Post-Hearing Brief is currently July 27, 2018. On July 23, however, Complainant filed on behalf of the parties a two-part motion entitled “Supplemental Joint Partial Motion to Conform the Hearing Transcript and Joint Motion for Extension of Time to File Post-Hearing Briefs.”<sup>1</sup> In their Joint Motion for Extension of Time to File Post-Hearing Briefs (“Motion for Extension”), the parties request a one-week extension of the current deadlines for the parties to file post-hearing briefs. As grounds for this request, the parties explain that completion of their post-hearing briefs has been delayed by the significant amount of time that the parties continued to dedicate to reviewing and correcting the transcript given “extremely poor transcription on one of the three days [of the hearing] and the poor quality and incompleteness of the audio recording.”

This matter is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Rules of Practice”) set forth at 40 C.F.R. Part 22. The Rules of Practice provide that I

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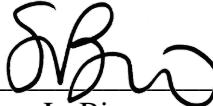
<sup>1</sup> This Order rules only on the second part of that motion related to the parties’ Joint Motion for Extension of Time to File Post-Hearing Briefs. An order ruling on the first part of the motion related to the parties’ Supplemental Joint Partial Motion to Conform the Hearing Transcript, as well as the other motions to conform the transcript filed earlier by the parties, is forthcoming.

“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).

Here, the Motion for Extension shows good cause for the requested extension. Accordingly, it is hereby **GRANTED**. As requested, the parties shall now file post-hearing briefs in accordance with the following schedule:

|  |                           |
|--|---------------------------|
| Complainant’s Initial Post-Hearing Brief | <b>August 3, 2018</b>     |
| Respondent’s Initial Post-Hearing Brief  | <b>September 7, 2018</b>  |
| Complainant’s Reply Post-Hearing Brief   | <b>September 28, 2018</b> |
| Respondent’s Reply Post-Hearing Brief    | <b>October 19, 2018</b>   |

**SO ORDERED.**

  
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Susan L. Biro  
Chief Administrative Law Judge

Dated: July 24, 2018  
Washington, D.C.

In the Matter of *New York State Department of Transportation*, Respondent.  
Docket No. CWA-02-2016-3403

**CERTIFICATE OF SERVICE**

I hereby certify that true copies of the foregoing **Order Granting Joint Motion for Extension of Time to File Post-Hearing Briefs**, issued by Chief Administrative Law Judge Susan L. Biro, were sent this day to the following parties in the manner indicated below.

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Jennifer Almase  
Attorney-Advisor

Original and One Copy by Hand Delivery to:

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*For Respondent*

Dated: July 24, 2018  
Washington, D.C.