



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

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

**ORDER GRANTING JOINT MOTION OF THE PARTIES
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”).

In accordance with the applicable Rules of Practice, an answer to the Complaint was originally due on June 7, 2018. However, at the request of Respondent, that deadline was extended to June 20, 2018, because of the parties’ ongoing efforts to achieve a full resolution of this matter. On June 19, 2018, the parties filed a Joint Motion of the Parties for Extension of Time to Answer, Move, or Otherwise Plead (“Joint Motion”), in which the parties request that the deadline to answer, move, or otherwise plead to the Complaint be extended again, this time to July 31, 2018. As grounds for this request, the parties represent that they have reached agreement on a draft Consent Agreement, but that they require additional time to obtain approval and signatures for the consent agreement, followed by ratification of the Consent Agreement by the Environmental Appeals Board.¹

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.*

¹ Section 22.18(b)(2) of the Rules of Practice provides that when parties settle a proceeding commenced at EPA Headquarters, the parties shall forward an executed consent agreement and a proposed final order to the Environmental Appeals Board. 40 C.F.R. § 22.18(b)(2). Section 22.18(b)(3) then states that a final order from the Environmental Appeals Board ratifying the parties’ consent agreement is required to dispose of any such proceeding. 40 C.F.R. § 22.18(b)(3).

Here, the Motion was timely and shows good cause for the requested extension. As reflected in the Rules of Practice, EPA policy supports settlement of a proceeding without the necessity of a formal hearing. *See* 40 C.F.R. § 22.18(b)(1). Undoubtedly, the interests of the parties and judicial economy are well served by the parties resolving this matter informally and expeditiously. Accordingly, the Joint Motion is hereby **GRANTED**. As requested by the parties, Respondent shall answer, move, or otherwise plead to the Complaint no later than July 31, 2018.



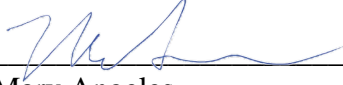
Susan L. Biro
Chief Administrative Law Judge

Dated: June 20, 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 Joint Motion of the Parties for Extension of Time to Answer, Move, or Otherwise Plead**, dated June 20, 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
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Copy by Electronic Mail to:

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For Complainant

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For Respondent

Dated: June 20, 2018
Washington, D.C.