



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Ro Cher Enterprises, Inc.,) Docket No. TSCA-05-2023-0004
d/b/a Door and Window Warehouse)
Outlet, Inc.; Door and Window)
Warehouse, Co.; and/or)
Door and Window Superstore,)
)
Respondent.)

ORDER ON MOTION FOR EXTENSION OF TIME

Before me is a motion to extend this proceeding’s prehearing deadlines, which were originally set forth in the Prehearing Order (Aug. 24, 2023) and have previously been extended several times at the parties’ request. See Joint Mot. for Extension of Time (Mar. 7, 2024) (“Motion”); Order on Rep’t’s Unopposed Mot. for Stay of Proceedings (Dec. 4, 2023); Order on Resp’t’s Mot. for Extension of Time (Oct. 24, 2023); Order on Resp’t’s Mot. for Extension of Time (Sept. 6, 2023).

In the Motion, the Agency asks for an approximately three-month extension to continue settlement discussions and its review of financial documents that Respondent provided last month to support its claimed inability to pay the penalty. Mot. at 1, 4-5. The Agency states that it is retaining a third-party financial analyst to assist in this review, and it anticipates that it will need to obtain additional documentation from Respondent. Mot. at 1-2. The Agency also points out that there is a pending motion for preliminary injunction in the collateral action in federal court¹ challenging the constitutionality of this administrative proceeding as well as an upcoming decision from the United States Supreme Court² that will impact the parties’ legal arguments. Mot. at 3-4. How these judicial matters play out may allow the parties and Tribunal to conserve resources in this administrative proceeding, the Agency observes. Mot. at 4. Although Respondent did not sign the Motion, the Agency states that it “has conferred with Respondent and Respondent has agreed to join Complainant in this Motion,” and Respondent separately contacted this Tribunal’s staff attorney to assert its agreement with the Motion. Mot. at 1.

¹ See *Ro Cher Enters., Inc. v. EPA*, No. 1:23-cv-16056 (N.D. Ill. filed Nov. 16, 2023)

² See *SEC v. Jarkesy*, No. 22-859 (U.S. argued Nov. 29, 2023).

Under the rules governing this proceeding, this Tribunal “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. In this case, the Agency has filed a timely motion and shown good cause for an extension, and Respondent will not be prejudiced thereby.

Accordingly, the Motion is **GRANTED**, and the prehearing deadlines originally set forth in the Prehearing Order are again extended as follows:

Settlement Conference: **June 5, 2024**

Status Report: **June 12, 2024**

Preliminary Statements: **June 12, 2024**

Complainant’s Initial Prehearing Exchange or CAFO: **July 2, 2024**

Respondent’s Prehearing Exchange: **July 22, 2024**

Complainant’s Rebuttal Prehearing Exchange: **August 15, 2024**

SO ORDERED.



Susan L. Biro
Chief Administrative Law Judge

Dated: March 8, 2024
Washington, D.C.

In the Matter of *Ro Cher Enterprises, Inc., d/b/a Door and Window Warehouse Outlet, Inc.; Door and Window Warehouse, Co.; and/or Door and Window Superstore*, Respondent.
Docket No. TSCA-05-2023-0004

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Motion for Extension of Time**, dated March 8, 2024, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.



Matt Barnwell
Attorney Advisor

Copy by OALJ E-Filing System to:

U.S. Environmental Protection Agency
Office of Administrative Law Judges
https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf

Copy by Electronic Mail to:

Nora Wells, Esq.
Andrew Futerman, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Mail Code C-14J
Chicago, IL 60604
Email: wells.nora@epa.gov
Email: futerman.andrew@epa.gov
Counsel for Complainant

Copy by Electronic Mail to:

Molly E. Nixon, Esq.
Pacific Legal Foundation
3100 Clarendon Boulevard, Suite 1000
Arlington, VA 22201
Email: mnixon@pacificlegal.org

Oliver J. Dunford, Esq.
Pacific Legal Foundation
4440 PGA Boulevard, Suite 307

Palm Beach Gardens, FL 33410
Email: odunford@pacificlegal.org
Counsel for Respondent

Dated: March 8, 2024
Washington, D.C.