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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

**IN THE MATTER OF PACIFIC ENERGY &
MINING COMPANY**

Docket No. 18-2602-01

**PACIFIC ENERGY & MINING
COMPANY MOTION TO STAY
PROCEEDINGS**

FACTS

The division filed its response to PEMC motion to dismiss for lack of jurisdiction on June 20, 2018. Pubic Service Commission had set a hearing for July for July 20, 2018.

PEMC requested postponed of the hearing as Tariq Ahmad (“Ahmad”), had scheduled surgery on July 20, 2018.

Ahmad was not available until for two weeks due to recovery not until week of August 6, 2018.

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.

Utah Rules of Civil Procedure 6(b)(1)(B)

Under Utah Rule of Civil Procedure 6(b)(1)(B) the court may, for good cause, extend a time frame “on motion made after the time has expired if the party failed to act because of excusable neglect.” Utah. R. Civ. P. 6(b)(1)(B).

A finding of excusable neglect “requires both a demonstration of good faith by [movant] and it must also appear that there was a reasonable basis for not complying with the specified period.” *Four Seasons Secs. Laws Litig. v. Bank of Am.*, 493 F.2d 1288, 1290 (10th Cir. 1974) (citing 4 Charles A. Wright & Arthur E. Miller, *Federal Practice and Procedure* § 1165 (1969)). Factors relevant to a finding of excusable neglect include “the danger of prejudice to the [non moving party], the length of the delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith.” *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 395, 123 L.Ed. 2d 74, 113 S. Ct. 1489 (1993). A party’s control over the delay is “the most important single . . . factor. . . in determining whether neglect is excusable.” *City of Chanute v. Williams Nat. Gas Co.*, 31 F.3d 1041, 1046 (10th Cir. 1994) (citations omitted).

As shown in counsel for Defendants declaration, counsel has demonstrated a reasonable basis for not complying with the specified period. See Declaration of counsel Exhibit A.

PREJUDICE TO DIVISION

Division is not prejudiced by a delay of 40 days in filing of the PEMC Reply.

CONCLUSION

For the foregoing reasons, PEMC requests that the court allow the objection to be filed due to excusable neglect.

DATED this 8th day of August 2018.

Tariq Ahmad
President
Pacific Energy & Mining C.

PROOF OF SERVICE

I certify that I caused a true and correct copy of the foregoing to be served this 8th day of August 2018 by email to the following:

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Dated: August 9, 2018



Tariq Ahmad