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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

BETH ENERGY MINES, INC.,
CONTESTANT

CONTEST PROCEEDING

v.

Docket No. PENN 90-208-R
Citation No. 3099484; 6/20/90

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
RESPONDENT

Mine No. 84
Mine ID No. 36-00958

ORDER DENYING MOTION FOR CONTINUANCE

This proceeding concerns a Notice of Contest filed by the contestant pursuant to section 105(d) of the Federal Mine Safety and Health Act of 1977, challenging a section 104(a) "S&S" Citation No. 3099484, charging it with an alleged violation of mandatory safety standard 30 C.F.R. 75.511. The contestant has initiated discovery pursuant to Commission Rules 55 and 57, 29 C.F.R. 2700.55 and 2700.57, and has filed interrogatories and requests for production of documents on the respondent.

The respondent has filed an answer and a motion for a continuance pending the filing of its companion civil penalty assessment proceeding. By letter dated July 31, 1990, and received on August 2, 1990, the contestant objects to any continuance of the matter. In support of its objection, the contestant states that while it has not requested an expedited hearing, it believes that "the matter should move forward in the normal course without delay" because the issue presented by its contest (the necessary qualifications for a miner to uncouple deenergized high voltage cable) arises with some frequency and that a delay in resolving this issue would be inappropriate. The respondent has not responded to the contestant's objections for a continuance.

ORDER

The respondent's motion for a continuance IS DENIED, and the matter will be scheduled for a hearing on the merits in the near future. However, in view of the presiding judge's current trial docket, a hearing is not likely to be scheduled until sometime after January, 1991. Under the circumstances, the respondent

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should have ample time to file its civil penalty proceeding and file a request for a consolidation of the cases. In the meantime, the respondent IS ORDERED to timely respond to the contestant's discovery requests.

George A. Koutras
Administrative Law Judge