

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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May 21, 2026

SECRETARY OF LABOR
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA)

v.

STILLWATER MINING COMPANY,

Docket No. WEST 2025-0254
A.C. No. 24-01490-618777

BEFORE: Rajkovich, Chair; Jordan, and Baker, Commissioners

ORDER

BY: THE COMMISSION

This matter arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2024) (“Mine Act”). On December 10, 2025, the Commission received from Stillwater Mining Company (“Stillwater”) a motion seeking to reopen a penalty assessment that had appeared to become a final order of the Commission pursuant to section 105(a) of the Mine Act, 30 U.S.C. § 815(a).

On September 10, 2025, the Chief Administrative Law Judge issued an Order to Show Cause in response to Stillwater’s perceived failure to answer the Secretary of Labor’s July 10, 2025 Petition for Assessment of Civil Penalty. By its terms, the Order to Show Cause was deemed a Default Order on October 11, 2025, when it appeared that the operator had not filed an answer within 30 days.

The Judge’s jurisdiction in this matter terminated when the default occurred. 29 C.F.R. § 2700.69(b). Under the Mine Act and the Commission’s procedural rules, relief from a judge’s decision may be sought by filing a petition for discretionary review within 30 days of its issuance. 30 U.S.C. § 823(d)(2)(A)(i); 29 C.F.R. § 2700.70(a). If the Commission does not direct review within 40 days of a decision’s issuance, it becomes a final decision of the Commission. 30 U.S.C. § 823(d)(1). Consequently, the Judge’s order here has become a final decision of the Commission.

In evaluating requests to reopen final orders, the Commission has found guidance in Rule 60(b) of the Federal Rules of Civil Procedure under which the Commission may relieve a party from a final order of the Commission on the basis of mistake, inadvertence, excusable neglect, or other reason justifying relief. See 29 C.F.R. § 2700.1(b) (“the Commission and its Judges shall be guided so far as practicable by the Federal Rules of Civil Procedure”); *Jim Walter Res., Inc.*,

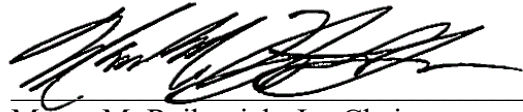
15 FMSHRC 782, 786-89 (May 1993). We have also observed that default is a harsh remedy and that, if the defaulting party can make a showing of good cause for a failure to timely respond, the case may be reopened and appropriate proceedings on the merits will be permitted. *See Coal Prep. Servs., Inc.*, 17 FMSHRC 1529, 1530 (Sept. 1995).

Stillwater contends that on September 17, 2025, it timely mailed an Answer to the Show Cause Order to the Commission. Attached to its motion to reopen, Stillwater provides corroborating United States Postal Service tracking records. Mot. at 2 (R. Ex. 4). Stillwater maintains that it mistakenly failed to include a docket number with its Answer, which it asserts may have contributed to the Commission's belief that an Answer was not received. The Commission has no record of receiving the Answer. Stillwater attached a copy to its motion to reopen.

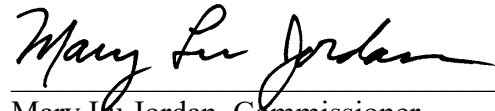
Stillwater further represents that it moved quickly after it received a November 26, 2025, delinquency notice from MSHA. On December 10, 2025, the operator filed the motion to reopen with the Commission. Stillwater maintains that its original timely payment of certain penalties in the proposed assessment and the timely filing to contest other penalties indicates an intent to comply with applicable deadlines. The Secretary takes no position with respect to the operator's motion.

The Commission recognizes that a motion to reopen is filed within a reasonable amount of time if it was filed within 30 days of the operator's first notice that it had failed to timely file. *See e.g., Highland Mining Co.*, 31 FMSHRC 1313, 1316-17 (Nov. 2009). Here, the motion to reopen was filed quickly after the operator received first notice of its error. Furthermore, the operator appears to have timely filed an Answer to the Show Cause Order, although it mistakenly lacked an appropriate docket number. The operator's timely filing of an Answer and its quick response upon realizing that it made a mistake indicates a good faith effort to comply. *See Explosive Contractors, Inc.*, 46 FMSHRC 965, 966 (Dec. 2024) (citations omitted) (“[a] movant's good faith and intent to contest are both relevant in determining whether the movant has demonstrated good cause to reopen a final assessment.”).

We conclude that the operator has established that its perceived failure to timely respond to the Commission's Order to Show Cause was the result of a docketing mistake. In the interest of justice, we hereby reopen the proceeding and vacate the Default Order. Accordingly, this case is remanded to the Chief Administrative Law Judge for further proceedings pursuant to the Mine Act and the Commission's Procedural Rules, 29 C.F.R. Part 2700.



Marco M. Rajkovich, Jr., Chair



Mary Lu Jordan, Commissioner



Timothy J. Baker, Commissioner

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