

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 2731 / May 27, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16530

In the Matter of
the Registration Statement of

First Xeris Corp.
7329 Featherstone Blvd.
Sarasota, FL 34238

PREHEARING ORDER SETTING
PROCEDURAL SCHEDULE AND
HEARING DATE

On May 11, 2015, the Securities and Exchange Commission issued an Order Fixing Time and Place of Public Hearing and Instituting Proceedings (OIP) pursuant to Section 8(d) of the Securities Act of 1933. I postponed the hearing, originally set for May 28, pending service of the OIP on Respondent.

A. Service and Deadline for Respondent's Answer

As established by the service declaration filed by the Division of Enforcement, Respondent was served with the OIP by personal service on May 23. *See* 15 U.S.C. § 77h(d), (f). Respondent's Answer is due by June 2, 2015. *See* OIP at 3; 17 C.F.R. § 201.220.

B. Hearing Date and Locations

By statute, the hearing in this matter must commence within fifteen days of service of the OIP. *See* 15 U.S.C. § 77h(d). Accordingly, I ORDER that the hearing commence on June 5 at 9:30 a.m. EDT.

Respondent and the Division may participate in the hearing in person, at the Commission's headquarters, 100 F Street N.E., Washington, D.C. 20549; or by videoconference from the Commission's Miami Regional Office, 801 Brickell Avenue, Suite 1800, Miami, FL 33131. The Division shall afford Respondent the opportunity to participate by videoconference from its Miami Regional Office. If Respondent chooses to participate in the hearing, it must contact my Office and the Division no later than June 4 at 3:00 p.m. EDT. My Office may be reached at (202) 551-6030 or alj@sec.gov.

C. Prehearing Procedures

No later than June 3 at 12:00 p.m. EDT:

The Division shall provide Respondent, and file with Commission's Office of the Secretary, its exhibit and witness lists.

The Division shall provide Respondent, but not file, any exhibits that it intends to offer into evidence at the hearing.

The Division shall provide my Office with electronic courtesy copies of its exhibits.

No later than June 4 at 3:00 p.m. EDT:

Respondent shall provide the Division, and file with Commission's Office of the Secretary, its exhibit and witness lists.

Respondent shall provide the Division, but not file, any exhibits that it intends to offer into evidence at the hearing.

Respondent shall provide my Office with electronic courtesy copies of its exhibits.

The exhibit lists shall be emailed to my Office at alj@sec.gov in MS Excel or Word format and include exhibit numbers; a description of each exhibit; and Bates-stamp numbers, if any. Exhibits shall not be formally filed until after the hearing. Additional filing procedures and guidelines for electronic courtesy copies are below.

Parties are responsible for requesting and serving their own subpoenas. Subpoena forms are available online at <http://www.sec.gov/alj>.

D. Hearing Procedures

At the hearing, the parties shall be prepared to put forward evidence—whether documents or live testimony—in support of their case. I will permit a five minute opening statement from each side. Usually the Division puts on its case first, because it has the burden of proof. Respondent will have the opportunity to cross-examine Division witnesses. Respondent will then present its case. I am flexible about permitting the parties to proceed in some other order, if they mutually agree to do so. I will permit a ten minute closing statement from each side.

If a party is relying on documentary evidence, it must move to offer the document into evidence or indicate on the record that the parties have stipulated to its admission.

A party may rely on a summary witness or demonstrative exhibit to discuss documentary evidence that the party expects to be admitted. If a party plans to rely on a demonstrative exhibit, the party should ideally email an electronic courtesy copy of the demonstrative exhibit to alj@sec.gov before the start of the hearing.

The testimony of a summary witness or assertions in a demonstrative exhibit must be based on admissible evidence. Evidence that is irrelevant, immaterial, or unduly repetitious is inadmissible; all other evidence is presumptively admissible. 17 C.F.R. § 201.320. If a party intends to rely on a prior sworn statement, which is generally inadmissible, it should ideally move for the statement's admission before the start of the hearing pursuant to Rule of Practice 235. *See* 17 C.F.R. § 201.235.

E. Post-Hearing Procedures

After the close of the parties' evidentiary presentation, I will establish a post-hearing schedule for the filings of exhibits and briefs. An initial decision is due within 120 days of service of the OIP. Accordingly, the parties should be prepared for an accelerated post-hearing schedule, including the filing of stipulations, briefs, and proposed findings of fact and conclusions of law with citations to the record and legal authorities.

F. Notice to Respondent

If Respondent fails to file an Answer by June 2, appear at the hearing on June 5, or otherwise defend this proceeding, the Division shall file a motion for default and sanctions by June 15, 2015. The motion shall include evidentiary support for the allegations and requested sanction. If Respondent defaults, I may deem the OIP's allegations to be true and decide this matter against Respondent. *See* 17 C.F.R. § 201.155(a).

G. Filing Procedures and Electronic Courtesy Copies

All filings shall be made with the Commission's Office of the Secretary, pursuant to Rules of Practice 151 and 152. *See* 17 C.F.R. §§ 201.151, .152. Further instructions about filings are online at <http://www.sec.gov/alj/alj-instructions-for-respondents.pdf>. The Rules of Practice are located online at <http://www.sec.gov/about/rulesprac2006.pdf>.

In addition to the required filing with the Office of the Secretary, electronic courtesy copies of any filing such as a brief or motion should be emailed to alj@sec.gov in both PDF text-searchable format and MS Word format.

Electronic copies of exhibits should also be submitted in text-searchable format unless impracticable. Electronic copies of exhibits should not be combined into a single PDF file, but submitted as separate attachments.

Jason S. Patil
Administrative Law Judge