

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

FEDERAL ENERGY REGULATORY COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 3:15-CV-00452-MHL
)	
POWHATAN ENERGY FUND LLC, et al.,)	
)	
Defendants.)	
)	

**MEMORANDUM IN SUPPORT OF
DEFENDANTS’ UNOPPOSED JOINT
MOTION TO EXTEND THE TIME FOR
AND TO RESCHEDULE SETTLEMENT CONFERENCE**

Defendants Powhatan Energy Fund LLC, Houlian Chen, HEEP Fund, Inc., and CU Fund, Inc. (“Defendants”), by counsel, state as follows in support of their Unopposed Joint Motion to Extend the Time for and to Reschedule Settlement Conference (the “Motion”).

1. On December 10 and 31, 2015, respectively, the parties filed memoranda regarding the procedures for District Court actions under 16 U.S.C. § 823b(d)(3)(B). (ECF Nos. 38, 39.)

2. On January 8, 2016, the Court ordered the parties to each file additional memoranda detailing their respective positions regarding the procedures mandated by Section 823b(d)(3)(B). (ECF No. 44.)

3. On January 11, 2016, the Court set oral argument on the Section 823b(d)(3)(B) procedures for March 14, 2016.

4. Also on January 11, 2016, the Court referred this case to Magistrate Judge Novak for a settlement conference and ordered that the settlement conference “should occur not later

than May 31, 2016” (the “January 11 Order”). (ECF No. 45.) The May 31, 2016, deadline was approximately 11 weeks after the March 14, 2016, oral argument date.

5. Judge Novak, after a conference call with the parties, scheduled the settlement conference for April 12, 2016 (ECF No. 51), after the then-scheduled March 14, 2016 oral argument on the Section 823b(d)(3)(B) procedures.

6. On March 11, 2016, the Court rescheduled oral argument on the Section 823b(d)(3)(B) procedures for April 18, 2016, after the currently scheduled April 12, 2016 settlement conference.

7. Given the rescheduling of the oral argument on the Section 823b(d)(3)(B) procedures, the settlement conference will now precede the oral argument, inverting the original sequence—the hearing followed by the settlement conference.

8. Because the January 11 Order directs the settlement conference to “occur not later than May 31, 2016,” the parties may not have the benefit of oral argument, or the Court’s Order, regarding the Section 823b(d)(3)(B) procedures for a later settlement conference conducted within the deadline mandated by the January 11 Order.

9. Defendants therefore respectfully request that the Court extend the time in which the settlement conference with Judge Novak may occur until July 5, 2016, and reschedule the Settlement Conference currently scheduled for April 12, 2016, to a later date on or before July 5, 2016, to be determined by Judge Novak and the parties.

10. A July 5, 2016 deadline for the parties’ settlement conference with Judge Novak maintains the approximately 11-week period between oral argument regarding the Section 823b(d)(3)(B) procedures (April 18, 2016) and the deadline in which to conduct the settlement

conference that was set by the Court's January 11, 2016 Orders (setting the March 14, 2016, oral argument date and the May 31, 2016, settlement conference deadline).

11. The Court has inherent power to control its own docket to administer cases "with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (noting "the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants").

12. Extending the time in which Judge Novak may conduct the settlement conference until July 5, 2016, will promote the efficient administration of the settlement conference, which in turn will promote the efficient administration of this case. Extending the time in which Judge Novak may conduct the settlement conference until July 5, 2016, will also maintain the period between oral argument and the deadline for conducting the settlement conference that was set by the Court's January 11, 2016 Orders.

13. Counsel for Plaintiff does not oppose this motion. Thus, no party will be prejudiced by this extension.

WHEREFORE, Defendants respectfully request that the Court grant the Motion, extend the time in which the settlement conference may occur until July 5, 2016, and reschedule the settlement conference to a later date on or before July 5, 2016, to be determined by Judge Novak and the parties.

Dated: March 24, 2016

John N. Estes III (Pro Hac Vice)
Donna M. Byrne (Pro Hac Vice)
James Danly (Va. Bar No. 86016)
SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP
1440 New York Avenue, N.W.
Washington, DC 20005
(202) 371-7950

Abbe David Lowell (Pro Hac Vice)
Michael Bhargava (Pro Hac Vice)
CHADBOURNE & PARKE LLP
1200 New Hampshire Avenue, N.W.
Washington, DC 20036
(202) 974-5605

*Counsel for Defendants Houlian Chen, HEEP
Fund, Inc., and CU Fund, Inc.*

Respectfully submitted,

/s/ Jonathan T. Lucier
John Staige Davis, V (Va. Bar No. 72420)
Jonathan T. Lucier (Va. Bar No. 81303)
WILLIAMS MULLEN
200 South 10th Street, Suite 1600
Richmond, VA 23219
(804) 420-6000

William M. McSwain (Pro Hac Vice)
Christian E. Piccolo (Pro Hac Vice)
DRINKER BIDDLE & REATH LLP
One Logan Square, Suite 2000
Philadelphia, PA 19103-6996
(215) 988-2700

*Counsel for Defendant
Powhatan Energy Fund LLC*

CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to counsel receiving notices in this matter, including the following counsel of record:

Samuel G. Backfield, Esq.
Lisa Owings, Esq.
Steven C. Tabackman, Esq.
Elizabeth K. Canizares, Esq.
Federal Energy Regulation Commission
888 1st St., N.W.
Washington, DC 20426
Samuel.Backfield@ferc.gov
Lisa.Owings@ferc.gov
Steven.Tabackman@ferc.gov
Elizabeth.Canizares@ferc.gov

/s/ Jonathan T. Lucier
John Staige Davis, V (Va. Bar No. 72420)
Jonathan T. Lucier (Va. Bar No. 81303)
WILLIAMS MULLEN
200 South 10th Street, Suite 1600
Richmond, VA 23219
Counsel for Defendant Powhatan Energy Fund LLC