

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

FEDERAL ENERGY REGULATORY COMMISSION,	)	
	)	
Plaintiff,	)	Civil Action No. 3:15-cv-00452 (MHL)
v.	)	
	)	
POWHATAN ENERGY FUND, LLC, HOULIAN “ALAN” CHEN, HEEP FUND, INC., and CU FUND, INC.	)	
	)	
Defendants.	)	
	)	

**JOINT MOTION TO EXTEND DEADLINES FOR COMPLETION OF DISCOVERY  
AND DISPOSITIVE MOTIONS**

Pursuant to Federal Rule of Civil Procedure 16, Defendants Powhatan Energy Fund, LLC, Houlian “Alan” Chen, HEEP Fund, Inc., and CU Fund, Inc., and Plaintiff Federal Energy Regulatory Commission hereby jointly move to extend the deadlines for fact discovery, expert discovery, and dispositive motions in accordance with the dates set forth in the following table:

<b>Issue</b>	<b>Current Deadline</b>	<b>Proposed Deadline</b>
Fact Discovery (Document Productions and Depositions)	Aug. 23, 2021	Oct. 18, 2021
Expert Reports	Sept. 7, 2021	Nov. 8, 2021
Rebuttal Expert Reports	Nov. 8, 2021	Jan. 7, 2022
Expert Depositions	Dec. 8, 2021	Feb. 8, 2022
Dispositive Motions	Feb. 8, 2022	Apr. 8, 2022
Responses to Dispositive Motions	Apr. 8, 2022	June 8, 2022
Replies to Dispositive Motions	May 9, 2022	July 8, 2022

As explained more fully below, the extension of these deadlines would (1) facilitate the completion of discovery following the resolution of discovery disputes, (2) accommodate the schedules of third parties, and (3) avoid potential hindrances to a successful settlement conference.

If the Court would prefer, the parties are willing to propose shorter times between these deadlines to reduce the impact on the time that the Court will have to rule on dispositive motions.

*First*, the requested extensions would facilitate the completion of discovery following the resolution of numerous discovery disputes. On June 30, 2021, the Court granted Defendants' unopposed motion to extend the deadline for depositions due to concerns that Defendants would not have an opportunity to review written discovery before taking depositions. *See* Order Granting Defs.' Mot. to Extend the Deadline for Deps. (ECF No. 200); Defs' Mot. to Extend the Deadline for Deps. (ECF No. 190). At that time, there were a number of discovery disputes regarding written discovery and depositions that Defendants had sought from Plaintiff and third-parties PJM and the IMM. Since then, the parties have worked diligently towards resolving the disputes and, as a result, Defendants have resolved all disputes with Plaintiff and PJM and are on the cusp of reaching an agreement with the IMM. However, under these arrangements both Plaintiff and the IMM will be searching for, reviewing, and producing additional documents responsive to Defendants' requests. Plaintiff does not expect to complete its productions until September 13, 2021, and the IMM does not expect to complete its productions until the end of September 2021. Defendants expect that these document productions will inform the remaining depositions. Additionally, while third-party PJM has already produced documents, Defendants expect the documents produced by Plaintiff and the IMM may also inform the depositions of PJM employees—especially in light of the differently-negotiated sets of documents to be reviewed and produced from each entity.

Therefore, the parties respectfully request an extension of the current deadlines that would allow these document productions to take place prior to additional depositions of Plaintiff or third parties. This would include an extension of the deadlines related to expert discovery because the

parties expect the content of the remaining fact discovery will inform expert reports, which were initially scheduled to be due approximately 45 days after the close of fact discovery.

*Second*, extending the deadlines will also accommodate the schedules of third parties whom Defendants and Plaintiff seek to depose. For example, the employees and former employees of PJM that Defendants seek to depose generally are not available before the end of the current discovery window. Additionally, both PJM and the IMM have expressed a strong preference that depositions of their employees not proceed ahead of the scheduled settlement conference, which could moot the need for those depositions. Additional time is also needed by the IMM. While there are tentative dates scheduled to depose two IMM employees on August 17 and August 19, the IMM has a pending motion to quash Defendants' subpoenas for those depositions. Additional time will facilitate resolution of that discovery dispute hopefully by means of an agreement prior to having to take those depositions.

*Third*, extending the deadlines will avoid potential hindrances to a successful settlement conference. Defendants have represented that they have very limited resources. Counsel for Alan Chen and his funds have stated that they have been representing their clients on what has been effectively a *pro bono* basis for years. Engaging in extensive additional discovery before the settlement conference would reduce the amounts that Defendants have available to resolve this matter. This is especially the case with respect to experts who, unlike counsel for Dr. Chen and his funds, are unlikely to work on a *pro bono* basis.

For the foregoing reasons, good cause exists to extend the deadlines for fact discovery, expert discovery, and dispositive motions to the dates set forth in the above table or to such other dates that the Court may choose that would allow the completion of document productions to occur prior to the remaining depositions.

Respectfully Submitted,

/s/ Patrick Hanes

Patrick R. Hanes (Va. Bar No. 38148)  
WILLIAMS MULLEN  
Williams Mullen Center  
200 South 10th Street, Suite 1600  
Richmond, VA 23219  
Telephone: (804) 420-6000  
Facsimile: (804) 420-6507  
phanes@williamsmullen.com

*Counsel for Powhatan Energy Fund, LLC*

/s/ Robert Warnement

Robert W. Warnement (Va. Bar No. 39146)  
SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP  
1440 New York Avenue, N.W.  
Washington, DC 20005  
Telephone: (202) 371-7507  
Facsimile: (202) 661-9040  
robert.warnement@skadden.com

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

/s/ Steven Tabackman

Steven Tabackman (Va. Bar No. 16448)  
Damon Taaffe (*Pro Hac Vice*)  
Daniel T. Lloyd (*Pro Hac Vice*)  
FEDERAL ENERGY REGULATORY  
COMMISSION  
888 First Street, N.E.  
Washington, DC 20426  
Telephone: (202) 502-8311  
Facsimile: (202) 502-6449  
Email: steven.tabackman@ferc.gov

*Attorneys for Federal Energy Regulatory  
Commission*

Dated: August 10, 2021

**CERTIFICATE OF SERVICE**

I hereby certify that on August 10, 2021, I filed the foregoing motion with the Clerk's Office, using the CM/ECF system, which will send a notification of such filing to counsel of record in this matter.

/s/ Robert Warnement  
Robert W. Warnement (Va. Bar No. 39146)  
SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP  
1440 New York Avenue, N.W.  
Washington, DC 20005  
Telephone: (202) 371-7507  
Facsimile: (202) 661-9040  
Email: robert.warnement@skadden.com

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