

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

FEDERAL ENERGY REGULATORY COMMISSION)	
)	
Petitioner,)	Case No.: 3:15-cv-00452-MHL
)	
v.)	
)	
POWHATAN ENERGY FUND, LLC, et al.,)	
)	
Respondents.)	

JOINT NOTICE OF PROCEDURAL STATUS

Pursuant to the November 15, 2018 order of this Court, ECF 117, directing parties to inform the Court of the procedural status of the action in the above-captioned case, Respondents Powhatan Energy Fund, LLC, Houlian Chen, HEEP Fund, Inc., and CU Fund, Inc. hereby submit the following.

On October 5, 2018, Respondents asked the United States Court of Appeals for the Fourth Circuit to grant permission to appeal this Court's September 24, 2018 Memorandum Opinion (ECF 107) and Order (ECF 108) denying Respondents' motion for partial dismissal of the above-captioned case. Specifically, Respondents asked the Fourth Circuit to grant permission to appeal the September 24, 2018 Order regarding the proper application of the five-year statute of limitations in 28 U.S.C. § 2462 to civil penalty actions brought pursuant to section 31(d)(3) of the Federal Power Act. The Fourth Circuit granted this petition on November 5, 2018 (4th Cir. No. 18-2326, ECF 1).

On February 11, 2020, the Fourth Circuit issued a decision in *FERC v. Powhatan Energy Fund, LLC*, 949 F.3d 891 (4th Cir. 2020), affirming this Court's September 24, 2018 Order denying Respondents' motion for partial dismissal (4th Cir. ECF 43). Respondents filed a timely

petition for rehearing or rehearing en banc (4th Cir. ECF 47). The Fourth Circuit denied this petition on April 15, 2020 (4th Cir. ECF 49) and entered its mandate on April 23, 2020 (4th Cir. ECF 50). Respondents are considering filing a petition for certiorari with the Supreme Court of the United States.

Respectfully submitted,

Dated: May 7, 2020

/s/ Robert W. 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.*

Patrick R. Hanes
WILLIAMS MULLEN
Williams Mullen Center
200 South 10th Street, Suite 1600
Richmond, VA 23219
(804) 420-6000
phanes@williamsmullen.com

Counsel for Powhatan Energy Fund, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of May 2020, I will electronically file the foregoing motion with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to all counsel of record.

Respectfully submitted,

/s/ Robert W. 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

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