

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**FEDERAL ENERGY REGULATORY  
COMMISSION,**

**Plaintiff,**

v.

**Civil Action No. 3:15cv452**

**POWHATAN ENERGY FUND, LLC, et al.,**

**Defendants.**

**MEMORANDUM ORDER**

This matter comes before the Court on the following motions:

- (1) Powhatan Energy Fund, LLC's ("Powhatan") June 25, 2021 Motion for Leave to File Under Seal (the "First Motion to Seal"), (ECF No. 192);
- (2) Williams Mullen's July 26, 2021 Motion to Withdraw (the "Motion to Withdraw"), (ECF No. 207);
- (3) The parties' Joint Motion for Extension (the "Motion for Extension"), (ECF No. 216); and,
- (4) Federal Energy Regulatory Commission's ("FERC") September 13, 2021 Motion for Leave to File Under Seal (the "Second Motion to Seal"), (ECF No. 232).

On September 13, 2021, the Court held a hearing on these motions. For the reasons stated from the bench, the Court will grant both motions to seal, (ECF Nos. 192, 232), and the Motion to Withdraw, (ECF No. 207). The Court will deny without prejudice the Motion for Extension. (ECF No. 216.)

**I. The Motions to Seal**

On June 25, 2021, Powhatan moved to seal portions of its response in opposition to the Market Monitor's Motion to Quash. (ECF No. 192.) On September 13, 2021, FERC moved to seal documents filed in response to Powhatan's supplemental submission related to the Motion to

Withdraw. (ECF No. 232.) At the status conference on September 13, 2021, the parties clarified that none of them oppose either sealing request.

Prior to sealing a document, the Court must:

(1) provide public notice of the request to seal and allow interested parties a reasonable opportunity to object, (2) consider less drastic alternatives to sealing the documents, and (3) provide specific reasons and factual findings supporting its decision to seal the documents and for rejecting the alternatives.

*Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000) (citing *In re Knight Publ'g Co.*, 743 F.3d 231, 235–36 (4th Cir. 1984)). For the following reasons, the Court will grant both motions to seal.

First, both motions to seal have provided public notice of the requests to seal. They have also allowed interested parties a reasonable opportunity to object. Second, the Court has considered less drastic alternatives to sealing portions of both submissions and finds that no other alternative will protect the information contained in those documents. As to the First Motion to Seal, sealing is appropriate because portions of Powhatan's pleading contain information that FERC has identified as confidential. As to the Second Motion to Seal, sealing is appropriate because documents FERC filed contain confidential financial information.

For these reasons, the Court will grant the Motions to Seal. (ECF Nos. 192, 232.)

## **II. The Motion to Withdraw**

On July 26, 2021, Williams Mullen moved to withdraw as counsel for Powhatan. (ECF No. 207.) For the reasons stated from the bench, the Court will grant the Motion to Withdraw subject to the following conditions:

(1) Powhatan will have until September 27, 2021, ten (10) business days from the status conference, to secure new counsel. Discovery deadlines will be stayed during this period;

(2) Williams Mullen shall not withdraw until it files a pleading stating that it has given Powhatan all papers, property, and research generated on Powhatan's behalf;

(3) After Williams Mullen's withdrawal, it shall, at its expense, reasonably cooperate with replacement counsel to facilitate a transition; and,

(4) If Powhatan fails to secure replacement counsel, Williams Mullen will remain in representation for the limited purpose of informing the Court that Powhatan has failed to secure counsel.

Subject to these conditions, and for the reasons stated from the bench, the Court will grant the Motion to Withdraw. (ECF No. 207.)

### **III. The Motion for Extension**

On August 10, 2021, the parties jointly moved to extend their deadlines for completing discovery and filing dispositive motions. (ECF No. 216.) The deadlines the parties proposed are too close to the trial date and would not allow the Court enough time to rule on the dispositive motions. The Court will nevertheless entertain a new joint request to extend deadlines that retains enough time in the schedule for the Court to rule on dispositive motions.

For these reasons, the Court will deny the Motion for Extension without prejudice. (ECF No. 216.)

**IV. Conclusion**

For the foregoing reasons, the Court:

(1) GRANTS the First Motion to Seal. (ECF No. 192.) The Court DIRECTS the Clerk to file the relevant portions of Defendant's Response in Opposition to the Market Monitor's Motion to Quash and for Protective Order under seal.

(2) GRANTS the Second Motion to Seal. (ECF No. 232.) The Court DIRECTS the Clerk to file FERC's documents responding to Powhatan's supplemental submission in connection with the Motion to Withdraw under seal.

(3) GRANTS the Motion of Counsel for Leave to Withdraw. (ECF No. 207.) The Court DIRECTS Powhatan to secure replacement counsel by September 27, 2021.

(4) DENIES the Motion for Extension without prejudice. (ECF No. 216.)

Let the Clerk send a copy of this Order to all counsel of record.

It is SO ORDERED.

Date: 9/15/21  
Richmond, Virginia

  
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M. Hannah Lauck  
United States District Judge