

FEDERAL ENERGY REGULATORY COMMISSION  
Office of Enforcement  
Washington, D.C. 20426



August 7, 2014

**By U.S. MAIL & E-MAIL**

William M. McSwain, Esq.  
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**Re: Investigation of Up To Congestion Transactions by Dr. Houlian Chen on Behalf of Himself and the Principals of Huntrise Energy Fund LLC and Powhatan Energy Fund, LLC, Docket No. IN10-5-000.**

Mr. McSwain:

In accordance with 18 C.F.R. § 1b.19 (2014), staff of the Office of Enforcement (Enforcement staff) of the Federal Energy Regulatory Commission (Commission) provides this letter notifying your client, Powhatan Energy Fund, LLC (Powhatan) that Enforcement staff has concluded that Powhatan devised and participated in a scheme that violated 16 U.S.C. § 824v and 18 C.F.R. § 1c.2. Therefore, Enforcement staff will recommend to the Commission that it issue to Powhatan an Order to Show Cause as to why Powhatan should not be made the subject of a public proceeding to assess a civil penalty and require Powhatan's disgorgement of unjust profits it received from certain Up To Congestion transactions (UTC Transactions) executed by Houlian "Alan" Chen, Ph.D., acting as agent for and on behalf of Powhatan and its investors.

On August 9, 2013, Enforcement staff sent you a letter (Preliminary Findings Letter) that contained a detailed written description of its investigation and its preliminary conclusion that Powhatan violated the Commission’s anti-manipulation rule, 18 C.F.R. § 1c (2013), by its participation in and receipt of proceeds from the UTC Transactions executed by Dr. Chen as agent for and on behalf of Powhatan and its investors. The substance of that letter is incorporated by reference herein. The Preliminary Findings Letter presented you with an opportunity to respond to Enforcement staff’s preliminary conclusions and requested such response by September 13, 2013 (34 days from the transmittal of the Preliminary Findings Letter). On August 22, 2013, you requested “an additional 4 weeks” “to respond to the . . . preliminary findings.” Enforcement staff ultimately granted an additional 25 days – to October 8, 2013, all but three days of the additional time you initially requested – to you and Dr. Chen’s counsel to prepare your respective submissions.

Having provided you with two months “to respond to the . . . preliminary findings,” we received from you on October 8, 2013, a two-sentence letter stating only: “Your preliminary findings make no sense. Should you choose to proceed with a public notice against Powhatan and/or Huntrise, please be advised that they will respond publicly and forcefully.” Neither this assertion nor the arguments made elsewhere on behalf of your client have caused Enforcement staff to reconsider the conclusions set forth in the Preliminary Findings Letter.

On August 4, 2014, Enforcement staff notified you by voicemail that a Notice of Alleged Violations (NAV) regarding Powhatan would be issued the following day, August 5, 2014. We have received no communication in response to the voicemail message or following issuance of the NAV.

Accordingly, Enforcement staff provides this letter of notice in accordance with 18 C.F.R. § 1b.19 (2014), notifying you that Enforcement staff intends to recommend that the Commission issue an Order to Show Cause Powhatan as to why it should not be made the subject of a public proceeding to assess a civil penalty and require its disgorgement of unjust profits associated with the UTC Transactions executed by Dr. Chen, as agent for and on behalf of Powhatan, during the period June 1, 2010 through August 3, 2010.<sup>1</sup> *See* Preliminary Findings Letter at 13-19. Enforcement staff will make its recommendation in a report to the Commission that includes a detailed discussion of the facts and Powhatan’s violations. Enforcement staff’s report will include references to evidence gathered in its investigation, including transactional data, narrative responses to written

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<sup>1</sup> Be advised that the Commission intends to avail itself of all legal options to pursue any and all individuals and entities to the extent necessary to satisfy any monetary penalty or disgorgement order imposed on Powhatan.

inquiries, testimony, e-mails, and other documents. If the Commission issues an Order to Show Cause, this report will become public.

As provided by 18 C.F.R. § 1b.19, Powhatan may submit a non-public response to this notice at any time up to and including September 8, 2014. The response may address any factual, legal, or procedural matter that Powhatan would like the Commission to consider in evaluating whether and how to act in this matter. If the submission relies on evidence that you have not already provided to Enforcement staff through testimony, documents, or otherwise, please identify the source of such evidence and sworn statements supporting all factual assertions. If your client does not intend to respond substantively to this notice, we request that you inform Enforcement staff as soon as possible. Any response that you submit no later than the close of business on September 8, 2014, will be forwarded to the Commission with Enforcement staff's report.

Please submit any response to this 1b.19 notice to the following:

Steven C. Tabackman  
Samuel G. Backfield  
Division of Investigations  
Office of Enforcement  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

Please contact us if you have questions regarding the matters addressed in this letter or in the event that your client desires to discuss settlement of this matter.

\_\_\_\_\_/s/\_\_\_\_\_  
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cc: Lauren Rosenblatt