

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

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FEDERAL ENERGY REGULATORY	)	
COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 3:15cv452
	)	
	)	
POWHATAN ENERGY FUND, LLC, et. al.,	)	
	)	
Defendants.	)	

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**POWHATAN ENERGY FUND, LLC’S  
SUPPLEMENTAL SUBMISSION**

Powhatan Energy Fund, LLC (“**Powhatan**”), by counsel, in response to this Court’s December 23, 2021 Memorandum Order (Dkt. No. 279), submits this Supplemental Submission to its September 3 sealed filings, to allay any concerns the Court may have regarding Powhatan’s financial condition, or its prior disclosure thereof. While Powhatan believes that the comprehensive documents supporting this submission address the issues the Court raised in the hearing on September 13, 2021, to the extent the Court believes any additional records or clarification is needed, Powhatan is prepared to address any such request.

On July 26, 2021 (Dkt. No. 207), then-counsel for Powhatan filed its Motion to Withdraw citing, among other things, the unreasonable financial burden that continued representation would cause given Powhatan’s financial condition. In order to evaluate the Motion to Withdraw, the Court, by Order dated August 30, 2021 (Dkt. No. 223), ordered Powhatan to submit its “full financials.”

In compliance with the Court's order, on September 3, 2021, Powhatan filed (Dkt. Nos. 224, 225, 226, and 227), under seal, a series of proprietary business and financial documents not generally available to the public, including its Statement of Assets and Liabilities, its Statement of Operations, its Statement of Changes in Net Assets, and its Statements of Cash Flows, all as of August 31, 2021 ("**Financial Submission**"). The Financial Submission reflected a total cash balance insufficient to fund the estimated continued defense of the litigation, and supporting the Motion to Withdraw. That submission is hereby supplemented.

The Court granted the Motion to Withdraw by Order dated September 15, 2021 (Dkt. No. 238) and permitted Powhatan ten business days to secure new counsel. By Order dated September 14, 2021 (Dkt. No. 237), the Court also ordered the parties to attend a settlement conference before Magistrate Judge Mark R. Colombell.

On September 27, 2021, undersigned counsel filed its Notice of Appearance (Dkt. No. 242), and in connection with its retention, current counsel received in trust, the bulk of Powhatan's then-remaining cash balance. Those trust funds have been substantially depleted in connection with Powhatan's defense and settlement efforts between October and the present. As of the date of this filing, after payment of Powhatan's most recent invoice for professional services, a very small fraction of the original retainer remains in trust for Powhatan to utilize in connection with the defense and/or settlement of this matter.

Powhatan heavily invested its limited resources in connection with the November 17, 2021 Court-ordered Settlement Conference, and provided to both FERC and Magistrate Judge Colombell a fulsome Confidential Supplemental Submission in support of its position that it had limited funds, both for defense and settlement. That submission included numerous exhibits

including Powhatan's tax returns and bank account balances for the last several years. Further, it explained that in August 2011, Powhatan essentially ceased all operations, and aside from its defense in this litigation, transacted no business activity.

WHEREFORE, to address concerns raised in this Court's December 23, 2021 Memorandum Order, Powhatan files this Supplemental Submission. *See* Exhibits submitted under seal and accompanying narrative.

POWHATAN ENERGY FUND, LLC

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Dated: January 11, 2022

**CERTIFICATE OF SERVICE**

I hereby certify that on January 11, 2022, I filed the foregoing 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.

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