

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-20898**

**In the Matter of**

**Petroteq Energy, Inc., and  
Aleksandr Blyumkin**

**Respondents.**

**Respondent Petroteq Energy,  
Inc.’s Motion to Amend Order  
Instituting Proceedings to Extend  
Remediation Deadlines**

**I. Introduction**

Respondent Petroteq Energy, Inc. (“Petroteq” or the “Company”), by and through its undersigned counsel, Manatt, Phelps & Phillips, LLP, hereby moves to amend the Commission’s June 13, 2022 Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings and Imposing a Cease-and-Desist Order, and Notice of Hearing (the “Order”) to extend Petroteq’s Compliance Deadline under paragraph 47(a) by 120 days to January 10, 2023, and to extend all other remediation deadlines accordingly (together, the “Remediation Deadlines”). Petroteq brings this Motion under Rule of Practice 200(d)(1), 17 C.F.R. § 201.200(d)(1), on the grounds that the Company requires additional time to complete its remediation efforts and to engage an appropriate Independent Consultant to certify compliance under the Order, and granting the requested extension will not prejudice the Commission or the investing public. For these reasons, Petroteq respectfully requests that the Commission grant this Motion and extend the Company’s Remediation Deadlines by 120 days.

## **II. Factual Background**

On or about June 13, 2022, the Commission instituted settled administrative proceedings against Petroteq and its former executive chairman Aleksandr Blyumkin (“Blyumkin”) for violations of the Securities Act and the Exchange Act, and the Rules thereunder. The Order alleged that Petroteq made false and misleading disclosures in its filings with the Commission about related party transactions, Petroteq’s assets, and Blyumkin’s receipt and use of Petroteq funds, among other alleged violations.

The Order required Petroteq to complete certain undertakings, including remedial measures, and to pay a civil penalty of \$1,000,000 in four equal installments, among other terms. Petroteq has already timely paid the first of those four installments and has made progress toward meeting the Remediation Deadlines, as described below.

### **A. The Required Remediation**

Paragraphs 47-51 of the Order set forth Petroteq’s Undertakings, including its remediation requirements. Two are relevant here:

*First*, within 90 days of entry of the Order (the “Compliance Deadline”),<sup>1</sup> or September 12, 2022,<sup>2</sup> Petroteq is required to “fully remediate and correct” (1) “any material weaknesses in its DCPs and its ICFRs (the ‘Controls Remediation’), including those as identified in its 10-K filed with the Commission for Petroteq’s fiscal year 2021 and those identified in writing by its outside auditor (the ‘Material Weaknesses’),” and (2) “any material misstatements and omissions in Petroteq’s prior Forms 10-K and 10-Q filings with the Commission (the ‘Prior Filings’)” (as corrected, the “Corrective Filings”) as set forth in the Order. Order at 11, ¶ 47(a)(i)-(ii).

---

<sup>1</sup> Paragraph 47(c) refers to a “Remediation Deadline,” which Petroteq understands to have the same meaning as the “Compliance Deadline” under Paragraph 47(a).

<sup>2</sup> Ninety days after June 13, 2022 is September 11, 2022, which is a Sunday.

**Second**, the Order requires Petroteq to retain an Independent Consultant, “not unacceptable to the staff of the Commission,” to conduct a review of the Controls Remediation and Corrective Filings. *Id.* ¶ 47(b). Within 30 days after the Compliance Deadline, or October 12, 2022, the Independent Consultant is required to deliver a written report to Petroteq and Commission staff certifying whether, “in the Independent Consultant’s opinion, Petroteq’s Controls Remediation eliminated the Material Weaknesses and its Corrective Filings corrected Prior Filings.” *Id.* ¶ 47(c). If the Independent Consultant certifies Petroteq’s compliance with its remediation requirements, Petroteq’s obligations thereunder are deemed complete. *Id.* at 11-12, ¶ 47(c)(i). If the Independent Consultant declines to certify Petroteq’s compliance, the Order sets forth the process and timeline by which the Independent Consultant must submit Recommendations to the Company to achieve compliance and Petroteq must respond thereto. *Id.* at 12, ¶ 47(c)(ii), (d).

The Order expressly allows Commission staff to extend the Remediation Deadlines upon a showing of good cause. *Id.* at 12, ¶ 50 (“For good cause shown, the Commission’s staff may extend any of the procedural dates set forth above.”)<sup>3</sup>

**B. Petroteq’s Progress to Date**

On or around July 10, 2022, Petroteq retained RND Compliance (“RND”) to consult on and oversee the Controls Remediation and Corrective Filings. Declaration of Vladimir Podlipsky (“Podlipsky Decl.”), ¶ 2. On or about July 13, 2022, counsel for Petroteq communicated to Commission staff that the Company had retained RND and also stated the

---

<sup>3</sup> Despite this provision, Commission staff has stated that it does not have authority to extend the Remediation Deadlines. *See* Declaration of John F. Libby (“Libby Decl.”) ¶ 4, Ex. B. Before filing this Motion, counsel for Petroteq contacted Commission staff to highlight this provision and to renew its request that the Commission staff extend the Remediation Deadlines. *Id.* ¶ 6, Ex. C. As of the date of this filing, counsel for Petroteq has not received a response. *Id.*

Company's intention to engage LMHS, P.C. ("LMHS") as the Independent Consultant.

Declaration of John F. Libby ("Libby Decl.") ¶ 2, Ex. A. Due to planned vacation time for RND team members, about two weeks later, on or about July 26, 2022, RND submitted a document request to the Company. *Id.* ¶¶ 3-4, Ex. A. The Company has been working to provide the requested information to RND, and is making substantial progress. *Id.* ¶ 3.

On or about August 29, 2022, RND sent a letter to the Company requesting an extension of 120 days to complete the Controls Remediation and Corrective Filings on the basis that there still remain a number of open items following its July 26 document request. *Id.* ¶ 4, Ex. A. Specifically, RND needs, and Petroteq is gathering: contact information for the Petroteq employees and consultants with whom RND is to coordinate, the letter from the outside auditor documenting the ICFR and DCP weaknesses identified by them, a Company organizational chart, contact information for the Company's Audit Committee members, internal control procedures documents, minutes from meetings of the Board of Directors, and a summary of related party transactions. *Id.* RND confirms that once it has all of the requested information, it will be able to perform its review and complete the required remediation. *Id.*

While RND was in the process of beginning its review, on August 19, 2022, Commission staff informed counsel for Petroteq that the Commission would object to LMHS as the Independent Consultant. Libby Decl., ¶ 4, Ex. B. Two business days later, Petroteq proposed Ankura as an alternative and Petroteq's counsel provided to Commission staff CVs for the individuals at Ankura who would work on this matter. *Id.* ¶ 5, Ex. C. As of the date of this filing, Commission staff has stated that they are completing their due diligence on Ankura and do not anticipate objections, but Commission staff has not confirmed whether they will accept Ankura as the Independent Consultant. *Id.* ¶ 5, Ex. C.

If Commission staff approve Ankura as the Independent Consultant, Ankura will require sufficient time to conduct its own review of the underlying materials and to assess Petroteq's compliance with its remediation requirements. Thus, despite Petroteq's efforts, Petroteq cannot reasonably meet the September 12 Compliance Deadline or the other corresponding Remediation Deadlines. Four months, or 120 days, should provide sufficient time for Petroteq, working in conjunction with RND, to meet the Compliance Deadline (*see* Podlipsky Decl., ¶ 4, Ex. A) and for Ankura, or whichever Independent Consultant the Commission approves, to complete its review and submit its report 30 days thereafter.

### **III. Argument**

The Commission can—and should—extend the Remediation Deadlines under Rule of Practice 200(d)(1), which allows the Commission to amend an order instituting proceedings (“OIP”) “to include new matters of fact or law.” 17 C.F.R. § 201.200(d)(1) (“Upon motion by a party, the Commission may, at any time, amend an order instituting proceedings to include new matters of fact or law.”). The Commission has stated that such amendments should be “freely granted, subject only to the consideration that other parties should not be surprised, nor their rights prejudiced.” Comment (d) to Rule of Practice 200(d)(1); *see also In Re Wise*, Release No. 48850 (Nov. 26, 2003) (granting SEC’s motion to amend the OIP under Rule of Practice 200(d)(1) to correct errors on matters within the scope of the original order).

An amendment does not cause surprise or prejudice when, for instance, the other parties are on notice of the content of the requested amendment or the amendment will not impede any party’s ability to mount its case. *See In the Matter of Jethro J. Barlow, CPA, Alan K. Burton, J. Edwards Cox, Robert G. Weeks, David A. Hesterman, & Kenneth L. Weeks*, Release No. 42109 (Nov. 5, 1999) (granting Division of Enforcement’s motion to amend OIP to include additional requests for relief consistent with the alleged violations on the grounds that “Respondents will

suffer no surprise or prejudice . . . because they were put on notice of the alleged reporting and recordkeeping violations at issue, as these violations were included in the allegation portion of the original order” and because “the procedural posture of the case—the hearing of this matter is not scheduled to begin until [almost two months later]—ensures that respondents will suffer no prejudice from the requested amendment.”).

Indeed, the Commission has relied on Rule of Practice 200(d)(1) to extend a respondent’s deadline by which to comply with undertakings in settled administrative proceedings, as requested here. In *In the Matter of S.A.C. Cap. Advisors, L.P. S.A.C. Cap. Advisors, LLC Cr Intrinsic Invs., LLC Sigma Cap. Mgmt., LLC Parameter Cap. Mgmt., LLC 72 Credit Mgmt., LLC S.A.C. Priv. Equity Gp, L.P. Point72 Asia (Hong Kong) Ltd. Point72 Asia (N. Asia) Ltd. & Point72 Asia (Singapore) Pte. Ltd Respondents*. (“*In the Matter of S.A.C. Cap. Advisors*”), Release No. 4287 (Dec. 3, 2015), the Commission instituted settled administrative proceedings against 10 entities based, in part, on insider-trading violations. At least two of the entities (the “Applicants”) were required to wind down their business as registered investment advisors and to distribute certain “side pocket” investments by December 31, 2015, a deadline that Applicants were permitted to seek to extend under the order instituting proceedings. *Id.* at \*1.

The Applicants moved under Rule of Practice 200(d)(1) to amend the OIP to extend the December 2015 deadline by one year. Applicants argued that they had already completed four of the eight required undertakings and were in compliance with the others, and that despite their “best efforts,” they could not meet the December 2015 deadline to distribute the side pocket investments, including because they did not directly control the liquidation process and alternate means of distributing the investments would reduce the value of the side pocket investments, thus negatively impacting third parties. *Id.* at \*2. Applicants represented that the one-year

extension “should allow enough time to dispose of a substantial portion of the investments in a manner that is in the best interest of investors” and proposed updating the Commission on a quarterly basis regarding their progress. *Id.*

The Commission granted the motion and extended the December 2015 deadline, pointing to the fact that the order contemplated Applicants seeking such an extension and crediting Applicants’ representations that they had encountered difficulties in distributing the side pocket investments and that the extension would allow them to distribute the assets in a way that benefited third-party investors.

*In the Matter of S.A.C. Cap. Advisors* presents similar considerations as the instant case and supports the same result here. As in *In the Matter of S.A.C. Cap. Advisors*, Petroteq has made progress toward completing its undertakings, including by engaging RND as a consultant to complete the Controls Remediation and Corrective Filings, and working to provide RND with all requested documents. Petroteq can represent that the requested extension should provide sufficient time to complete its remediation efforts. See Podlipsky Decl., ¶ 4, Ex. A. And the Order allows Petroteq to seek an extension of the Remediation Deadlines.

Moreover, like the Applicants in *In the Matter of S.A.C. Cap. Advisors*, Petroteq has encountered difficulty meeting its remediation deadlines, including because of the Commission staff’s recent rejection of LMHS as the Company’s Independent Consultant. Petroteq has moved swiftly to provide an alternate candidate and currently awaits a response from Commission staff, but Petroteq cannot reasonably meet the September 12, 2022 Compliance Deadline or the other corresponding Remediation Deadlines under these circumstances. Thus, good cause exists to extend Petroteq’s deadline to complete the required remedial measures.

Moreover, an extension of 120 days will result in little or no prejudice to the Commission or the investing public. As to the Commission, these are settled administrative proceedings as to Petroteq, and thus there are no upcoming hearing or hearing-related deadlines that will be impacted by the requested extension. And Petroteq has shown its commitment to abiding by its obligations under the Order by timely paying the first installment of the civil penalty and working to comply with the Remediation Deadlines, including by engaging RND to assist with the remediation and an Independent Consultant that is acceptable to Commission staff. Thus, there is no indication that Petroteq will flout the Commission's Order, if amended.

As to the public, with the Order in place, the investing public is already on notice—and remains on notice—not to rely on Petroteq's past filings, which it has committed to correcting moving forward with ICFR remediation as well as correcting and expanding past disclosures. The public's awareness is reflected in the fact that Petroteq's stock remains very thinly traded, with an average daily trading volume of less than one percent per day of outstanding shares for the last three months (*see* Petroteq Energy Inc. (PQEFF) Valuation Measures & Financial Statistics, available at <https://finance.yahoo.com/quote/PQEFF/key-statistics/> (last visited August 29, 2022)).

In fact, the public may be prejudiced should this Motion be *denied*. Third-party Viston Swiss United AG (“Viston”) currently has an outstanding tender offer to acquire Petroteq, which is set to expire on September 9, 2022. If successful, the purchase would return significant value to shareholders as Viston's tender offer of nearly \$0.60 per share presents a premium of nearly 3 times over the current market price of \$0.21 per share. The offer remains subject, however, to certain conditions, one of which is that Viston is satisfied with due diligence provided by



Petroteq concerning the Order. Thus, if the Commission denies this Motion and the offer is rescinded as a result, shareholders may be deprived of this value.<sup>4</sup>

In sum, the requested extension should allow Petroteq sufficient time to fulfill its remediation obligations under the Order and neither the Commission nor the investing public will be prejudiced as a result.

#### **IV. Conclusion**

For the foregoing reasons, Petroteq respectfully requests that the Commission amend the June 13, 2022 Order to extend the Company's Compliance Deadline by 120 days to January 10, 2023, and to extend all other Remediation Deadlines accordingly.

Respectfully submitted,

/s/ John F. Libby

John F. Libby  
Sarah E. Moses  
Manatt, Phelps & Phillips, LLP  
2049 Century Park East  
Suite 1700  
Los Angeles, CA 90047  
Phone: (310) 312-4128  
Email: [jlibby@manatt.com](mailto:jlibby@manatt.com)  
Counsel for Petroteq Energy, Inc.

---

<sup>4</sup> Even if Viston extends the tender offer for some period of time, in which case the status quo is preserved, or Viston terminates the tender offer, there will be no harm to the investing public because it will remain on notice that Petroteq's past filings should not be relied upon and that the remediation process is underway.

## Certificate of Service

In accordance with Rules of Practice 150 and 151, 17 C.F.R. §§ 201.150 & 201.151, I certify that a copy of **Respondent Petroteq Energy, Inc.'s Motion to Amend Order Instituting Proceedings to Extend Remediation Deadlines** was served on the following on **September 1, 2022**, via email at the email addresses indicated below:

Gary Lincenberg, Esq.  
Barr Benyamin, Esq.  
Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Lincenberg & Rhow, P.C.  
1875 Century Park East, 23rd Floor  
Los Angeles, CA 90067-2561  
(310) 201-2100  
glincenberg@birdmarella.com  
bbenyamin@birdmarella.com  
Counsel for Respondents  
Aleksandr Blyumkin and Jason Reinsch

Timothy S. McCole, Esq.  
Robert C. Hannan, Esq.  
Securities and Exchange Commission  
Enforcement Division  
Fort Worth Regional Office  
801 Cherry Street, Suite 1900  
Fort Worth, Texas 76102-6882  
(817) 978-6489  
McColeT@sec.gov  
hannanr@sec.gov

/s/ Sarah E. Moses  
Sarah E. Moses  
Counsel for Petroteq Energy, Inc.