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2014-08-12

Ms. Cheryl Blundon
Newfoundland and Labrador
Board of Commissioners of Public Utilities
120 Torbay Road
St. John's, NL A1A 5B2



Dear Ms. Blundon:

RE: An Application by Newfoundland and Labrador Hydro 100 MW Combustion Turbine for Installation at Holyrood

After the close of business hours yesterday, August 11, 2014 I found a story published in the Wall Street Journal, August 8, 2014 indicating that ProEnergy Services LLC is being investigated by authorities in New York State and the Federal Government of the United States for their involvement in the sale and resale of combustion turbines to a foreign country. (See attached)

As you know this is the same company which Newfoundland and Labrador Hydro has awarded a contract for nearly \$100,000,000.

Although I have only received the Contract and other documents between our Utility and this company for a few days, the information to date raises real concerns about the integrity of the Tender process, prudence of the procurement strategy, reliability of the generation asset and the cost of equipment contracted.

I am now getting legal advice on how and what to present to the Public Utilities Board in my Submission on the matter. However, the main purpose of this letter is to inform you at the earliest opportunity of this serious investigation taking place in the United States and the implications, if any, for the business contracted with that company in this province.

If you have any questions, please do not hesitate to contact me.

Sincerely yours,

Danny Dumaresque, Intervenor

Venezuelan Energy Company Investigated in U.S.

Derwick Associates Is Probed by U.S., New York Agencies for Possible Bribery, Banking Violations

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By JOSÉ DE CÓRDOBA and CHRISTOPHER M. MATTHEWS [CONNECT](#)

Updated Log A 2011 1:38 p.m. ET

NEW YORK—Federal and New York City prosecutors opened preliminary investigations into a Venezuelan company that became one of that country's leading builders of power plants during the administration of President Hugo Chávez, as well as into a Missouri-based company that played a key role in its success, according to people familiar with the matter.

The U.S. Department of Justice and the Manhattan district attorney's office are probing Derwick Associates, a Venezuelan company awarded hundreds of millions of dollars in contracts in little more than a year to build power plants in Venezuela, shortly after the country's power grid began to sputter in 2009, the people familiar with the matter said.

ProEnergy Services, a Sedalia, Mo.-based engineering, procurement and construction company that sold dozens of turbines to Derwick and helped build the plants, is also under investigation, these people said.

The probes are in their initial phases, the people said, and it is possible both investigations could be closed without criminal charges being brought.



Derwick Associates President Alejandro Betancourt in his Caracas, Venezuela, headquarters.

"Neither Derwick nor its principals have been contacted by any U.S. law enforcement agency," said Derwick President Alejandro Betancourt, in a statement provided by lawyer Adam Kaufmann. "We therefore question whether Derwick is the focus of any active investigation. In the event we are contacted by a law enforcement agency, we will cooperate fully. We are a transparent company and have nothing to hide."

A ProEnergy representative declined to comment on any investigation and said the company "is committed to doing business in full compliance with all applicable laws and to cooperating fully with regulatory and legal inquiries."

Manhattan prosecutors are investigating Derwick and ProEnergy for possible violations of New York banking law, people familiar with the matter said.

Meanwhile, people familiar with the matter said prosecutors in the Justice Department's criminal fraud section are reviewing the actions of Derwick and ProEnergy for possible violations of the Foreign Corrupt Practices Act, which prohibits offering foreign government officials improper payments in exchange for a business advantage.

Federal prosecutors are scrutinizing the difference between the prices ProEnergy charged Derwick for its equipment and the prices Derwick ultimately charged the Venezuelan government, one person familiar with the matter said. The person said that in some past FCPA cases, excessive margins have been used to conceal bribes to foreign officials.

A lawyer for Derwick voluntarily contacted and met with federal prosecutors last summer to discuss the FCPA investigation, a person familiar with the matter said. Those prosecutors haven't requested documents from Derwick, the person said.

"As we understand it, there has been a long-running investigation into ProEnergy, but that doesn't equate to an investigation into Derwick," Mr. Kaufmann wrote in a letter to the Journal.

In Caracas, Mr. Betancourt said Derwick didn't bribe any Venezuelan officials. He said Derwick won the contracts through competitive bidding because it made superior offers. He also said the company's margins were consistent with general industry practice and reflected the high financial risks taken on by Derwick during a difficult time to do business in Venezuela.

A spokesman at Venezuela's information ministry declined to comment, while spokesmen at the electricity and energy ministries didn't return calls seeking comment.

Mr. Betancourt and a cousin, Pedro Trebbau, registered Derwick in Venezuela in 2009 and drew the attention of opponents of the Chávez regime because of the large volume of business they did with the government.

Otto Reich, the top State Department official for Latin America during the administration of President George W. Bush, filed a civil lawsuit in New York federal court last year, alleging Derwick's founding cousins damaged his consulting business by falsely spreading the word that he was working for them. The lawsuit alleges Derwick and the company's owners, among others, obtained contracts to build power stations in return for paying multimillion-dollar bribes to senior Venezuelan officials.

Mr. Kaufmann, a partner with Lewis Baach PLLC, said the lawsuit is part of a smear campaign against Derwick, motivated by politics and family squabbles, and lawyers for Messrs. Betancourt and Trebbau have moved to dismiss it. "My clients categorically deny any allegations of paying bribes to anyone," Mr. Kaufmann said. "But for the damage it has caused, Reich's lawsuit is laughable, and his allegations are wholly without evidentiary foundation," he wrote in a letter to the Journal.

The Manhattan district attorney's office, which has jurisdiction over violations of New York state banking laws, is interested in Derwick's relationship with J.P. Morgan Chase (JPM-0.04%) & Co., according to people familiar with the matter. Investigators have interviewed potential witnesses about Eduardo Travieso, a childhood friend of Mr. Trebbau who worked at J.P. Morgan and served as Derwick's banker there, according to people familiar with the matter.

In March 2013, Mr. Travieso resigned from J.P. Morgan. In a report made public by the Financial Industry Regulatory Authority, an industry watchdog, J.P. Morgan alleged Mr. Travieso had acted in a manner "inconsistent with the firm's policies and procedures and may have violated applicable regulatory requirements, including using his residential address as the mailing address for certain customer communications."

Finra, which reported this year that it has made a preliminary determination to bring disciplinary action against Mr. Travieso for "potential violations" of certain rules, declined to comment, as did J.P. Morgan.

Attempts to reach Mr. Travieso through his father, a Caracas lawyer, were unsuccessful. A message to Mr. Travieso sent through his LinkedIn account went unanswered. Mr. Travieso's lawyer declined to comment.

—Kejal Vyas in Caracas and Justin Baer in New York contributed to this article.

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