

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Gunvor USA LLC

Docket No. ER23-2492

**Comment of Public Citizen, Inc.**

On July 26, 2023, an affiliate of Switzerland-based Gunvor Group Ltd.—which is 85.73% owned by Torbjörn Törnqvist—applied for market-based rate authority under Section 205 of the Federal Power Act.

Granting of market-based rate authority is a privilege, and not a right, under the Federal Power Act. Once provided, entities are free to charge whatever price market rules will bear, bestowing enormous financial opportunities—and responsibilities—for entities with such authorization. Under the Commission’s regulations, an entity applying for market based-rate authority simply has to pass market screen tests and disclose basic ownership information. There is no requirement that an applicant report adjudications, criminal convictions, or adverse legal or regulatory rulings against it. This lack of *corporate character* reporting leaves the Commission vulnerable to approving market-based rate authority to entities that may have a track record of frequent legal violations and systemic compliance problems. Public Citizen recently suggested that the Commission needs *corporate character* standards for market-based rate authority applicants,<sup>1</sup> but the Commission declined to consider it.<sup>2</sup>

The limitations of the Commission’s review of MBR applicants is evidenced in the case of Gunvor. In October 2019, Swiss regulators found Gunvor to be criminally liable for corruption, bribery and other offenses related to its operations in the Congo Republic and Côte d’Ivoire, forcing the commodity trader to pay a US\$95 million penalty.<sup>3</sup> In response, Mr. Törnqvist pledged: “We need to take our experience in Congo very seriously and learn our lessons from that. We must make sure we never find ourselves in that situation again.” At the time of Mr. Törnqvist’s assurance, Gunvor

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<sup>1</sup> March 18, 2019 comments in FERC Docket RM19-2.

<sup>2</sup> Final Rule, *Refinements to Horizontal Market Power Analysis for Sellers in Certain Regional Transmission Organization and Independent System Operator Markets*, Docket No. RM19-2, Issued July 18, 2019, at ¶78.

<sup>3</sup> Julia Payne, *Gunvor must pay \$95 million for Congo oil corruption: Swiss prosecutors*, October 17, 2019, [www.reuters.com/article/us-gunvor-grp-congo-corruption/gunvor-must-pay-95-million-for-congo-oil-corruption-swiss-prosecutors-idUSKBN1WWoZ9](http://www.reuters.com/article/us-gunvor-grp-congo-corruption/gunvor-must-pay-95-million-for-congo-oil-corruption-swiss-prosecutors-idUSKBN1WWoZ9)

agents made illegal payments to secure oil deals in Ecuador,<sup>4</sup> with the U.S. Department of Justice reaching a criminal settlement with a former Gunvor trader for Foreign Corrupt Practices Act violations, and Gunvor later disclosing that the U.S. Commodity Futures Trading Commission was investigating.<sup>5</sup> In October 2022, the London Court of International Arbitration determined that Gunvor had engaged in unlawful price-gouging of LNG shipments to Pakistan.<sup>6</sup> And Gunvor remains one of the largest traders of refined petroleum from the Russian Federation since the Ukrainian invasion, contributing to its “reputational risk”.<sup>7</sup>

An independent regulatory agency similar to FERC, the Federal Communications Commission, has character qualifications of broadcast applicants.<sup>8</sup> The FCC requires broadcasters to report all non-FCC adjudications on an annual basis, and to notify the FCC of any adverse findings or adverse final actions taken by an ultimate trier of fact, such as a court decision (including civil litigation) and any administrative body at the state or federal level. The FCC assesses these non-FCC adjudications and adverse findings to determine whether the applicant or licensee warrants disqualification. FERC should be doing the same.

Respectfully submitted,

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Filed August 14, 2023

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<sup>4</sup> Andy Hoffman, *New Gunvor Bribery ‘Skeleton’ Haunts Oil Trader’s Reform Pledge*, April 7, 2021, [www.bloomberg.com/news/articles/2021-04-07/new-gunvor-bribery-skeleton-haunts-oil-trader-s-reform-pledge](https://www.bloomberg.com/news/articles/2021-04-07/new-gunvor-bribery-skeleton-haunts-oil-trader-s-reform-pledge)

<sup>5</sup> Julia Payne, *Energy trader Gunvor Group says U.S. CFTC investigating Ecuador deals*, September 28, 2021, [www.reuters.com/business/energy/energy-trader-gunvor-group-says-us-cftc-investigating-ecuador-dealings-2021-09-28/](https://www.reuters.com/business/energy/energy-trader-gunvor-group-says-us-cftc-investigating-ecuador-dealings-2021-09-28/)

<sup>6</sup> Faseeh Mangi and Stephen Stapczynski, *Pakistan Wins Arbitration Case Against Gunvor Over LNG Payments*, October 12, 2022, [www.bloomberg.com/news/articles/2022-10-12/pakistan-wins-arbitration-case-against-gunvor-over-lng-payments](https://www.bloomberg.com/news/articles/2022-10-12/pakistan-wins-arbitration-case-against-gunvor-over-lng-payments)

<sup>7</sup> Tom Wilson, David Sheppard and Chris Cook, June 27 2023, *Vitol and Gunvor help keep Russian refined oil flowing, data shows*, [www.ft.com/content/ba9754e3-6f4e-4455-b6be-c6c6edf6b853](https://www.ft.com/content/ba9754e3-6f4e-4455-b6be-c6c6edf6b853)

<sup>8</sup> *Policy Regarding Character Qualifications in Broadcast Licensing*, Released October 9, 1992, 7 FCC Rcd 6564 (21), <https://docs.fcc.gov/public/attachments/FCC-92-448A1.pdf>