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November 14, 2011

Via Email

Steven C. Tabackman
Federal Energy Regulatory Commission
Office of Enforcement, Division of Investigations
888 First Street, N.E.
Room 51-69
Washington, D.C. 20426

Re: Third Data Request to Powhatan Energy Fund LLC in *In Re PJM Up-to Congestion Transactions*, Docket No. IN10-5-000

Dear Mr. Tabackman:

This letter serves as the response to the above-listed third data request, dated November 1, 2011. The short answer to the third data request is that any documents that may be in Powhatan's possession that may be responsive to this request are already in your possession, so there are no additional documents for Powhatan to produce.

More specifically, Dr. Tabors' analysis (which you discuss in requests 14-17) was based upon data provided by Dr. Chen to Dr. Tabors on September 30, 2011. Dr. Chen's attorney, Mr. Estes, informs us that this data was previously provided to you nearly a year ago, on December 13, 2010. The data Dr. Tabors received was not bates-labeled, however. Mr. Estes, therefore, can provide you with more detail on the labeling of the data should you need it. Additionally, in response to previous data requests to Powhatan, I note that we provided documents to you on November 22, 2010 and December 17, 2010. Those documents contain bates range POW00000001-POW00017999.

Requests 14-17 in the third data request appear to be focused on better understanding Dr. Tabors' analysis – in particular, the scenario in which a leg of a trade might not clear. This trading strategy is not new to this investigation: it was discussed in some detail in Dr. Chen's position paper and Dr. Pirrong's accompanying affidavit, submitted on December 13, 2010. *See* Dr. Chen's Position Paper, at 32-34; Pirrong Affidavit, at 6-9. We understand that Dr. Chen has also addressed it in his deposition testimony.

At the time of the trades at issue, Powhatan was not privy to the details of this "spread trading" strategy. (This is consistent with Mr. Gates' deposition testimony in which he indicated that Dr. Chen would not divulge how he was modeling congestion or share his "secret sauce." Deposition of Kevin Gates, September 7, 2011, at 188-90, 241-42, 262-67, 275-77.) Mr. Gates in his second deposition, however, noted the existence of the strategy, based upon his review of Dr. Chen's position paper. *Id.* at 307-08.

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Additionally, Powhatan learned more about this strategy on September 29, 2011, when Dr. Chen discussed it during a meeting at Mr. Estes' office.

In any event, while you already have the documents, to the extent that you would like a further explanation of Dr. Tabors' analysis, we would be pleased to provide Dr. Tabors for an in-person meeting and sit down with you to more thoroughly discuss his analysis. Perhaps we could do that in the context of the larger meeting with FERC that we have previously requested to discuss Powhatan's and Dr. Chen's position papers (and to which you have agreed), or perhaps it could be done in a separate meeting. Please let me know your preference.

In response to requests 18-19 of the third data request, we do not have copies of statistical analyses performed by Dr. Chen (although it is possible that such analyses may exist). The full quote from p. 12 of Dr. Tabors' affidavit states that, "[t]o consider implementation of [the home run] strategy requires that the trader be capable of solid statistical analysis and be experienced in the market." That was simply Dr. Tabors' observation regarding what Dr. Chen is capable of and how trading experience plays a role in a trader's strategic choices.

Regarding request 20 of the third data request, Dr. Tabors did speak with Dr. Chen on a few occasions, but he did not communicate with him in writing. Dr. Tabors participated in a phone conference with Dr. Chen and others on September 29, 2011, that lasted for a couple hours, but Dr. Tabors did not speak directly with Dr. Chen during that phone conference. Dr. Tabors did speak directly with Dr. Chen via telephone on September 30, 2011 (for about 45 minutes) and on October 12, 2011 (for about 20 minutes).

I have enclosed affidavits from Dr. Tabors and Kevin Gates, attesting to the accuracy of the contents of this response. I will look forward to hearing from you.

Sincerely yours,



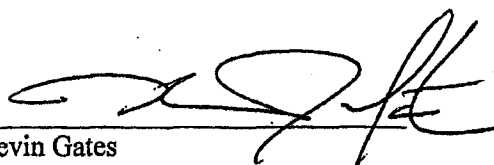
William M. McSwain

Enclosures

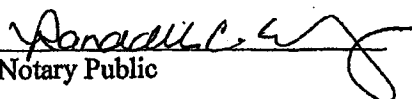
cc: Thomas Olson, Esq. (via email, w/ encls.)
Dr. Richard D. Tabors (via email, w/ encls.)
John N. Estes III, Esq. (via email, w/ encls.)
Earle H. O'Donnell, Esq. (via email, w/ encls.)

AFFIDAVIT

KEVIN GATES, being duly sworn, deposes and states under penalty of perjury that the responses to the November 1, 2011 Data Requests of FERC Office of Enforcement have been prepared under his supervision and control and constitute a true, complete and accurate response to the requests to the best of his knowledge, information, and belief.

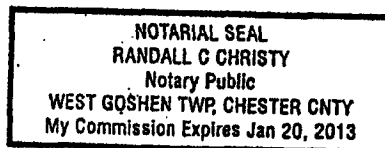

Kevin Gates

Subscribed and sworn to before me this 14 day of November, 2011:


Notary Public

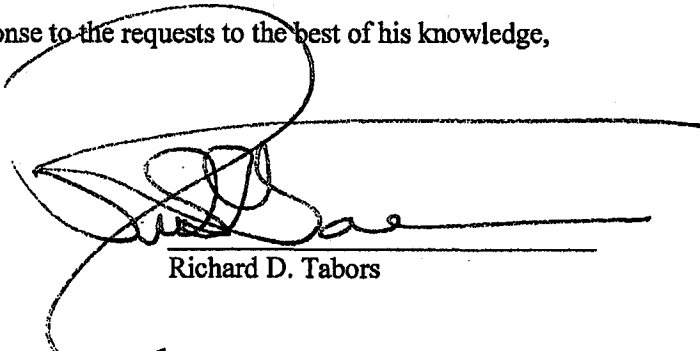
Printed Name: Randall C. Christy

My Commission Expires: Jan. 20, 2013



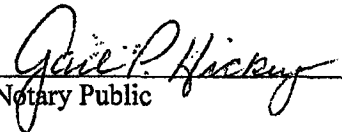
AFFIDAVIT

RICHARD D. TABORS, being duly sworn, deposes and states under penalty of perjury that the responses to the November 1, 2011 Data Requests of FERC Office of Enforcement constitute a true, complete and accurate response to the requests to the best of his knowledge, information, and belief.



Richard D. Tabors

Subscribed and sworn to before me this 14th day of November, 2011:


Notary Public

Printed Name: Gail P. Hickey

My Commission Expires: July 22, 2016

