

FEDERAL ENERGY REGULATORY COMMISSION  
Office of Enforcement, Division of Investigations  
Washington, D.C. 20426



December 3, 2011

**Via Email**

William M. McSwain, Esq.  
Drinker Biddle & Reath, LLP  
One Logan Square, Suite 2000  
Philadelphia, PA 19103

**Re: Powhatan LLC -Response to your November 29, 2011 Letter**

Dear Mr. McSwain:

We have received your November 29, 2011 letter. Powhatan has still not properly answered the Third Data Request. I do not intend to waste time and incur further delay moving forward in this matter by a substantive response to your completely indefensible assertion that a data request asking you to identify documents supporting a theory of defense you have already disclosed constitutes an invasion of your mental processes and, therefore, an effort to obtain attorney work-product. Although the cases and other authority demonstrating that your position lacks any merit are legion, I am confident that such a demonstration would, under the circumstances, be redundant and, therefore, unlikely to achieve its purpose.

Accordingly, with respect to each subpart of Data Requests 14 through 16, we renew our insistence that Powhatan provide a separate answer with respect to each subpart of these data requests in accordance with the instructions in Attachment B to the Third Data Requests, in particular the instructions in paragraph (c)-(e). If Powhatan's answer with respect to Data Requests 14(a)-(c) 15(a)-(c), and 16(a)-(f) is "Trades\_201005.xls," "Trades\_201006.xls," "Trades\_201007.xls," and "Trades 201008.xls," Powhatan should so state in a response that conforms to these instructions. If Powhatan contends that there are additional documents responsive to any of these

requests, its response should identify such documents as well. Powhatan should also provide responses in accordance with the instructions to each of the subparts of Data Request No. 17. Powhatan's response should also confirm your assertion that Mr. Gates did not receive at or about the time of the trades listed in the identified spreadsheets any of the data in those spreadsheets pertaining to the listed trades, *e.g.*, the existence of trades on behalf of Powhatan (or, where applicable, HUNT2) between PJM and MISO and their date, time, and volume.

Regarding your desire for a meeting, we are happy to listen to any presentation you wish to make, once we receive the responses to the identified Data Requests in the form indicated. While I do not recall your previously requesting and my agreeing to a meeting to discuss our reaction to Powhatan's submission or for any other purpose, it is the policy of the Office of Enforcement to grant such requests in all instances. Please propose some dates that work for you and we will let you know which ones work for us.

Sincerely,

/s/

Steven C. Tabackman  
Attorney, Division of Investigations  
Office of Enforcement  
Federal Energy Regulatory Commission