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February 9, 2012

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: *In Re PJM Up-to Congestion Transactions*, Docket No. IN10-5-000

Dear Mr. Tabackman:

I write in response to your letter of January 24, 2012. Yes, my firm represents Kevin Gates and Larry Eiben – White & Case is completely out of this matter.

Regarding your statement that Powhatan has refused to cooperate by not “answering directly” your “precisely defined questions,” I reiterate my position that Powhatan has answered your questions satisfactorily. But it’s also worth pointing out that you don’t have the authority to require any answers at all. Under Section 307(b) of the Federal Power Act, 16 U.S.C. § 825f(b), you are empowered, in this investigation, to take depositions and require the production of documents. Interrogatories such as those you have propounded are beyond the scope of this statutory grant of authority. Notably, the applicable statutory language is very similar to that administered by the SEC’s Division of Enforcement, 15 U.S.C. § 78u. The SEC interprets this statute, correctly, to preclude interrogatories.

Powhatan and Dr. Chen accept your offer for a meeting with the investigative team and supervisors from the Division of Investigations and the Division of Energy Market Oversight. We are available for such a meeting on February 22, 27 or 28. We will bring attorneys to the meeting, but not experts. We understand that the primary purpose of the meeting will not be for Powhatan or Dr. Chen to make a presentation, but instead will be an opportunity for FERC to provide feedback regarding the lengthy written presentations that Powhatan and Dr. Chen have already made. But we anticipate, of course, that the meeting will naturally evolve into a two-way discussion.

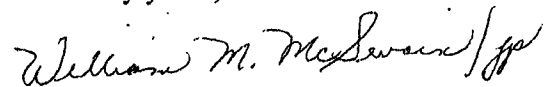
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Please let me know your preferred date and time for the meeting. I will look forward to hearing from you.

Sincerely yours,

A handwritten signature in cursive script that reads "William M. McSwain". The signature is written in dark ink and is positioned to the right of the typed name.

William M. McSwain

cc: Thomas Olson (via email)
Lauren Rosenblatt (via email)
Cathleen Colbert (via email)
Janel Burdick (via email)
Sean Collins (via email)
John N. Estes III (via email)