



**Monitoring
Analytics**

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**MARKET MONITORING UNIT NOTIFICATION TO PJM MEMBERS OF DISCLOSURE
OF CONFIDENTIAL INFORMATION PURSUANT TO OPERATING AGREEMENT
SECTION 18.17.2(A)**

August 26, 2010

Pursuant to section 18.17.2(a) of the PJM Operating Agreement, the Market Monitoring Unit hereby notifies PJM Members that it is directed to disclose to the Department of Justice certain market sensitive information that is otherwise required to be maintained in confidence pursuant to the Operating Agreement. This obligation arises as a result of the attached Civil Investigative Demand (CID) received in connection with the U.S. Department of Justice's review of the proposed mergers of Allegheny Energy, Inc. with FirstEnergy Corporation, and of RRI Energy, Inc. with Mirant Corporation.



U.S. Department of Justice

Antitrust Division

450 Fifth Street NW
Suite 8000
Washington, DC 20001

July 28, 2010

BY CERTIFIED MAIL AND EMAIL

Jeffrey Mayes, Esq.
Monitoring Analytics, LLC
2621 Van Buren Avenue, Suite 160
Eagleville, PA 19403

Re: Civil Investigative Demand No. 26150

Dear Mr. Mayes,

Enclosed with this letter is a Civil Investigative Demand (“CID”) issued pursuant to the Antitrust Civil Process Act, 15 U.S.C. §§ 1311-14, requiring your company to produce certain documents and answer certain interrogatories specified in the annexed Schedule. The CID seeks documents as part of an Antitrust Division investigation into the proposed mergers of Allegheny Energy, Inc. with FirstEnergy Corp., and RRI Energy, Inc. with Mirant Corporation, which may substantially lessen competition.

As noted on the CID, the due date for compliance is August 11, 2010. I should also like to call your attention to the certificate of compliance form printed on the reverse side of the CID. This certificate must be completed by all persons responsible for producing the documentary material called for by the CID and must accompany the documents you submit.

As you will note, I am the designated Deputy Custodian of the documentary materials and interrogatory answers sought from your company. To minimize your inconvenience in complying with the CID and to assist us, we propose that you submit copies of all documents by mail or messenger to me at the Antitrust Division, Transportation, Energy, and Agriculture Section, 450 Fifth Street NW, Suite 8000, Washington, DC 20001. If you elect not to follow this procedure, please contact me.

This CID covers documents in your company’s possession, custody or control, wherever the documents are located. Unless and until we notify you otherwise in writing, we will not seek to

enforce the CID to compel the production of documents that were located outside the United States at the time you received the CID. However, in order to expedite the conclusion of the present investigation, the Department requests your cooperation in producing any such documents on a voluntary basis by the date specified in the CID, or as otherwise agreed in writing.

If you have any questions regarding the CID, please contact me at 202-353-1560 or Tracy Fisher at 202-616-1650.

Sincerely yours,

A handwritten signature in black ink that reads "J. Chandra Mazumdar". The signature is written in a cursive style with a large, stylized initial "J".

J. Chandra Mazumdar

Enclosures

CIVIL INVESTIGATIVE DEMAND FOR DOCUMENTS AND INFORMATION ISSUED TO MONITORING ANALYTICS, LLC

Unless otherwise noted in this schedule, or modified by agreement with the staff of the Department of Justice, each Specification of this Civil Investigative Demand ("CID") requires a complete search of "the Company" as defined in Paragraph "A" of the Definitions and Instructions which appear after the following Specifications. If the Company believes that the required search or any other part of the CID can be narrowed in any way that is consistent with the Department's need for documents and information, you are encouraged to discuss such questions and possible modifications with the Department representatives identified on the last page of this CID. All modifications to this CID must be agreed to in writing by those representatives.

SPECIFICATIONS

1. Identify all internal and external PJM generating units at any time since January 1, 2006, and provide the following fields: (a) unit ID; (b) node ID; (c) unit name; (d) operator ID; (e) operator name; (f) participant ID; (g) parent company name; (h) dates for which the unit was a designated PJM capacity resource; (i) installed capacity rating; (j) effective forced outage rate; (k) indicator if external resource; (l) indicator if exempt from offer mitigation; (m) indicator if can only submit cost-based offers; and (n) valid dates (to be used if one of the fields above changed during the relevant period).
2. Provide a list of all PJM members and participants in the auctions for Energy, Regulation, Spinning Reserves, Day-Ahead Scheduling Reserves, Capacity or Financial Transmission Rights at any time since January 1, 2006. Provide the following fields: (a) participant ID; (b) participant name; (c) parent company name; (d) settlement billing address; and (e) valid dates (to be used if one of the fields above changed during the relevant period).
3. From January 1, 2006, to the present, separately for each PJM energy auction, provide:
 - a. the energy offers effective for the day-ahead market for each generating unit identified in Specification 1. Provide the following fields: (i) market date; (ii) node ID; (iii) unit ID; (iv) unit type; (v) start-up cost; (vi) no-load cost; (vii) all market-based offer price increments; (viii) all corresponding market-based offer quantity increments; (ix) all cost-based offer price increments; (x) all corresponding cost-based offer quantity increments; and (xi) bidslope indicators;
 - b. the energy offers effective for the real-time market for each generating unit identified in Specification 1. Provide the following fields: (i) market date; (ii) node ID; (iii) unit ID; (iv) unit type; (v) start-up cost; (vi) no-load cost; (vii) all market-based offer price increments; (viii) all corresponding market-based

offer quantity increments; (ix) all cost-based offer price increments; (x) all corresponding cost-based offer quantity increments; and (xi) bidslope indicators;

- c. the day-ahead and real-time quantity schedules for each hydroelectric and self-scheduled unit identified in Specification 1. Provide the following fields: (i) date; (ii) hour; (iii) node ID; (iv) unit ID; (v) day-ahead scheduled quantity; and (vi) real-time scheduled quantity;
- d. the following unit-level data: (i) date; (ii) hour; (iii) node ID; (iv) unit ID; (v) day-ahead MW taken; (vi) real-time MW taken; (vii) unit availability flag (e.g., available, unavailable, must-run); (viii) marginal flag indicator; (ix) cost-capped indicator; (x) economic minimum; (xi) economic maximum; (xii) emergency minimum; (xiii) emergency maximum; (xiv) minimum run time; and (xv) ramp rates;
- e. for each bid, offer, or transaction that is marginal in the day-ahead market: (i) type of transaction; (ii) date; (iii) hour; (iv) node ID; (v) unit ID; (vi) participant ID; (vii) bid, offer, or transaction price; (viii) MW taken; and (ix) unit participation factors for each generation and intertie node;
- f. for each bid, offer, or transaction that is marginal in the real-time market: (i) type of transaction; (ii) date; (iii) hour; (iv) node ID; (v) unit ID; (vi) participant ID; (vii) bid, offer, or transaction price; and (viii) MW taken; and (ix) unit participation factors for each generation and intertie node;
- g. all fixed demand bids, all price-sensitive demand bids, all decrement demand bids, and all incremental supply offers. Provide the following fields: (i) type of bid or offer; (ii) date; (iii) hour; (iv) node ID; (v) participant ID; (vi) all market-based offer or bid price increments; (vii) all corresponding market-based offer or bid quantity increments; and (viii) MW taken;
- h. all day-ahead fixed transactions, all day-ahead dispatchable transactions, all day-ahead up-to congestion transactions, and all real-time fixed transactions, all real-time dispatchable transactions, all real-time up-to congestion transactions. Provide the following fields: (i) type of transaction; (ii) date; (iii) hour; (iv) source node ID; (v) sink node ID; (vi) participant ID; (vii) all market-based offer or bid price increments; (viii) all corresponding market-based offer or bid quantity increments; and (ix) MW taken;
- i. for the day-ahead market, for each node, aggregate, zone, interface, and hub: (i) date; (ii) hour; (iii) node ID; (iv) the locational marginal price; (v) the MWs of load; and (vi) the MWs of generation;
- j. for the real-time market, for each node, aggregate, zone, interface, and

hub, (i) date; (ii) hour; (iii) node ID; (iv) the locational marginal price; (v) the MWs of load; and (vi) the MWs of generation; and

- k. for the day-ahead market, separately for each binding constraint, the constraint's shadow price by hour.
4. From January 1, 2006 to the present, for every generating unit in PJM, provide the unit ID, the date and hour when a unit was experiencing an outage, and provide all reasons for that outage provided by the generator operator.
5. Provide a list of each location in PJM for which a locational marginal price has been calculated at any time since January 1, 2006, including all nodes, aggregates, zones, interfaces, and hubs. Provide the following fields: (a) node ID; (b) node name; (c) node type (e.g., load, bus, aggregate, interface, hub); (d) node zone; (e) latitude and longitude; and (f) valid dates (to be used if one of the fields above changed during the relevant period).
6. From January 1, 2006, to the present, provide:
 - a. the net flows over all of PJM's transmission elements separately for: (i) the day-ahead market; and (ii) the real-time market; and
 - b. the transfer capabilities (both warning levels and transfer limits) for all of PJM's transmission elements.
7. From January 1, 2006, to the present:
 - a. separately for (i) the day-ahead market; and (ii) the real-time market, identify all imports to or exports from the PJM control area, and identify the supplier of the import or export, the amount taken, the contract path (including an indicator if constrained), and whether the supplier of any import had network transmission service in PJM; and
 - b. provide the import and export transfer capability between PJM and Midwest ISO, PJM and New York ISO, and PJM and any other region electrically connected to PJM on an hourly basis.
8. From January 1, 2006, to the present, separately for each generating unit in PJM, provide the day-ahead generation shift factor calculated by PJM for the following transmission elements: (a) AP South Interface; (b) Western Interface; (c) 5004/5005 Interface; (d) Pleasant Valley-Belvidere; (e) Kammer transformer(s); (f) Central Interface; (g) Eastern Interface; (h) Mount Storm-Pruntytown; (i) Dunes Acres-Michigan City flowgate; (j) Beddington-Black Oak; (k) Doubs transformer(s); (l) Cloverdale-Lexington; (m) Clover transformer(s); (n) Elrama-Mitchell; (o) TrAIL;

- (p) Susquehanna-Roseland; (q) Branchburg-Roseland; (r) Roseland-Hudson; and (s) Athenia-Saddlebrook.
9. From January 1, 2009, to the present, for each time the Three Pivotal Supplier Test was applied and resulted in mitigation in the day-ahead energy or real-time energy markets, provide the analysis that was done and the results of the analysis.
10. Separately for each annual PJM Reliability Pricing Model (“RPM”) Base Auction from the 2007/08 Auction to the present:
- a. provide the market demand curves for each Locational Delivery Area (“LDA”); and
 - b. identify each potential capacity resource, and for each resource identified, and state: the type of capacity (*e.g.*, demand resource, existing generating unit, entering generating unit, interruptible load for reliability, qualifying transmission upgrade); (ii) the LDA; (iii) the price offered; (iv) the quantity offered; (v) whether it was committed to satisfy reliability requirements of Load-Serving Entities that have elected the Fixed Resource Requirement alternative; and (vi) any offer cap, and if so, the calculation type (*e.g.*, default ACR selected, ACR data input (APIR), ACR data input (non-APIR), opportunity costs), and whether it was imposed.
11. Separately for each PJM-conducted ATSI FRR Integration Auction from the 2011/12 Auction to the present:
- a. provide the market demand curves for each Locational Delivery Area (“LDA”); and
 - b. identify each potential capacity resource, and for each resource identified, state: (i) the type of capacity (*e.g.*, demand resource, existing generating unit, entering generating unit, interruptible load for reliability, qualifying transmission upgrade); (ii) the LDA; (iii) the price offered; (iv) the quantity offered; (v) whether it was committed to satisfy reliability requirements of Load-Serving Entities that have elected the Fixed Resource Requirement alternative; and (vi) any offer cap, and if so, the calculation type (*e.g.*, default ACR selected, ACR data input (APIR), ACR data input (non-APIR), opportunity costs), and whether it was imposed.
12. From December 1, 2008 to the present, separately for each generating unit in PJM that offered into the Regulation market or operated to provide Regulation, state:
- a. for each offer: (i) unit ID; (ii) regulation zone; (iii) the date of the offer; (iv) the time, day, month, or multi-month period covered by the offer; (v) the quantity offered; (vi) the price offered; (vii) the opportunity cost; and (viii) whether the offer was mitigated, and if so, the mitigated offer; and

- b. if the unit operated: (i) the hour and date of the provision; (ii) the quantity provided; (iii) why the service was provided (e.g., self-scheduled, cleared in PJM auction(s)); and (iv) the clearing price.
- 13. From March 15, 2008 to the present, separately for each generating unit in PJM that offered into the Synchronized Reserve market or operated to provide Synchronized Reserves, state:
 - a. for each offer: (i) unit ID; (ii) reserve zone; (iii) the date of the offer; (iv) the time, day, month, or multi-month period covered by the offer; (v) the quantity offered; (vi) the price offered; (vii) opportunity cost; and (viii) whether the offer was mitigated, and if so, the mitigated offer; and
 - b. if the unit operated: (i) the hour and date of the provision; (ii) the quantity provided; (iii) unit status (e.g., self-scheduled, cleared in PJM auction(s)); (iv) the clearing price; and (v) energy cost.
- 14. From June 1, 2008 to the present, separately for each generating unit in PJM that offered into the Day-Ahead Scheduling Reserve market or was scheduled by PJM to provide Day-Ahead Scheduling Reserves, state:
 - a. for each offer: (i) unit ID; (ii) reserve zone; (iii) the date of the offer; (iv) the time, day, month, or multi-month period covered by the offer; (v) the quantity offered; (vi) the price offered; and (vii) whether the offer was mitigated, and if so, the mitigated offer; and
 - b. if the unit operated: (i) the hour and date of the provision; (ii) the quantity provided; (iii) unit status (e.g., self-scheduled, cleared in PJM auction(s)); and (iv) the clearing price.
- 15. From January 1, 2006, to the present, for each PJM member denoted in Specification 2, provide the member's Auction Revenue Rights (ARRs) and Financial Transmission Rights (FTRs). Provide the following fields: (a) month; (b) participant ID; (c) source; (d) sink; (e) ARR MWs; and (f) FTR MWs.
- 16. Submit all long-term strategic planning studies discussing the impact on constraints or energy prices of any upgrades to, enhancements of, or construction of transmission elements of 230 kV or greater: (a) that have occurred since 2008; or (b) that are currently planned, for transmission located: (i) within the PJM control area; or (ii) within control areas that are adjacent to the PJM control area. Submit all related work papers.

17. Submit all studies, and the workpapers for such studies, discussing the proposed integration into PJM of the ATSI zone(s) or the Duke zone(s) (e.g., Duke Energy Ohio, Duke Energy Kentucky) of Midwest ISO.
18. Submit all documents discussing or analyzing the dispute between PJM and MISO before the Federal Energy Regulatory Commission (FERC) over redispatch payments, including FERC Docket Nos. EL10-45, EL10-46, EL10-60, and related dockets.
19. Submit all studies, and any workpapers for such studies, discussing the proposed transactions between (a) FirstEnergy and Allegheny Energy; or (b) Mirant and RRI.
20. For each database used or accessed to provide any response to the above Specifications, provide documentation detailing the field name, field format, and field definition. Where hourly information is provided, explain: (a) how daylight savings time is accommodated; (b) how instantaneous prices and quantities are averaged over the hour; and (c) whether the hour denotes the “hour beginning” or the “hour ending.”
21. Provide any databases used to merge two or more of the files produced in response to any Specification, including but not limited to the file that provides a match between the unit IDs used in the offer data and the unit IDs used in the outage data.
22. Identify the person(s) responsible for preparing the response to this CID and submit a copy of all instructions prepared by the Company relating to the steps taken to respond to this CID. Where oral instructions were given, identify the person who gave the instructions and describe the content of the instructions and the person(s) to whom the instructions were given. For each Specification, identify the individual(s) who assisted in the preparation of the response, with a listing of the person(s) (identified by name and corporate title or job description) whose files were searched by each.

DEFINITIONS AND INSTRUCTIONS

For the purposes of this CID, the following definitions and instructions apply:

- A. “Monitoring Analytics,” “the Company,” “you,” or “your” means Monitoring Analytics, LLC, its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and all directors, officers, employees, agents and representatives of the foregoing. The terms “subsidiary,” “affiliate,” and “joint venture” refer to any person in which the Company holds at least a 25 percent interest, regardless of how the Company’s interest is measured (e.g., number of shares, degree of control, board seats or votes).

- B. “PJM” means PJM Interconnection, L.L.C., its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and all directors, officers, employees, agents and representatives of the foregoing. The terms “subsidiary,” “affiliate,” and “joint venture” refer to any person in which PJM holds at least a 25 percent interest, regardless of how PJM’s interest is measured (e.g., number of shares, degree of control, board seats or votes).
- C. “FirstEnergy” means FirstEnergy Corp., its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing. The terms “subsidiary,” “affiliate,” and “joint venture” refer to any person in which First Energy holds at least a 25 percent interest, regardless of how First Energy’s interest is measured (e.g., number of shares, degree of control, board seats or votes).
- D. “Allegheny Energy” means Allegheny Energy, Inc., its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing. The terms “subsidiary,” “affiliate,” and “joint venture” refer to any person in which Allegheny Energy holds at least a 25 percent interest, regardless of how Allegheny Energy’s interest is measured (e.g., number of shares, degree of control, board seats or votes).
- E. “Mirant” means Mirant Corp., its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing. The terms “subsidiary,” “affiliate,” and “joint venture” refer to any person in which Mirant holds at least a 25 percent interest, regardless of how Mirant’s interest is measured (e.g., number of shares, degree of control, board seats or votes).
- F. “RRI” means RRI Energy, Inc., its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing. The terms “subsidiary,” “affiliate,” and “joint venture” refer to any person in which RRI holds at least a 25 percent interest, regardless of how RRI’s interest is measured (e.g., number of shares, degree of control, board seats or votes).
- G. The terms “and” and “or” have both conjunctive and disjunctive meanings.
- H. The term “discussing” when used to refer to documents means analyzing, constituting, summarizing, reporting on, considering, recommending, setting forth or describing a subject. Documents that contain reports, studies, forecasts, analyses, plans, proposals, evaluations, recommendations, directives, procedures, policies, or guidelines regarding a subject should be treated as documents that discuss the subject. However, documents that

merely mention or refer to a subject without further elaboration should not be treated as documents that discuss that subject.

- I. The term “documents” means all written, recorded, and graphic materials and all electronic data of every kind in the possession, custody or control of the Company. The term “documents” includes electronic correspondence, drafts of documents, metadata, embedded, hidden and other bibliographic or historical data describing or relating to documents created, revised, or distributed on computer systems, and all duplicates of documents (whether or not identical) in the files of or in the files maintained on behalf of all directors, officers, managers, or other supervisory employees, duplicates of documents in all other files that are not identical duplicates of the originals, and duplicates of documents the originals of which are not in the possession, custody or control of the Company. The term “documents” includes spreadsheets, as well as underlying cell formulae and other codes. The term “documents” also includes electronic mail messages and other documents and data stored in, or accessible through, computer or other information retrieval systems, such as personal computers, portable computers, workstations, minicomputers, personal data assistants, archival voice storage systems, group and collaborative tools, electronic messaging devices, portable or removable storage media, mainframes, servers, backup disks and tapes, archive disks and tapes, and other forms of online or offline storage, whether on or off Company premises. Unless otherwise specified, the term “documents” excludes bills of lading, invoices in non-electronic form, purchase orders, customs declarations, and other similar documents of a purely transactional nature and also excludes architectural plans and engineering blueprints.
- J. “Identify,” in the case of an electric generating unit, means a statement of the name by which it is commonly known, its location, and:
1. its owner(s) (including any parent company) and their respective ownership or dispatch interests; and
 2. any person, other than the owner(s) that have operating or dispatch rights for the unit (*i.e.*, toll operator).
- K. The term “person” includes the Company and means any natural person, corporate entity, partnership, association, joint venture, government entity, or trust.
- L. The term “relating to” means in whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, or stating.
- M. All references to year refer to calendar year. Unless otherwise specified, each Specification that calls for documents requires the Company to submit all responsive documents that were created or received by the Company after the date that is two (2) years prior to the date of the issuance of this CID. Where information, rather than documents, is requested, provide it separately for each

year. Where yearly data is not yet available, provide data for the calendar year to date. If calendar year information is not available, supply the Company's fiscal year data indicating the twelve-month period covered, and provide the Company's best estimate of calendar year data.

N. The response to this CID shall be submitted in the following manner:

1. Documents produced shall be complete and, unless privileged, unredacted, submitted as found in the Company's files (e.g., documents that in their original condition were stapled, clipped, or otherwise fastened together, or maintained in separate file folders, shall be produced in such form). Documents submitted shall be produced in the order in which they appear in the Company's files and shall not be shuffled or otherwise rearranged.
2. The Company may submit photocopies (with color photocopies where necessary to interpret the document) in lieu of original hard-copy documents.
3. Unless otherwise requested by a Department representative, electronic documents (e.g., e-mail) and data shall be produced in electronic form only. Electronic documents and data shall be produced in a format that allows the Department to access and use them, together with instructions and all other materials necessary to use or interpret the data, including record layouts and data dictionaries. For data submitted electronically, submit a description of the data's source. For documents and data submitted electronically, each electronic media device must be labeled so as to identify the contents of that media device. For electronic media containing electronic documents, the label must state which custodians' documents are contained on the device and the document control numbers of those documents.
4. Mark each page of each document submitted – whether in hard-copy or electronic format – with corporate identification and consecutive document control numbers. Place all documents produced in hard-copy format in file folders. Mark each file folder with the Company's corporate identification, the name of the person whose documents are in the folder and how the original file was labeled. If the Company submits hard copies of electronic documents that have been printed from a common electronic source, such as a central e-mail or document server or a backup disk, such documents must be submitted in file folders that are marked with (a) a description of the enclosed documents' electronic source (e.g., "Documents from Backup Tape No. 3 for E-mail Server XYZ, 3/1/06 - 3/31/06"); and (b) the name of each natural person whose electronic documents are contained in that file folder.
5. In lieu of searching backup tapes or other media that are not reasonably accessible, but that may contain information responsive to this CID, the Company may elect to identify and preserve for the duration of the Department's investigation a select subset of such backup and other media,

such subset to be approved in writing by Department representatives. In the event that Department representatives determine in their sole discretion that a search of the select subset of backup tapes is necessary, they shall so inform the Company, which will be required to conduct a review of the subset and produce any responsive information contained therein.

6. Hard-copy documents shall be submitted in sturdy boxes not larger than 1.5 cubic feet. Number each box and mark each box with corporate identification and the name(s) of the person(s) whose files are contained in that box.
 7. Provide any index of documents prepared by any person in connection with your response to this CID. If the index is available in machine-readable form, provide it in that form.
 8. If you intend to utilize any de-duplication software or services when collecting or reviewing information that is stored in the Company's computer systems or electronic storage media in response to this CID, or if the Company's computer systems contain or utilize such software, you must contact the attorneys for the government to determine, with the assistance of the appropriate government technical staff, whether and in what manner the Company may use such software or services.
- O. Before you prepare documents or information for production in electronic form (for example, before you attempt to copy, for your response to this CID, documents or information from an electronically stored source onto a disk or other electronic storage medium), you must contact a Department representative to arrange a meeting or conference call with the Company's personnel who are familiar with the electronic files in which the documents or information are stored, to explain to Department representatives the manner in which the documents or information are stored, and the types of information that are available on the electronic source. Department representatives must approve the format and production method for electronic data in advance of the submission by the Company of its response to this CID.
- P. If search terms were used to conduct all or any part of the search, provide a list of search terms used, along with a glossary of industry and Company terminology. In addition, describe the search methodologies and the applications used to execute the search.
- Q. Any documents that are withheld in whole or in part from production based on a claim of privilege shall be assigned document control numbers (with unique consecutive numbers for each page of each document), for purposes of this instruction, each attachment to a document shall be treated as a separate document and separately logged, if withheld, and cross referenced, if produced. The Company shall also provide a statement of the claim of privilege and all facts relied upon in support of the decision to withhold each document, in the form of a log that conforms with the requirements set forth below. The Company is encouraged to propose categorical limitations to exclude certain classes of privileged documents from its log.
1. For each document identified on the Company's privilege log, state:

- a. the document's control numbers;
 - b. all authors of the document;
 - c. all addressees of the document;
 - d. all recipients of the document or of any copies of the document, to the extent not included among the document's addressees;
 - e. the date of the document;
 - f. a description of the subject matter of the document;
 - g. the nature or type of the privilege that the Company is asserting for the document (e.g., "attorney-client privilege");
 - h. the Specification(s) of this CID to which the document is responsive;
 - i. the document control number(s) of any attachments to the document, regardless of whether any privilege is being asserted for such attachment(s); and
 - j. whether the document has been produced in redacted form, and if so the range of the control numbers for the document.
2. The Company's privilege log shall also conform with all of the following requirements:
- a. Provide a separate legend containing the full name, title(s), and employer or company affiliation of each author, addressee, and recipient identified on the Company's privilege log.
 - b. All attorneys acting in a legal capacity with respect to the withheld document or communication, and only such attorneys, shall be identified on the privilege log with an asterisk.
 - c. The description of the subject matter of each document shall describe the nature of the document in a manner that, though not revealing information that is itself privileged, provides sufficiently detailed information to enable the Department to assess the applicability of the privilege claimed.
 - d. Attachments to a document should be identified as such and entered separately on the log.
 - e. For each document withheld under a claim that it constitutes or contains attorney work product, also state whether the Company asserts that the document was prepared in anticipation of litigation or for trial and, if so, identify the anticipated litigation or trial upon which the assertion is based.
 - f. Produce all nonprivileged portions of any responsive document (including nonprivileged or redactable attachments) for which a claim of privilege is asserted, except where the only nonprivileged information in the document has already been produced. Note where any redactions in the document have been made.
 - g. The privilege log shall be produced in both hard-copy and electronic form, the electronic form of which shall be both searchable and sortable.
 - h. Documents sent solely between counsel for the Company, including in-house counsel acting solely in a legal capacity, and documents

authored by the Company's outside counsel that were not directly or indirectly furnished to any third party, such as internal law firm memoranda, may be omitted from the privilege log. However, any attachments to such documents must be included on the privilege log (if a privilege is applicable to such materials), unless such attachments are addressed and sent solely to counsel.

- R. If the Company is unable to answer any question fully, supply such information as is available. Explain why such answer is incomplete, the efforts made by the Company to obtain the information, and the source from which the complete answer may be obtained. If books and records that provide accurate answers are not available, enter best estimates and describe how the estimates were derived, including the sources or bases of such estimates. Estimated data should be followed by the notation "est." If there is no reasonable way for the Company to make an estimate, provide an explanation.
- S. If documents responsive to a particular Specification no longer exist for reasons other than the ordinary course of business or the implementation of the Company's document retention policy, state the circumstances under which they were lost or destroyed, describe the documents to the fullest extent possible, state the Specification(s) to which they are responsive, and identify persons having knowledge of the content of such documents.
- T. In order for the Company's response to this CID to be complete, the certification on the reverse of the Civil Investigative Demand form must be executed by the official supervising compliance with this CID, notarized, and submitted along with the responsive materials.

Any questions you have relating to the scope or meaning of anything in this CID or suggestions for possible modifications thereto should be directed to J. Chandra Mazumdar at (202) 353-1560. The response to the CID shall be addressed to the attention of Mr. Mazumdar and delivered between 8:30 a.m. and 5:00 p.m. on any business day to 450 Fifth Street, NW, Suite 8000, Washington, DC, 20001. If you wish to submit your response by United States mail, please call staff listed above for mailing instructions.