

**CONFIDENTIAL**

**ICC Docket No. 15-0608**  
**Respondents' Response to**  
**the Staff Office of General Counsel's Second Set of Data Requests 2.01-2.07**  
**Date of Requests: December 18, 2015**

**REQUEST NO. OGC 2.04 (CONFIDENTIAL):**

In an email Bates stamped RSP\_000350 and dated January 8, 2015, 6:13:16 AM, \*\*\*BEGIN CONF David Giesler END CONF\*\*\* asked \*\*\* BEGIN CONF Ken Van Overberghe END CONF \*\*\*, "Are you in the office? I sent you a meeting invite 'Draft of 20 year cost presentation' in which \*\*\* BEGIN CONF John K END CONF\*\*\* requested you give the presentation to some of his staff and want to be sure you are able to attend. The meeting is scheduled for today at 11:30..." In an email Bates stamped RSP\_000351 and dated January 8, 2015 at 7:53:26 AM, \*\*\* BEGIN CONF Ken Van Overberghe END CONF \*\*\* responds to \*\*\*BEGIN CONF Mr. Giesler END CONF\*\*\*, "Trains running very late today – I am in and will plan on presenting." With regard to these two documents:

- (a) Please provide the meeting invite referenced by \* \* \* BEGIN CONF Mr. Giesler END CONF \* \* \*, as well as all responses to that invite;
- (b) The full name and title of the individual named as \*\*\* BEGIN CONF "John K" END CONF\*\*\*;
- (c) A list of attendees at the meeting referenced;
- (d) Any agenda, notes, minutes or other documents referring to or resulting from the meeting referenced;
- (e) A copy of any presentation made by \*\*\* BEGIN CONF Mr. Van Overberghe END CONF\*\*\*.

**RESPONSE:**

Respondents object to this data request as being overbroad, ambiguous, and calling for speculation to the extent it asks for the meaning and/or interpretation of undefined terms used in an email by a person -- David Giesler -- who is no longer employed by the Respondents or any of their affiliates. Without waiver of the foregoing objections or their General Objections, Respondents respond to this data request as follows:

- (a) Copies of the meeting invite and one acceptance have been produced as the documents Bates-stamped as RSP\_000352 through RSP\_000355. Additional copies of the meeting invite and related Outlook calendar items not previously produced are attached as RSP OGC 2.04 Attachment 1.
- (b) While only David Giesler -- who is no longer employed by the Respondents or any of their affiliates -- can state exactly who he meant by his use of the name, "John K" in his email produced as RSP\_000350, it is the Respondents' belief that he was referring to John Kleczynski.

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- (c) Based upon the Outlook calendar items produced as RSP OGC 2.04 Attachment 1 in response to subpart (a), above, Respondents state that the attendees to this meeting were David Giesler, Matthew G. McCarty, David Lazzaro, Magued Zaglama, and Ken Van Overberghe.
- (d) Respondents object to this data request to the extent it calls for the disclosure of attorney-client privileged or work product protected information. Without waiver of the foregoing objection and their General Objections, Respondents state that they are not aware of any agenda, notes, minutes or other documents referring to or resulting from the meeting at issue. Respondents further state that they are in the process of producing all documents in their possession and control related to the preliminary draft cost estimate model prepared by Jacobs that was the topic of this meeting. Investigation continues.
- (e) Ken Van Overberghe projected only selected PowerPoint slides from a larger presentation deck for the attendees of this meeting. Ken Van Overberghe did not provide copies of the entire presentation deck or the selected slides projected for attendees Matthew G. McCarty or David Lazzaro, in either electronic or hard copy format.

**Person(s) Responsible:** This response is based on records and documents produced by the Respondents. Additionally, with respect to subpart (c), Matthew G. McCarty and David Lazzaro are responsible persons concerning their attendance. With respect to subpart (e), Matthew G. McCarty is the responsible person.

**From:** Giesler, David D  
**Required Attendees:** Zaglama, Magued; Van Overberghe, Ken; McCarty, Matthew G  
**Location:** \_IL CHI Aon 16N-2  
**Importance:** High  
**Subject:** Canceled: Draft of 20 year cost model presentation  
**Start Date/Time:** Thur 1/8/2015 5:30:00 PM  
**End Date/Time:** Thur 1/8/2015 6:30:00 PM  
**Recurrence Pattern:** None

**From:** Giesler, David D  
**Location:** \_IL CHI Aon 16N-2  
**Importance:** Normal  
**Subject:** FW: Draft of 20 year cost model presentation  
**Start Date/Time:** Thur 1/8/2015 5:30:00 PM  
**End Date/Time:** Thur 1/8/2015 6:30:00 PM  
**Recurrence Pattern:** None

-----Original Appointment-----

**From:** Giesler, David D  
**Sent:** Wednesday, January 07, 2015 7:56 AM  
**To:** Giesler, David D; Zaglama, Magued; Van Overberghe, Ken; McCarty, Matthew G  
**Subject:** Draft of 20 year cost model presentation  
**When:** Thursday, January 08, 2015 11:30 AM-12:30 PM (UTC-06:00) Central Time (US & Canada).  
**Where:** \_IL CHI Aon 16N-2

**From:** \_IL CHI Aon 16N-1  
**Location:** \_IL CHI Aon 16N-1  
**Importance:** Normal  
**Subject:** Declined: Draft of 20 year cost model presentation  
**Start Date/Time:** Thur 1/8/2015 5:30:00 PM  
**End Date/Time:** Thur 1/8/2015 6:30:00 PM

RSP OGC 2.04 Attach 01  
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**Your request was declined because there are conflicts.**

The conflicts are:

**Organizer and Time of Conflicting Meeting**

[Cherry, Steve](#) - Thursday, January 08, 2015 11:00:00 AM to Thursday, January 08, 2015 12:00:00 PM

All times listed are in the following time zone: (UTC-06:00) Central Time (US & Canada)

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Sent by Microsoft Exchange Server 2010

RSP\_001015

**From:** \_IL CHI Aon 16N-2  
**Location:** \_IL CHI Aon 16N-2  
**Importance:** Normal  
**Subject:** Accepted: Draft of 20 year cost model presentation  
**Start Date/Time:** Thur 1/8/2015 5:30:00 PM  
**End Date/Time:** Thur 1/8/2015 6:30:00 PM

RSP OGC 2.04 Attach 01  
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**Your request was accepted.**

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Sent by Microsoft Exchange Server 2010

RSP\_001016

**From:** \_IL CHI Aon 16N-1  
**Location:** \_IL CHI Aon 16N-1  
**Importance:** Normal  
**Subject:** Accepted: Draft of 20 year cost model presentation  
**Start Date/Time:** Thur 1/8/2015 6:00:00 PM  
**End Date/Time:** Thur 1/8/2015 7:00:00 PM

RSP OGC 2.04 Attach 01  
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**Your request was accepted.**

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Sent by Microsoft Exchange Server 2010

RSP\_001017

**From:** Lazzaro, David J  
**Location:** \_IL CHI Aon 16N-2  
**Importance:** Normal  
**Subject:** Tentative: FW: Draft of 20 year cost model presentation  
**Start Date/Time:** Thur 1/8/2015 5:30:00 PM  
**End Date/Time:** Thur 1/8/2015 6:30:00 PM  
**Recurrence Pattern:** None

Dave, I am meeting with the union at 10am. I am not sure if I will be able to get to your meeting by 11:30am.

Dave L

**From:** Microsoft Outlook  
**Location:** \_IL CHI Aon 16N-2  
**Importance:** Normal  
**Subject:** Meeting Forward Notification: Draft of 20 year cost model presentation  
**Start Date/Time:** Thur 1/8/2015 5:30:00 PM  
**End Date/Time:** Thur 1/8/2015 6:30:00 PM

## Your meeting was forwarded

[Giesler, David D](#) has forwarded your meeting request to additional recipients.

### Meeting

Draft of 20 year cost model presentation

### Meeting Time

Thursday, January 08, 2015 11:30 AM-12:30 PM.

### Recipients

[Lazzaro, David J](#)

All times listed are in the following time zone: (UTC-06:00) Central Time (US & Canada)

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Sent by Microsoft Exchange Server 2010

**From:** McCarty, Matthew G  
**Location:** \_IL CHI Aon 16N-1  
**Importance:** Normal  
**Subject:** Accepted: Draft of 20 year cost model presentation  
**Start Date/Time:** Thur 1/8/2015 5:30:00 PM  
**End Date/Time:** Thur 1/8/2015 6:30:00 PM  
**Recurrence Pattern:** None

**From:** Zaglama, Magued  
**Location:** \_IL CHI Aon 16N-2  
**Importance:** Normal  
**Subject:** Accepted: Draft of 20 year cost model presentation  
**Start Date/Time:** Thur 1/8/2015 5:30:00 PM  
**End Date/Time:** Thur 1/8/2015 6:30:00 PM

**From:** Zaglama, Magued  
**Location:** \_IL CHI Aon 16N-2  
**Importance:** Normal  
**Subject:** Accepted: Draft of 20 year cost model presentation  
**Start Date/Time:** Thur 1/8/2015 5:30:00 PM  
**End Date/Time:** Thur 1/8/2015 6:30:00 PM