

Michael Mabee

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November 3, 2019

Ingrid A. Kolb, Chief FOIA Officer
U.S. Department of Energy
FOIA Requester Service Center
1000 Independence Avenue, SW
Mail Stop MA-46
Washington, DC 20585

Via U.S. Mail and Email: ingrid.kolb@hq.doe.gov

Subject: Request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552.

Dear Ms. Kolb:

I request records under the Freedom of Information Act, which are described below. Further, as more fully set forth below, I also request a fee waiver as I have no commercial interest in the described records and it is in the public interest for the Department of Energy (DOE) to disclose these records to the public.

Description of records sought:

I seek the following records:

1. All emails, reports, notes, correspondence or other documents either sent/produced by, or sent to DOE employees Bruce J. Walker, Karen S. Evans, Kavita Vaidyanathan or any other DOE employees between August 1, 2019 and October 30, 2019 which in any way reference:
 - a. The Federal Energy Regulatory Commission ("FERC" or "Commission") and North American Electric Reliability Corporation ("NERC") Joint Staff White Paper on Notices of Penalty Pertaining to Violations of Critical Infrastructure Protection Reliability Standards ("Joint White Paper") issued by FERC in Docket No. AD19-18-000.
 - b. DOE's filing or potential filing in FERC Docket No. AD19-18-000, entitled: "Comments of the United States Department of Energy".
2. All emails, reports, notes, correspondence or other documents either sent to, originated from, or refer to any of the following organizations (or law firms representing these organizations) that in any way reference FERC Docket No. AD19-18-000 or the DOE's filing or potential filing in FERC Docket No. AD19-18-000:
 - a. North American Electric Reliability Corporation ("NERC")
 - b. U.S. Chamber of Commerce
 - c. Joint Trade Associations

- d. Edison Electric Institute ("EEI")
- e. American Public Power Association ("APPA")
- f. National Rural Electric Cooperative Association ("NRECA")
- g. Large Public Power Council ("LPPC")
- h. Transmission Access Policy Study Group ("TAPS")
- i. Electric Power Supply Association ("EPSA")
- j. WIRES
- k. Electricity Consumers Resource Council ("ELCON")
- l. Canadian Electricity Association (CEA)
- m. North American Generator Forum ("NAGF")
- n. New York Power Authority ("NYPA")
- o. PSEG Services Corporation or PSEG Companies ("PSEG")
- p. Georgia System Operations Corporation ("GSOC")
- q. Georgia Transmission Corporation ("GTC")
- r. Cogentrix Energy Power Management, LLC ("CEPM")
- s. Memphis Light, Gas and Water Division ("MLGW")
- t. ISO-RTO Council, or any of its members, including Alberta Electric System Operator ("AESO"), California Independent System Operator ("CAISO"), Electric Reliability Council of Texas, Inc. ("ERCOT"), the Independent Electricity System Operator of Ontario, Inc. ("IESO"), ISO New England, Inc. ("ISO-NE"), Midcontinent Independent System Operator, Inc. ("MISO"), New York Independent System Operator, Inc. ("NYISO"), PJM Interconnection, L.L.C. ("PJM"), and Southwest Power Pool, Inc. ("SPP").
- u. MISO Transmission Owners, or any of its members, including Ameren Services Company, as agent for Union Electric Company d/b/a Ameren Missouri, Ameren Illinois Company d/b/a Ameren Illinois and Ameren Transmission Company of Illinois; American Transmission Company LLC; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, IL); Cleco Power LLC; Cooperative Energy; Dairyland Power Cooperative; Duke Energy Business Services, LLC for Duke Energy Indiana, LLC; East Texas Electric Cooperative; Entergy Arkansas, LLC; Entergy Louisiana, LLC; Entergy Mississippi, LLC; Entergy New Orleans, LLC; Entergy Texas, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company d/b/a ITCTransmission; ITC Midwest LLC; Lafayette Utilities System; Michigan Electric Transmission Company, LLC; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern Indiana Public Service Company LLC; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power Inc.; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.
- v. U.S. Federal Energy Regulatory Commission ("FERC")
- w. U.S. Department of Homeland Security ("DHS")

Request for Waiver of Fees:

I am a private citizen with expertise in emergency preparedness and critical infrastructure protection. I maintain a blog where I intend to disseminate this information¹. I accept no advertising on my blog and derive no revenue from writing or posting my blog articles. I have no commercial interest in these records and will use these records in research and information dissemination to the public.

As set forth fully below, I am entitled to a waiver of fees as I meet all the requirements of 10 CFR § 1004.9(a)(8).

Requirement: 10 CFR § 1004.9(a)(8)(i) That disclosure of the information “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.” Factors to be considered in applying this criteria include but are not limited to:

- (A) The subject of the request: Whether the subject of the requested records concerns “the operations or activities of the government”;
- (B) The informative value of the information to be disclosed: Whether the disclosure is “likely to contribute” to an understanding of government operations or activities;
- (C) The contribution to an understanding by the general public of the subject likely to result from disclosure; and
- (D) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute “significantly” to public understanding of government operations or activities.

Answer:

- (A) The protection of the critical infrastructure, including the electric grid, is a clear function of the federal government.² The regulation of the critical infrastructures by the federal government and the transparency of the process – including the identities of entities that violate reliability standards– concerns the operations or activities of the government.
- (B) The Department of Energy submitted comments and opinions of a government agency into a public docket of the Federal Energy Regulatory Commission (FERC).³ It is of interest to the public whether the DOE communicated with organizations which represent the electric utility industry on the subjects contained in DOE’s comments – especially since DOE’s comments are in opposition to those of many public commenters in the same docket.
- (C) Disclosure of this information will inform the public as to the actions the government and regulators have taken to ensure the security of the electric grid. There has been a great deal of media attention and government notices and hearings regarding recent cyberattacks and cybersecurity breaches to the electric grid. Disclosure of the requested information is

¹ <https://michaelmabee.info> (accessed November 2, 2019).

² Executive Order 13800 “Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure.” May 11, 2017. <https://www.gpo.gov/fdsys/pkg/FR-2017-05-16/pdf/2017-10004.pdf> (accessed March 24, 2018); Presidential Policy Directive 21 (PPD-21) – Critical Infrastructure Security and Resilience. February 12, 2013. <https://obamawhitehouse.archives.gov/the-press-office/2013/02/12/presidential-policy-directive-critical-infrastructure-security-and-resil> (accessed March 24, 2018).

³ See “Comments of the United States Department of Energy” submitted to FERC Docket No. AD19-18-000 on October 28, 2019.

critical to the public's understanding of whether the industry influenced the government's view on regulatory standards for cybersecurity and physical security of the electric grid.

- (D) There have been numerous recent press articles⁴ on the issues underlying FERC Docket No. AD19-18-000, to which DOE submitted comments and opinions. The public will be highly interested in whether the industry influenced the government's view on regulatory standards for cybersecurity and physical security of the electric grid. This FOIA will have a significant impact on the public's understanding in that DOE was the only agency of the federal government to comment in FERC's docket.

Requirement: 10 CFR § 1004.9(a)(8) (ii) If disclosure of the information "is not primarily in the commercial interest of the requester." Factors to be considered in applying this criteria include but are not limited to:

- (A) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so
 (B) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

Answer:

- (A) The requester a private citizen and has no commercial interest in the information.
 (B) Not applicable since the requester has no commercial interest in the information.

The records may be provided to me electronically at this email address: CivilDefenseBook@gmail.com.

Sincerely,



Michael Mabee

⁴ Inside Cybersecurity. "Energy regulators' proposal to name violators of cyber standards complicated by cost, liability concerns." September 30, 2019 <https://insidecybersecurity.com/daily-news/energy-regulators-proposal-name-violators-cyber-standards-complicated-cost-liability> (Accessed November 2, 2019); Smith, Rebecca. Wall Street Journal. "Regulator Weighs Disclosing Names of Utilities That Violate Grid Security Rules." September 6, 2019. <https://www.wsj.com/articles/regulator-weighs-disclosing-names-of-utilities-that-violate-grid-security-rules-11567786022> (Accessed November 2, 2019); Blake Sobczak, E&E News. "FERC pressed to name names in cybersecurity fine." April 17, 2018. <https://www.eenews.net/energywire/stories/1060079243> (accessed November 2, 2019); Alison Noon. Law360. "FERC Pressured To Disclose Cybersecurity Violators." February 19, 2019. <https://www.law360.com/articles/1130454/ferc-pressured-to-disclose-cybersecurity-violators> (accessed November 2, 2019); Rebecca Smith. Wall Street Journal. "PG&E Identified as Utility That Lost Control of Confidential Information" August 24, 2018. <https://www.wsj.com/articles/pg-e-identified-as-utility-that-lost-control-of-confidential-information-1535145850> (accessed November 2, 2019); Rebecca Smith. Wall Street Journal. "PG&E Among Utilities Cited for Failing to Protect Against Cyber and Physical Attacks." April 9, 2019. <https://www.wsj.com/articles/pg-e-among-utilities-cited-for-failing-to-protect-against-cyber-and-physical-attacks-11554821337> (Accessed November 2, 2019).

From: civildefensebook@gmail.com
To: ingrid.kolb@hq.doe.gov
Subject: FOIA Request #2
Date: Sunday, November 3, 2019 10:30:55 AM
Attachments: [DOE FOIA Request \(Mabee\) 2019-11-03.pdf](#)

Ms. Kolb,

Please see attached FOIA request, dated November 3, 2019.

Michael Mabee
(516) 808-0883