

Federal Energy Regulatory Commission
Washington, DC 20426

December 4, 2020

Re: FOIA FY19-30
Notice of Intent to Release

VIA ELECTRONIC MAIL ONLY

James M. McGrane
Senior Counsel
North American Electric Reliability Corporation
1325 G Street N.W. Suite 600
Washington, D.C. 20005
James.McGrane@nerc.net

Dear Mr. McGrane:

Pursuant to the Federal Energy Regulatory Commission's (Commission or FERC) regulations, 18 C.F.R. § 388.112(e) (2020), you are hereby notified that the Commission intends to release, in part, material requested by Mr. Michael Mabee pursuant to the Freedom of Information Act (FOIA).¹ In this regard, Mr. Mabee is seeking the names of Unidentified Registered Entities (UREs) associated with various FERC dockets including, among other dockets: NP11-223 and NP11-251.

On September 23, 2020, Commission staff notified the North American Electric Reliability Corporation (NERC), as well as the relevant URE(s) associated with NP11-223 and NP11-251, of the request and provided an opportunity to comment pursuant to 18 C.F.R. § 388.112. On September 30, 2020, NERC provided comments. The UREs provided additional feedback.

¹ 5 U.S.C. § 552, *as amended* by the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538 (2016).

Identities of UREs

A case-by-case assessment of the requested information must consider: the nature of the CIP violation(s); whether mitigation is complete; the content of the public and non-public versions of the Notice of Penalty; the extent to which the disclosure of the pertinent URE identity would be useful to someone seeking to cause harm; whether an audit has occurred since the violation(s); whether the violation(s) was administrative or technical in nature; and the length of time that has elapsed since the filing of the public Notice of Penalty. An application of these factors will dictate whether a particular FOIA exemption, including 7(F) and/or Exemption 3, is appropriate. *See Garcia v. U.S. DOJ*, 181 F. Supp. 2d 356, 378 (S.D.N.Y. 2002) (“In evaluating the validity of an agency’s invocation of Exemption 7(F), the court should within limits, defer to the agency’s assessment of danger.”) (citation and internal quotations omitted).

Based on application of the various factors discussed above and in consultation with FERC technical staff, I determine that the disclosure of the names of the UREs associated with NP11-223 and NP11-251 is appropriate. A copy of the public versions of the Notice of Penalties with the names of the UREs inserted on the first page will be disclosed to the requestor no sooner than five calendar days from the date of this letter. *See* 18 C.F.R. § 388.112(e).

Sincerely,

MARY
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Lindsee Gentry
Director
Office of External Affairs

Cc Michael Mabee (**Without enclosures**)
CivilDefenseBook@gmail.com

Mr. Peter Sorenson, Esq. (**Without enclosures**)
Counsel for Mr. Mabee
petesorenson@gmail.com

Bcc URE(s)

Enclosures (2)