

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MICHAEL MABEE,)
)
 Plaintiff,)
)
 v.)
)
 FEDERAL ENERGY REGULATORY)
 COMMISSION,)
)
 Defendant.)
 _____)

Civil Action No. 19-3448 (KBJ)

**DEFENDANT FEDERAL ENERGY REGULATORY COMMISSION’S
FEBRUARY 8, 2021 STATUS REPORT**

Pursuant to the Court’s January 28, 2020 Minute Order, Defendant Federal Energy Regulatory Commission (“FERC”) respectfully submits the following Status Report regarding the processing of the FOIA requests at issue in the above-referenced matter.

RELEVANT BACKGROUND

1. The above-captioned case concerns three (3) Freedom of Information Act (“FOIA”) requests filed by Plaintiff Michael Mabee (“Plaintiff”) seeking the identities of Unidentified Registered Entities (“URE”) associated with numerous FERC Notice of Penalty dockets.
2. On January 28, 2020, the Court issued a Minute Order (“Jan. 28th Order”) directing FERC to “process a minimum of 10-15 dockets per month and...issue a response to Plaintiff’s FOIA requests on the 30th day of each month...until production is complete.”
3. The Jan. 28th Order also requires FERC to file a monthly status report regarding the processing of Plaintiff’s FOIA requests on the 7th day of each month.

STATUS REPORT

4. On January 29, 2021, FERC provided Plaintiff with a response to his FOIA requests as to the following ten (10) dockets: NP10-159; NP10-160; NP11-1; NP11-4; NP11-218; NP11-234; NP10-135; NP10-136; NP17-13; and NP17-26.
5. Based on its internal assessments, FERC denied the release of the URE identities associated with the foregoing ten (10) dockets. *See* Joint Status Report, Doc. 9 at ¶¶ 10-14.
6. FERC anticipates that it will process ten (10) or more additional dockets during the month of February 2021 and will file a Status Report on Monday, March 8, 2021.
7. FERC would like to advise the Court of an issue associated with the processing of the records. More specifically, while processing the dockets responsive to the FOIA requests, FERC is reviewing several dockets that are “spreadsheet” Notices of Penalty (“NOP”) that – unlike the overwhelming majority of other NOP dockets that contain one URE per docket – consist of multiple Critical Infrastructure Protection (“CIP”) violations associated with *multiple* UREs all under one NOP docket number. Because these “spreadsheet” NOPs contain multiple UREs, they require significantly more time (as compared to the single entity NOP dockets) for FERC staff to engage in the necessary analysis to determine whether it is appropriate to release the identities of the various UREs. FERC has already contacted Plaintiff (through counsel) to determine whether the parties can reach an agreement regarding the processing of these “spreadsheet” NOPs;

however, in the absence of such an agreement, FERC will seek relief from the Court to clarify/modify the existing production schedule.

Dated: February 8, 2021

Respectfully submitted,

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