

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

February 25, 2021

Re: FOIA No. FY21-7,  
Response Letter

**VIA ELECTRONIC MAIL**

Michael Mabee

[CivilDefenseBook@gmail.com](mailto:CivilDefenseBook@gmail.com)

Dear Mr. Mabee:

This letter responds to your correspondence accepted on January 11, 2021, in which you requested documents pursuant to the Freedom of Information Act (FOIA) and the Federal Energy Regulatory Commission's (Commission) regulations.<sup>1</sup> Specifically, you requested the "NERC Notice of Penalty" version which includes the name of the registered entity associated with eleven (11) dockets."

Commission staff has reviewed the requested material as to one of the dockets, NP20-20. As explained below, the non-public Notice of Penalty ("NOP") in NP20-20 is protected from disclosure pursuant to FOIA Exemption 3 and 7(F).<sup>2</sup>

The redacted portions of the NOP associated with NP20-20 (including the redaction of relevant URE identities), reflect details regarding certain very recent security-related violations. As Critical Energy/Electric Infrastructure Information (CEII), this information is protected from disclosure under FOIA Exemption 3, which allows for an agency to withhold information prohibited from disclosure by federal statute. *See* Fixing America's Surface Transportation Act, Pub. L. No. 114-94, § 61003 (2015) (specifically exempting the disclosure of CEII and establishing applicability of FOIA Exemption 3).

The information is also protected from disclosure under FOIA Exemption 7(F), which protects law enforcement information where release "could reasonably be expected to endanger the life or physical safety of any individual." Disclosing this material could reasonably be expected to endanger the life or physical safety of others. *See Public Employees For Environmental Responsibility v. U.S. Section, International Boundary and*

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<sup>1</sup> 5 U.S.C. § 552 (2018); 18 C.F.R. § 388.112(d) (2020).

<sup>2</sup> 5 U.S.C. §§ 552(b)(3); 552(b)(7)(F).

*Water Commission, U.S.-Mexico*, 740 F.3d 195, 206 (D.C. Cir. 2014) (approving withholding of inundation maps because of concern that terrorists could use the information in maps to cause flooding and destruction in populated areas). This is particularly true given the very recent nature of the violations that are the subject of the NOP. Finally, the information is also protected under FOIA Exemption 4. *See Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356 (2019)

Finally, as to whether the information is segregable, I find that to the extent that there are any non-exempt portions contained within the requested information, such portions are inextricably intertwined with exempt portions. *See Mead Data Cent.*, 566 F.2d 242, 260 (D.C. Cir. 1977) (“It has long been a rule in this Circuit that non-exempt portions of a document must be disclosed unless they are inextricably intertwined with exempt portions.”)

Given the volume of information requested and the amount of Commission staff time required to process any responsive documents addressing your request, additional determinations addressing the remaining documents will follow on a rolling basis. We will endeavor to provide you with another determination within 20 business days of the date of this letter.


As provided by FOIA, any appeal from this determination must be filed within 90 days of the date of this letter. The appeal must be in writing, addressed to Matthew Christiansen, General Counsel, and emailed to [FOIAAPPEALS@ferc.gov](mailto:FOIAAPPEALS@ferc.gov). If you do not have access to email, a hard copy may also be sent via traditional mail to Matthew Christiansen, General Counsel, with a copy to Charles A. Beamon, Associate General Counsel, General and Administrative Law, at Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

You also have the right to seek dispute resolution services from the FOIA Public Liaison of the agency or the Office of Government Information Services (OGIS). Using OGIS services does not affect your right to pursue your appeal. You may contact OGIS

by mail at Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, MD 20740-6001; email at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 301-837-1996; facsimile at 301-837-0348; or toll-free at 1-877-684-6448.

Sincerely,

**MARY  
O'DRISCOLL**

 Digitally signed by MARY  
O'DRISCOLL  
Date: 2021.02.25 15:47:52 -05'00'

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