

Federal Energy Regulatory Commission
Washington, DC 20426

August 10, 2021

Re: FOIA FY19-30
Notice of Intent to Release

VIA ELECTRONIC MAIL

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) (2019), 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: NP12-12.

On June 11, 2021, Commission staff notified the North American Electric Reliability Corporation (NERC), as well as certain UREs associated with NP12-12; RC12-11; NP11-266; and NP11-270 of the request and provided an opportunity to comment pursuant to 18 C.F.R. § 388.112.² On June 18, 2021, NERC provided comments. Additionally, certain URE(s) provided feedback.

¹ 5 U.S.C. § 552 (2018).

² Please note NP12-12 involves multiple UREs and that notification of the FOIA request and this Notice of Intent to Release deals with only one URE contained therein. Also, previously, a Notice of Intent to Release was issued with respect to the incorrect version of the NOP associated with NP12-12. This instant Notice of Intent to Release relates specifically to Accession No. 20120215-5145.

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 one URE identity associated with NP12-12 is appropriate. A copy of the public version of the Notice of Penalty with the name of the relevant URE inserted on the relevant 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,

**Sarah
Venuto**

Sarah Venuto

Director

Office of External Affairs

Digitally signed
by Sarah Venuto
Date: 2021.08.10
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Cc: Michael Mabee (WITHOUT ENCLOSURES)
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Bcc Relevant UREs

Enclosures (1)