

Federal Energy Regulatory Commission
Washington, DC 20426
December 9, 2021

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) (2021), 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: RC12-10.

On November 19, 2021, Commission staff notified the North American Electric Reliability Corporation (NERC) and provided an opportunity to comment pursuant to 18 C.F.R. § 388.112.² Additionally, in those cases in which contact information was available, Commission staff provided the notification to certain UREs associated with RC12-10 of the request and provided an opportunity to comment pursuant to 18 C.F.R. § 388.112.³ On November 29, 2021, NERC provided comments.

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

² Please note that RC12-10 is a Find, Fix, Track Docket and that notification of the FOIA request and this Notice of Intent to Release deals with four (4) UREs contained therein.

³ As with the November 19, 2021 letter, Commission staff also asks that NERC advise the relevant URE(s) of this letter to ensure receipt.

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); *see also* Exemption 4.

Based on application of the various factors discussed above and in consultation with FERC technical staff, I determine that the disclosure of four (4) of the names of the UREs associated with RC12-10 is appropriate. A copy of the public version of the Notice of Penalty with the names of the relevant UREs inserted on the relevant pages 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

Digitally signed
by Sarah Venuto
Date: 2021.12.06
11:20:43 -05'00'

Sarah Venuto
Director
Office of External Affairs

Cc: Michael Mabee (WITHOUT ENCLOSURE)
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Peter Sorenson, Esq., Counsel for Mr. Mabee (WITHOUT ENCLOSURE)
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Bcc: Relevant UREs

Enclosures (1)