

## MARYLAND PUBLIC INFORMATION ACT REQUEST

May 15, 2019

Maryland Attorney General Brian Frosh  
200 St. Paul Place  
Baltimore, MD 21202

**By Electronic Mail:** [oag@oag.state.md.us](mailto:oag@oag.state.md.us)

**Re:** Certain Work-Related Correspondence

Dear Sir or Madam:

On behalf of Energy Policy Advocates, recognized by the Internal Revenue Service as a non-profit public policy institute under § 501(c)(3) the Internal Revenue Code, pursuant to the Maryland Public Information Act, G.P. §§ 4-101 - 4-601, please provide copies of the following records, and their *accompanying information*,<sup>1</sup> including also any attachments:

- 1) all correspondence a) sent to, from, or copying (whether as cc: or bcc:) Attorney General Brian Frosh, at any email address, including [BFrosh@gmail.com](mailto:BFrosh@gmail.com) that b) includes, anywhere, [AG.Tong@ct.gov](mailto:AG.Tong@ct.gov), be it in an email address, subject field, body of an email, or any attachments, dated from March 1, 2019 through the date you process this request, inclusive.

Any records meeting this description are presumptively work-related by virtue of the parties involved.

We request entire threads of which any responsive correspondence is a part, regardless whether any portion falls outside of the above time parameter. To narrow this request, please exclude electronic correspondence that merely receives or forwards press clippings, such as news

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<sup>1</sup> See discussion of SEC Data Delivery Standards, *infra*.

services or stories or opinion pieces, if that correspondence has no comment or no substantive comment added by a party other than the original sender in the thread (an electronic mail message that includes any expression of opinion or viewpoint would be considered as including substantive comment; examples of non-responsive emails would be those forwarding a news report or opinion piece with no comment or only “fyi”, or “interesting”).

We understand that a public body may charge a fee for the cost of the search, examination, review, copying, separation of confidential from nonconfidential information, and mailing costs. Given the nature of the records responsive to this request, most are likely to be held in electronic format, and there should be no photocopying costs. Regardless, if the documents were received by your Office in hard copy, we request you produce them electronically.

If your Office expects to seek a charge associated with the searching, copying or production of these records, however, please provide an estimate of anticipated costs. Given EPA’s non-profit and public interest nature and intention to broadly disseminate relevant findings, EPA requests a waiver or reduction of any applicable fees.

Energy Policy Advocates requests records on your system, e.g., its backend logs, and does not seek only those records which survive on an employee’s own machine or account. We do not demand your Office produce requested information in any particular form, instead **we request records in their native form, with specific reference to the U.S. Securities and Exchange Commission Data Delivery Standards.**<sup>2</sup> The covered information we seek is electronic information, this includes electronic *records*, and other public *information*.

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<sup>2</sup> <https://www.sec.gov/divisions/enforce/datadeliverystandards.pdf>.

To quote the SEC Data Delivery Standards, “Electronic files must be produced in their native format, i.e. the format in which they are ordinarily used and maintained during the normal course of business. For example, an MS Excel file must be produced as an MS Excel file rather than an image of a spreadsheet. *(Note: An Adobe PDF file is not considered a native file unless the document was initially created as a PDF.)*” (emphases in original).

In many native-format productions, certain public information remains contained in the record (e.g., metadata). Under the same standards, to ensure production of all information requested, if your production will be de-duplicated it is vital that you 1) preserve any unique metadata associated with the duplicate files, for example, custodian name, and, 2) make that unique metadata part of your production.

Native file productions may be produced without load files. However, native file productions must maintain the integrity of the original meta data, and must be produced as they are maintained in the normal course of business and organized by custodian-named file folders. A separate folder should be provided for each custodian.

In the event that necessity requires your Office to produce a PDF file, due to your normal program for redacting certain information and such that native files cannot be produced as they are maintained in the normal course of business, in order to provide all requested information each PDF file should be produced in separate folders named by the custodian, *and* accompanied by a load file to ensure the requested information appropriate for that discrete record is associated with that record. The required fields and format of the data to be provided within the load file can be found in Addendum A of the above-cited SEC Data Standards. All produced PDFs must be text searchable.

If you have any questions, or would like to discuss this matter further, do not hesitate to contact me by email at [matthewdhardin@gmail.com](mailto:matthewdhardin@gmail.com). I look forward to your response.

Sincerely,

Matthew D. Hardin  
Executive Director  
Energy Policy Advocates