

MINNESOTA GOVERNMENT DATA PRACTICES ACT REQUEST

July 26, 2022

Keith Ellison, Esq.
Or Responsible Authority
Office of the Attorney General
445 Minnesota St.
Suite 1400
St. Paul, MN 55101-2131

By Electronic Mail: datapactices@ag.state.mn.us

Re: Certain Correspondence — Certain described ACE, CPP correspondence

Dear Sir or Madam:

On behalf of Energy Policy Advocates, and pursuant to the Minnesota Government Data Practices Act, Minn. Stat. §13.01, *et seq.*, I hereby request that you provide copies all of the following, described six sets of email correspondence, including any attachments, that were sent from Pete Surdo and/or Leigh Currie, or sent to *inter alia* Pete Surdo and/or Leigh Currie:

1) that were sent from November 5, 2019 through today, inclusive, whose Subject field consists of and/or *includes* “ACE Rule Litigation/Article” (which includes, e.g., Fwd: Subject ACE Rule Litigation/Article, Re: Subject ACE Rule Litigation/Article, etc.);

2) that were sent from July 1, 2019 through today, inclusive, whose Subject field consists of and/or *includes* “ACE Rule/Article” (which includes, e.g., Fwd: ACE Rule/Article, Re: ACE Rule/Article, etc.);

3) that were sent from July 9, 2019 through today, inclusive, whose Subject field consists of and/or *includes* “ACE rule/articles of interest” (which includes, e.g., Fwd: ACE rule/articles of interest, Re: ACE rule/articles of interest, etc.);

4) that were sent from July 17, 2019 through today, inclusive, whose Subject field

consists of and/or *includes* “ACE Rule/New RFF Analysis” (which includes, e.g., Fwd: ACE Rule/New RFF Analysis, Re: ACE Rule/New RFF Analysis, etc.);

5) all that were sent from July 31, 2019 through today, inclusive, whose Subject field consists of and/or *includes* “Article on ACE” (which includes, e.g., Fwd: Article on ACE, Re: Article on ACE, etc.); and

6) all that were sent from October 29, 2020 through today, inclusive, whose Subject field consists of and/or *includes* “CPP/ACE article of interest” (which includes, e.g., Fwd: CPP/ACE article of interest, Re: CPP/ACE article of interest, etc.), including attachments.

The subject(s) of this correspondence, the ACE rule and the Clean Power Plan, are both no longer credibly claimed to be the subject of extant, pending or possible litigation following *West Virginia et al. v. EPA*, United States Supreme Court 20-1530 (6/30/22)).

We request entire “threads” of which any responsive electronic correspondence is a part, regardless of whether any portion falls outside of the above time parameter.

We understand that in some instances 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. If your Office expects to seek a charge associated with the searching, copying or production of these records, please provide an estimate of anticipated costs.

As noted earlier in this request, EPA is a non-profit public policy organization dedicated to informing the public of developments in the area of energy and environmental issues and relationships between governmental and non-governmental entities as they relate to those issues. EPA’s ability to obtain fee waivers is essential to this work. EPA intends to use any responsive information to continue its work highlighting the nexus between interested non-governmental entities and government agency decision-making. The public

is both interested in and entitled to know how regulatory, policy and enforcement decisions are reached. EPA ensures the public is made aware of its work and findings via broadly disseminating energy and environmental policy news and developments. The public information obtained by EPA have been relied upon by established media outlets, including the Washington Times and Wall Street Journal editorial page.¹

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.²

The covered information we seek is electronic information, this includes electronic *records*, and other public *information*.

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

¹ See, e.g., EPA In the News at <http://epadvocates.org/news/>; see also, e.g., Stuart Parker, "Conservative Group Says States' Ozone Suit 'Trojan Horse' for GHG Limits," Inside EPA, February 24, 2021, and https://www.wsj.com/articles/bidens-backdoor-climate-plan-11616020338?mod=opinion_lead_pos1; See, e.g., The Editorial Board, "State AGs' Climate Cover-Up" Wall Street Journal, June 7, 2019, <https://www.wsj.com/articles/state-ags-climate-cover-up-11559945410>. Valerie Richardson, "Motivated or manipulated? Rise of youth climate activism fuels alarms over exploitation" Washington Times, March 15, 2019, <https://www.washingtontimes.com/news/2019/mar/13/youth-climate-strike-sparks-debate-use-students-pr/>, see also "Climate Strike Sparks Debate on Use of Students as Props", https://www.realeclearpolicy.com/2019/03/15/climate_strike_sparks_debate_on_use_of_students_as_props_41180.html. Valerie Richardson, "Democratic AGs team up with George Soros-funded group on anti-Trump lawsuit" Washington Times, August 1, 2019, <https://www.washingtontimes.com/news/2019/aug/1/george-soros-funded-group-democratic-ags-partner-a/>. Anthony Watts, "Emails reveals how children become pawns of climate alarmism", Watts Up With That (two-time Science Website of the Year), March 13, 2019, <https://wattsupwiththat.com/2019/03/13/emails-reveal-how-children-become-pawns-of-climate-alarmism/>.

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

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.

We look forward to your response. If you have any questions, do not hesitate to contact me by email at schilling@allhookedup.com.

Sincerely,
Rob Schilling, Executive Director
Energy Policy Advocates

A handwritten signature in black ink, appearing to be 'RS', followed by a long horizontal line that tapers off to the right.