

PUBLIC RECORDS REQUEST

December 21, 2018

Hon. Janet Mills
Attorney General of Maine
6 State House Station
Augusta, ME 04333

Via Email: kirsten.figueroa@maine.gov

RE: Application to NYU State Energy and Environmental Impact Center

To whom it may concern:

On behalf of Energy Policy Advocates, a non-profit public policy institute incorporated in Washington state, and pursuant to the Freedom of Access Act, I request within the statutorily prescribed time a copy of the Office of Attorney General's application to participate in the NYU State Energy and Environmental Impact Center's fellowship program. This record would have been produced after August 25, 2017 and likely sent to outside parties David Hayes and/or Elizabeth Klein of the NYU State Energy and Environmental Impact Center. Also please consider all attachments/appendices and cover letters/emails transmitting this application as **responsive** to this request.

Please consider as responsive entire email "threads" containing any information responsive to this request, regardless whether any part of that thread falls outside the cited search parameters.

In the interests of expediting the search and processing of this Request, Energy Policy Advocates is willing to pay fees up to \$100. Please provide an estimate of anticipated costs in the event that fees for processing this Request will exceed \$100. To keep costs and copying to a

minimum **please provide copies of all productions to the email used to send this request.**

Given the nature of the records responsive to this request, all should be in electronic format, and therefore there should be no photocopying costs (see discussion, *infra*).

We request records on your system, e.g., its backend logs, and do *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.¹ 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 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

¹ <https://www.sec.gov/divisions/enforce/datadeliverystandards.pdf>.

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.

In the context of our experience with responsive agencies taking the effort to physically print, then (often, poorly) scan *electronic* mail into (typically, non-searchable) PDF files, we note that production of electronic records necessitates no such additional time, effort or other resources, and no photocopying expense. Any such effort as described is most reasonably viewed as an effort to frustrate the requester's use of the public information.

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. We look forward to your timely response.

Sincerely,

A handwritten signature in black ink that reads "Matthew D. Hardin". The signature is written in a cursive style with some loops and flourishes.

Matthew D. Hardin
Executive Director, Energy Policy Advocates