

REQUEST UNDER MASSACHUSETTS PUBLIC RECORDS LAW

April 2, 2019

Lorraine A. G. Tarrow
Records Access Officer
Office of the Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108

By Electronic Mail: agorecordsaccessofficer@state.ma.us

RE: Common Interest, Contingency, Retainer, Engagement Agreements

Dear Ms. Tarrow:

On behalf of the public policy group Energy Policy Advocates (EPA), recognized by the Internal Revenue Service as a non-profit public policy institute under § 501(c)(3) the Internal Revenue Code, pursuant to Massachusetts Public Records Law (M.G.L. § 66-10 *et seq.*), I request your Office provide copies of: *any Common Interest Agreement, contingency fee or other fee agreement, and/or any retainer agreement and/or engagement agreements*, entered into by your Office at any time in 2018 and/or 2019 with, or otherwise including as a party, a) New York University or any school, component, or Center thereof (e.g., New York University School of Law, NYU State Energy & Environmental Impact Center, or the like), and/ or b) any law firm or other entity that includes in its name: i) Edling and/or ii) Earth.¹

Second, we request a copy of your Office's record retention policy.

Finally, we request copies of any invoices received by your office from any entity including in its name "Wickr", including but not limited to "Wickr Inc".

¹Both parts of this request include records delivered by any means, whether by email, text/SMS/WhatsApp/Signal electronic message, and/or by regular mail, courier, hand delivery, or otherwise including, e.g., UPS, Fedex, Dropbox, Box, etc.

We make this request confident that the OAG maintains such agreements together in a discrete location and the search should not require appreciable time or other resources. 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 in the event that there are fees for processing this Request. 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. Please provide an estimate of anticipated costs in the event that there are fees for processing this Request.

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

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

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.

We look forward to your timely response within a reasonable time, as required by law. If you have any questions, or would like to discuss this matter further, do not hesitate to contact me by email. I look forward to your timely response.

Sincerely,

Matthew D. Hardin
Executive Director
Energy Policy Advocates