

REQUEST UNDER MASSACHUSETTS PUBLIC RECORDS LAW

April 10, 2019

Lorraine A. G. Tarrow
Records Access Officer
Office of the Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02018

By Electronic Mail: agrecordsaccessofficer@state.ma.us
Re: Certain Correspondence

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, and pursuant to the Massachusetts Public Records Law (M.G.L. §§ 66-10 *et seq.*), I request your Office provide copies of all correspondence connected with the transaction of public business that a) was sent to or from or copies (whether as cc: or bcc:) any non-official email account(s) for i) Mike Firestone and/or ii) Megan Herzog, be it GMail or other, that b) is also sent to or from or copies (whether as cc: or bcc:), i) djh466@nyu.edu, ii) davidjhayes01@gmail.com, iii) david.hayes@nyu.edu, iv) ek3041@nyu.edu, and/or v) elizabeth.klein@nyu.edu, and is c) dated between January 1, 2018 and the date you process this request, inclusive.

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

Any record meeting this description are presumptively work-related by virtue of the parties involved. Specifically, Mr. David Hayes and Ms. Elizabeth (Liz) Klein are employees of an organization created for the purpose of working with state attorneys general offices. Further, these parties have a documented pattern of corresponding with office of attorneys general officials (including with attorneys general) on this specific, inherently work-related project of theirs by using AGs' and other officials' non-official email accounts.

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. 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.

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

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

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.

In responding to this request, please consider that M.G.L., ch. 66, §10 (b)(iv) requires an agency provide specific reasons for any withholding. Further, M.G.L., ch. 66, § 10 contemplates

a record may possess both exempt and nonexempt portions and requires an agency to produce those nonexempt portions.

We look forward to your response and should you have any questions, feel free to reach me at MatthewDHardin@gmail.com.

Sincerely,

Matthew D. Hardin
Executive Director
Energy Policy Advocates