



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

FREEDOM OF INFORMATION ACT/PRIVACY PROGRAM

April 21, 2020

In reply refer to: FOIA #BPA-2020-00075-F

Chad Stokes  
Cable Huston LLP  
1455 SW Broadway, Suite 1500  
Portland OR 97201  
Email: [cstokes@cablehuston.com](mailto:cstokes@cablehuston.com)

Dear Mr. Stokes,

This communication is the Bonneville Power Administration (BPA) first partial response to your request for agency records made under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA). BPA received your records request on October 15, 2019, and formally acknowledged your request on October 21, 2019.

### **Request**

“As provided in BPA's Transmission Business Practices on Deferral Service (Extension of Commencement of Service), and the Transmission Service Request (TSR) Pending Queue on Open Access Same-Time Information System (OASIS), please provide the following documents related to NewSun Energy Transmission Company LLC's 10 MW reservation with a TSR Start Date of 5/1/2020 and an Original Assignment Reference (AREF) 82879370, a Conformance AREF after 2016 TSEP 85075159 and a Deferral AREF of 88672221: (1) the Deferral Request; (2) Unsigned Deferral Table sent to Customer/defender (NewSun Energy); (3) the unexecuted Contingent Exhibit sent to any Challenger; (4) the executed Contingent Exhibit from any Challenger; (5) the Competition Request from any Challenger; (6) the Deferral Tables sent by Defender (NewSun Energy); (7) any executed Deferral Tables; (8) any Preconfirmed Matching Request; (9) executed exhibits, Contingent Exhibits and/or notices sent to defender (NewSun Energy) or any challenger; (10) all correspondence between BPA and NewSun Energy regarding original AREF 82879370, Conformance AREF after 2016 TSEP 85075159, and Deferral AREF of 88672221; and (11) all correspondence between BPA and any Challenger regarding Original AREF 82879370, Conformance AREF after 2016 TSEP 85075159, and Deferral AREF of 88672221.”

### **First Partial Response**

BPA has searched for and gathered records responsive to your FOIA request from the following agency offices:

Open Access Same-Time Information System (OASIS) Management  
Transmission Account Services  
Transmission Sales

A review of those records by my office, and by the agency's Office of General Counsel (OGC), show that information and records responsive to your requests 1, 2, 7 and 10 may be subject to 5 U.S.C. § 552(b)(4) (Exemption 4), as described below; information potentially responsive to your requests 3, 4, 5, 6, 8 and 9 may be subject to 5 U.S.C. § 552(b)(5) (Exemption 5), as described below; and the agency has no records responsive to your request 11—none exist as there were no competitions held with this deferral.

**Certification**

Pursuant to 10 C.F.R. § 1004.7(b)(2), I am the individual responsible for the partial response described above.

**Processing Update**

BPA continues to review and process the remaining records collected in response to your request. The FOIA generally requires the release of all responsive records upon request. However, the FOIA requires or permits withholding certain limited information that falls under one or more of nine statutory exemptions (5 U.S.C. §§ 552(b)(1-9)).

Exemption 4

Prior to publicly releasing records, BPA is required by Exemption 4 to solicit objections to the public release of any third party's confidential commercial information contained in the responsive records set. Those Exemption 4 efforts will be required with each wholesale customer whose confidential information is identified in the responsive records. Those Exemption 4 processing requirements remain ongoing with NewSun Energy Transmission Company LLC.

Exemption 5

Prior to publicly releasing records, BPA is required by Exemption 5 to consider protecting agency records showing the deliberative or decision-making processes of the agency. BPA's OGC has the burden to make a legal determination on that deliberative or decision-making information. Those Exemption 5 processing requirements remain ongoing.

**Target Date**

Please know that for an undetermined period, related to the agency's response to the COVID-19 pandemic, BPA personnel are operating within a remote working directive. FOIA request processing is thereby slowed. BPA remains committed to meeting its FOIA obligations to you and to all its many FOIA requesters. Owing to the ongoing review efforts, and the agency's current workforce status, BPA is extending the response target date to **July 29, 2020**.

Questions about this communication may be directed to James King, CorSource Technology Group LLC, at [jjking@bpa.gov](mailto:jjking@bpa.gov) or 503.230.7621.

Sincerely,

A handwritten signature in black ink, appearing to read "Candice D. Palen". The signature is written in a cursive, flowing style.

Candice D. Palen  
Freedom of Information/Privacy Act Officer



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

FREEDOM OF INFORMATION ACT PROGRAM

July 28, 2020

In reply refer to: FOIA #BPA-2020-00075-F

Chad Stokes  
Cable Huston LLP  
1455 SW Broadway, Suite 1500  
Portland OR 97201  
Email: [cstokes@cablehuston.com](mailto:cstokes@cablehuston.com)

Dear Mr. Stokes,

This communication is the Bonneville Power Administration (BPA) final response to your request for agency records made under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA). BPA received your records request on October 15, 2019, and formally acknowledged your request on October 21, 2019. A first partial response to your request was provided on April 21, 2020.

### **Request**

“As provided in BPA's Transmission Business Practices on Deferral Service (Extension of Commencement of Service), and the Transmission Service Request (TSR) Pending Queue on Open Access Same-Time Information System (OASIS), please provide the following documents related to NewSun Energy Transmission Company LLC's 10 MW reservation with a TSR Start Date of 5/1/2020 and an Original Assignment Reference (AREF) 82879370, a Conformance AREF after 2016 TSEP 85075159 and a Deferral AREF of 88672221: (1) the Deferral Request; (2) Unsigned Deferral Table sent to Customer/defender (NewSun Energy); (3) the unexecuted Contingent Exhibit send to any Challenger; (4) the executed Contingent Exhibit from any Challenger; (5) the Competition Request from any Challenger; (6) the Deferral Tables sent by Defender (NewSun Energy); (7) any executed Deferral Tables; (8) any Preconfirmed Matching Request; (9) executed exhibits, Contingent Exhibits and/or notices sent to defender (NewSun Energy) or any challenger; (10) all correspondence between BPA and NewSun Energy regarding original AREF 82879370, Conformance AREF after 2016 TSEP 85075159, and Deferral AREF of 88672221; and (11) all correspondence between BPA and any Challenger regarding Original AREF 82879370, Conformance AREF after 2016 TSEP 85075159, and Deferral AREF of 88672221.”

### **Response**

BPA has searched for and gathered records responsive to your FOIA request from the following agency offices: Open Access Same-Time Information System (OASIS) Management; Transmission Account Services; Transmission Commercial Planning; Transmission Sales. Those

offices located 39 pages of records responsive to your request. BPA is withholding 35 pages of records under 5 U.S.C. § 552(b)(4) (Exemption 4) and releasing 4 pages of records, unredacted. A description of the records collected, the respective page counts, and an explanation of pages released and the exemptions applied follows.

1. Deferral Request; 2 responsive pages were located and 2 pages are being released.
2. Unsigned Deferral Table sent to Customer/defender (NewSun Energy); 9 responsive pages were located and 9 pages are being withheld under Exemption 4.
3. Unexecuted Contingent Exhibit sent to any Challenger; knowledgeable agency Transmission personnel have confirmed that no records exist because there were no competitions held with this deferral.
4. Executed Contingent Exhibit from any Challenger; knowledgeable agency Transmission personnel have confirmed that no records exist because there were no competitions held with this deferral.
5. Competition Request from any Challenger; knowledgeable agency Transmission personnel have confirmed that no records exist because there were no competitions held with this deferral.
6. Deferral Tables sent by Defender (NewSun Energy); knowledgeable agency Transmission personnel have confirmed that no records exist because there were no competitions held with this deferral.
7. Any executed Deferral Tables; 6 responsive pages were located and 6 pages are being withheld under Exemption 4.
8. Any Preconfirmed Matching Request; knowledgeable agency Transmission personnel have confirmed that no records exist because there were no competitions held with this deferral.
9. Executed exhibits, Contingent Exhibits and/or notices sent to defender (NewSun Energy) or any challenger; knowledgeable agency Transmission personnel have confirmed that no records exist because there were no competitions held with this deferral.
10. All correspondence between BPA and NewSun Energy regarding original AREF 82879370, Conformance AREF after 2016 TSEP 85075159, and Deferral AREF of 88672221; 20 responsive pages were located and 20 pages are being withheld under Exemption 4.
11. All correspondence between BPA and any Challenger regarding Original AREF 82879370, Conformance AREF after 2016 TSEP 85075159, and Deferral AREF of 88672221. As communicated in the agency's April 21, 2020, letter to you the agency has no records responsive to your request 11—none exist because there were no competitions held with this deferral.

Responsive to your enumerated items 3, 4, 5, 6, 8, 9, and 11, knowledgeable agency Transmission personnel have provided 2 pages of portions of an internal agency Competition Tracking Spreadsheet (CTS) excel record. Those pages are being released to confirm no germane competitions were held.

**Explanation of Exemptions**

The FOIA generally requires the release of all agency records upon request. However, the FOIA permits or requires withholding certain limited information that falls under one or more of nine statutory exemptions (5 U.S.C. §§ 552(b)(1-9)).

**Exemption 4**

Prior to publicly releasing agency records, BPA is required by Exemption 4 to solicit objections to the public release of any third party's confidential commercial information contained in the responsive records set. BPA provided NewSun Energy Transmission Co. with an opportunity to formally object to the public release of their information contained in BPA records. NewSun submitted their objections to BPA. BPA accepted those objections, based on guidance available from the U.S. Department of Justice, and is withholding NewSun's commercial confidential information from public release.

**Fees**

There are no fees associated with the response to your request.

**Certification**

Pursuant to 10 C.F.R. § 1004.7(b)(2), I am the individual responsible for the search, exemption determinations, and records release described above. Your FOIA request BPA-2020-00075-F is now closed with all available agency records provided.

**Appeal**

The adequacy of the search may be appealed within 90 calendar days from your receipt of this letter pursuant to 10 C.F.R. § 1004.8. Appeals should be addressed to:

Director, Office of Hearings and Appeals  
HG-1, L'Enfant Plaza  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585-1615

The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. You may also submit your appeal by e-mail to [OHA.filings@hq.doe.gov](mailto:OHA.filings@hq.doe.gov), including the phrase "Freedom of Information Appeal" in the subject line. (The Office of Hearings and Appeals prefers to receive appeals by email.) The appeal must contain all the elements required by 10 C.F.R. § 1004.8, including a copy of the determination letter. Thereafter, judicial review will be available to you in the Federal District Court either (1) in the district where you reside, (2) where you have your principal place of business, (3) where DOE's records are situated, or (4) in the District of Columbia.

You may contact BPA's FOIA Public Liaison, Jason Taylor, at 503.230.3537, [jetyaylor@bpa.gov](mailto:jetyaylor@bpa.gov), or the address on this letter header for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Phone: 202-741-5770  
Toll-free: 1-877-684-6448  
Fax: 202-741-5769

Questions about this communication may be directed to James King, CorSource Technology Group LLC, at [jjking@bpa.gov](mailto:jjking@bpa.gov) or 503.230.7621.

Sincerely,



Candice D. Palen  
Freedom of Information/Privacy Act Officer

Responsive agency records accompany this communication.

## Transmission Reservation Detail **88672221 CONFIRMED**

Seller	Source Sink	POR POD	Request Type	Start	Stop	MW Req	MW Grant	Bid Price	Offer Price	Ceiling Price	Price Unit	
BPAT	LAPINE115 BETHEL230	LAPINE115 BPAT.PGE	DEFERRAL	2020-04-30 23:00 PS	2025-04-30 23:00 PS	10	10	1471.0000	1471.0000	1471.0000	\$/MW-MONTH	
<b>Path:</b>												
<b>Service Code</b>		<b>Increment</b>	<b>Class</b>	<b>Type</b>		<b>Period</b>		<b>Window</b>	<b>Subclass</b>			
LTF-YEARLY PTP		YEARLY	FIRM	POINT_TO_POINT		FULL_PERIOD		EXTENDED				
Preconfirmed: Yes		Competing: No		Negotiated: No		Nerc Priority: 7		Affiliate: No				
Reservation Profile												
Start Date		Stop Date		MW Req	MW Grant	MWH	Bid Price	Offer Price				
2020-04-30 23:00 PS		2025-04-30 23:00 PS		10	10	438240.00	1471.00	1471.00				
<b>Profile Total:</b>						438240.00						
Times				References								
<b>Queued</b>	2019-03-01 14:39:18 PS			<b>Deal</b>								
<b>Updated</b>	2019-04-03 09:35:10 PS			<b>Sale</b>	16248							
<b>Response</b>				<b>Posting</b>								
				<b>Request</b>								
				Impacted	0							
				<b>Reassigned</b>								
<b>Accepted Time</b>	2019-04-03 09:35:10 PS			<b>Seller</b>								
<b>Confirmed Time</b>	2019-04-03 09:35:10 PS			<b>Related</b>	85075159							
<b>CG Deadline</b>	<b>Comments</b>											
	<b>Status</b>											
	<b>Seller</b>	Deferring 85075159 by one year.										
	<b>Provider</b>											
	<b>Customer</b>	Deferring 85075159 by one year.										
	<b>Provisions</b>											
	<b>CG Status</b>											
	<b>Status Notification</b>	mailto:jstephens@newsunenergy.net										
	<b>Anc-Service-Link</b>											
	<b>Rollover Waived</b>											
	<b>Concomitant Eval Flag</b>											
	<b>Customer: NSET</b>						<b>Seller: BPAT</b>					
	<b>Name</b>	jstephens					<b>Name</b>	BPAT_WEBTRANS				
	<b>Phone</b>	520-981-7303					<b>Phone</b>					
	<b>Fax</b>	520-514-8001					<b>Fax</b>					



			<b>E-mail</b>   <a href="mailto:jstephens@newsunenergy.net">jstephens@newsunenergy.net</a>   <b>E-mail</b>	
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		Data			
Type of Competition	Review Year	# of Challengers Identified	MW Completed	Defender Defends*	Challenger Challenge
2.2	2011	3	50	3	
	2012	4	222		3
	2013	1	39		1
	2014	4	200	1	3
	2015	4			
	2016	5	180		1
	2017	3	75		
	2018	10	53		
17.7	2011	1	5		1
	2012	1	5		
	2013	2	50		1
	2014	1	20	1	1
	2017	22			
	2018	2	8		
Grand Total		63	907	5	11

\*If Defender defends, Defender retains its capacity.

If there are uncompleted Deferrals in the Deferral Queue on the same path as a Renewal, no Renewal competition may be initiated until all Deferrals on the same path have been competed and resolved.