

Department of Energy

Official File

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

CORPORATE

November 29, 2004

In reply refer to: KDP-7

Mr. Michael A. Goldfarb
1150 Market Place tower
2025 First Avenue
Seattle, WA 98121
(206) 374-7090

RE: FOIA Request #05-005

Dear Mr. Goldfarb:

Thank you for your letter of November 16, 2004, requesting information under the Freedom of Information Act. In your letter you request copies of all communications since January 1, 2000, whether written or electronic, between BPA and the U.S. Department of Energy concerning Grid West or RTO West.

Your request was received by our office on November 29, 2004 and has been logged in as FOIA #05-005. You have agreed to pay costs up to \$100. If costs for your request exceed \$100, we will notify you with an estimate before proceeding. Alan Burns, Executive Vice President, Industry Restructuring, has been designated as Authorizing Official for your request. A member of his staff will estimate costs for this request and we will contact you regarding the estimate before we proceed. Mr. Burns has 20 working days from the date of your agreement to pay estimated fees to provide a response. Should you have any questions Mr. Burns may be reached at Mail Stop R-3 or by calling 503-230-5717.

Sincerely,



Annie Eissler
Freedom of Information Officer

LAW OFFICES OF
MICHAEL A. GOLDFARB
1150 MARKET PLACE TOWER
2025 FIRST AVENUE
SEATTLE, WASHINGTON 98121

RECEIVED
DEC 16 2004

PHONE 206.374.7090
FAX 206.374.7095

MICHAEL A. GOLDFARB
mgoldfarb@goldfarb-law.com

December 14, 2004

Annie Eissler, FOIA Officer
Bonneville Power Administration
Routing: KDP-4
P.O. Box 3621
Portland, OR 97208

Re: FOIA Nos. 05-003, 05-004, 05-005, 05-006 and 05-009

Dear Ms. Eissler:

Your office recently acknowledged receiving several requests for information under the Freedom of Information Act. Those requests were sent via first class U.S. Mail on November 16, 2004, and logged as FOIA Nos. 05-003, 05-004, 05-005, 05-006 and 05-009.

In your letters acknowledging receipt, you claim that our requests were received on November 29, 2004. It is not unreasonable to assume that a letter sent via U.S. Mail will arrive within three calendar days. Such an assumption, in fact, is supported by the Federal Rules of Appellate Procedure. See. FRAP 26(c) (3 calendar days are added to the prescribed period).

Unless your office can show otherwise, we must assume that these letters were actually received by BPA on November 19, 2004.

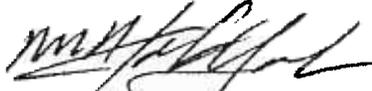
The Freedom of Information Act mandates that "Each agency, upon any request for records. . . shall-- determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore." U.S.C. § 552(6)(A)(i).

As it is reasonable to assume that our requests were actually received by your office on November 19, 2004, a response to our requests is due no later than December 21, 2004. If our determination of the corrected response date is inaccurate, please advise us in writing.

Annie Eissler, FOIA Officer
December 14, 2004
Page 2

Thank you for your prompt attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael A. Goldfarb", written in a cursive style.

Michael A. Goldfarb

cc: Steve Larson

Department of Energy

Official File

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

CORPORATE

December 14, 2004

In reply refer to: KDP-7

Mr. Michael A. Goldfarb
1150 Market Place tower
2025 First Avenue
Seattle, WA 98121
(206) 374-7090

RE: FOIA Request #05-003, 05-004, 05-005, 05-006, 05-007, and 05-008

Dear Mr. Goldfarb:

I am writing to provide you with an estimate for fees to complete six (6) of the eleven (11) Freedom of Information Act (FOIA) requests submitted to our office by you in November. Per our letters dated November 29, 2004 acknowledging the receipt of your requests, we indicated that we would contact you regarding an estimate of fees to complete them.

Upon review of the requests you submitted regarding RTO and Grid West, and the broad nature of these requests, we have determined that many potential responsive documents for each of the FOIA requests overlap and it is necessary to combine the fee estimate for these six (6) FOIAs.

We have determined that in order to conduct a reasonable search and review of the documents you are requesting, it will require time from 27 Bonneville staff members. Per Department of Energy FOIA policy, we charge commercial requestors the hourly salary rate of each searching/reviewing staff member + 16%. In addition, we charge \$.05 per copied page. In our estimation the cost for search and review for these six (6) FOIA requests is approximately \$39,262.22 and copy charges for an estimated 5,000 pages of documents is an additional \$250.00.

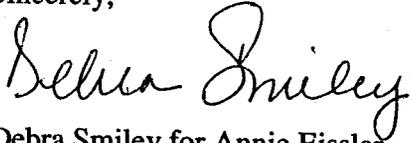
In order for us to consider these requests perfected and begin the 20 working day response time allowed by FOIA, we require your signed agreement to pay the fee amount estimated above. Please provide your signature on the third page of this letter indicating your agreement to pay the estimated fees and return it to us. Upon receipt, our staff will promptly begin processing these requests.

Because your requests are so broad in nature, the cost of search and review is substantial. However, if you can be more specific about the information you seek, you may wish to narrow

the scope of your FOIA requests so that our search and review time, and therefore your costs, are reduced.

Should you have any questions, you may contact me at Mail Stop KDP-7 or by calling 503-230-5110.

Sincerely,

A handwritten signature in cursive script that reads "Debra Smiley". The signature is written in black ink and is positioned above the typed name and title.

Debra Smiley for Annie Eissler
Freedom of Information Officer

RE: FOIA Request #05-003, 05-004, 05-005, 05-006, 05-007, and 05-008 – Fee Estimate Agreement

For BPA's official records, please sign in the space indicated below that you accept the estimation of fees contained in this letter dated December 14, 2004, regarding FOIA request #s 05-003, 05-004, 05-005, 05-006, 05-007, and 05-008 and send back to me by return fax (503) 230-4576.

Michael Goldfarb
Law Offices of Michael Goldfarb



Department of Energy

Official File

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

CORPORATE

January 26, 2005

In reply refer to: KDP-7

Mr. Michael A. Goldfarb
1150 Market Place tower
2025 First Avenue
Seattle, WA 98121
(206) 374-7090

RE: Fee Waiver Request - FOIA #05-003, 05-004, 05-005, 05-006, 05-007 and 05-008

Dear Mr. Goldfarb:

We are in receipt of your letter dated January 13, 2005, requesting a waiver or reduction of fees. Although the reference line of your letter is in regard to your December 10, 2004 request, it appears from your January 13 letter that you are asking for a waiver or reduction of fees on all of your Freedom of Information Act (FOIA) requests (#s 05-003, 05-004, 05-005, 05-006, 05-007, and 05-008). Our December 14 letter was an estimate for us to respond to all of these FOIA requests, since many of the requests overlap.

Upon review of your FOIA requests, it does not appear that you have met the burden of establishing that you qualify for a reduction or waiver of fees for the requested information. At this time, we are offering you the opportunity to provide additional information to demonstrate that you qualify for a reduction or waiver of fees. The FOIA provides for a reduction or waiver of fees, but only if a requestor shows that disclosure of the information (1) is in the public interest, because it is likely to contribute significantly to the public understanding of the operations or activities of the government; and (2) is not primarily in the commercial interest of the requestor. 5 U.S.C. § 552(a)(4)(A)(iii).

In order to satisfy the public interest, a requestor must show each of the following:

- (A) The subject of the requested records concerns "the operations or activities of the government";
- (B) Disclosure of the requested records is "likely to contribute" to an understanding of government operations or activities;
- (C) Disclosure of the requested records would contribute to an understanding of the subject by the general public; and
- (D) Disclosure of the requested records is likely to contribute "significantly" to public understanding of government operations or activities.

FOIA 05-004:

| | |
|----------------------|--------------------|
| 1 Grade 10 – 2 hours | = 58.24 |
| 1 Grade 12 – 1 | = 40.75 |
| 4 Grade 13 – 21.5 | = 987.74 |
| 5 Grade 14 – 20 | = 1053.72 |
| 3 Grade 15 – 9.5 | = 639.45 |
| 1 SES – 1 | = 81.20 |
| 1 Contractor - 2 | = 324.80 |
| Total: | = \$3186.06 |

FOIA 05-005:

| | |
|----------------------|--------------------|
| 1 Grade 10 - 4 hours | = 116.48 |
| 1 Grade 11 - 1 | = 36.69 |
| 3 Grade 13 - 5.5 | = 255.36 |
| 5 Grade 14 - 13 | = 717.89 |
| 2 Grade 15 - 8 | = 553.60 |
| 2 SES - 25 | = 2030.00 |
| 1 Contractor - 3 | = 162.40 |
| Total: | = \$3872.42 |

FOIA 05-006:

| | |
|-----------------------|---------------------|
| 1 Grade 10 - 30 hours | = 873.60 |
| 1 Grade 11 - 1.5 | = 55.05 |
| 4 Grade 13 - 95 | = 4290.40 |
| 10 Grade 14 - 192 | = 10519.74 |
| 6 Grade 15 - 81.5 | = 5756.79 |
| 2 SES - 26 | = 2111.20 |
| 1 Contractor – 25 | = 4060.00 |
| Total: | = \$27666.78 |

FOIA 05-007:

| | |
|---|--------------------------------|
| 1 Grade 11 - 1 | = 36.69 |
| 3 Grade 13 - 6.25 | = 284.61 |
| 2 Grade 14 - 6 | = 313.74 |
| 1 Grade 15 - 3 | = 195.75 |
| 2 SES - 41 – 61 (variable based on docs) | = 1705.20 - 4953.20 |
| 1 Contractor - 1 | = 162.40 |
| Total: | = \$2698.39 - \$5946.39 |

FOIA 05-008:

| | |
|--------------------------|--------------------------------|
| 1 Grade 11 – 1 | = 36.69 |
| 3 Grade 13 - 5.25 | = 244.40 |
| 2 Grade 14 - 6 | = 313.74 |
| 1 Grade 15 - 2 | = 130.50 |
| 2 SES - 41-61 | |
| (variable based on docs) | = 1705.20 - 4953.20 |
| 1 Contractor - 1 | = 162.40 |
| Total: | = \$2592.93 - \$5840.93 |

The total estimated cost of processing these requests ranges from \$42,154.07 - \$51,573.27 for staff search and review time, plus estimated copying fees of \$250.00.

If you have any questions, you may contact me at 503-230-5110.

Sincerely,

Annie Eissler
Freedom of Information Officer



Department of Energy

Official File

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

CORPORATE

February 24, 2005

In reply refer to: KDP-7

Mr. Michael A. Goldfarb
Attn: Ms. Rachel Farkas
1150 Market Place tower
2025 First Avenue
Seattle, WA 98121
(206) 374-7090

RE: Fee Estimate Detail for FOIA Requests - #05-003, 05-004, 05-005, 05-006, 05-007 and 05-008

Dear Ms. Farkas:

Per your request, are providing additional detail regarding the fee estimate we provided for your firm's FOIA requests 05-003, 05-004, 05-006, 05-007, and 05-008.

The method we used to provide this more detailed estimate entailed contacting each of the BPA staff and contractors involved with researching and reviewing your firm's FOIA requests #s 05-003, 05-004, 05-005, 05-006, 05-007 ad 05-008. We asked them to rework their original estimate in order to break down time and grade per request. We then took this break down and multiplied it by the grade and appropriate step level for each searching/reviewing employee. By utilizing the applicable grade and step for each employee, we are able to provide you with a more accurate estimate than the one provided in our letter dated January 26, 2005. The breakdown, per request is as follows:

FOIA 05-003:

| | |
|--------------------------|------------------------------|
| 1 Grade 10 – 4 hours | = 116.48 |
| 1 Grade 11 – 1 | = 36.70 |
| 3 Grade 13 – 7.5 | = 313.75 |
| 4 Grade 14 – 10 | = 532.46 |
| 2 Grade 15 – 6 | = 407.30 |
| 2 SES – 5-41 | |
| (variable based on docs) | = 406.00 - 3329.20 |
| 1 Contractor – 2 | = 324.80 |
| Total: | = \$2137.49 - 5060.69 |

10 C.F.R. § 1004.9(a)(8)(i). If a requestor satisfies the four factors of the public interest, he must then satisfy the commercial interest factor by showing that disclosure of the information is not primarily in his commercial interest. 10 C.F.R. § 1004.9(a)(8)(ii). Factors to be considered in applying these criteria include but are not limited to:

(A) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(B) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

Your letter also asks for an itemized estimation of fees for each of your FOIA requests if BPA finds that you are not entitled to a waiver or reduction of fees, including a citation to BPA's regulations, guidelines and procedures regarding calculation of FOIA processing fees. You state this fee estimate should include staff members' title and job descriptions, hourly salaries and number of hours each staff member's services will be needed to respond to the requests. Department of Energy (DOE) regulations dictate we charge the hourly rate of each searching/reviewing employee plus sixteen percent. In addition, DOE regulations dictate copy costs of \$.05 per side of page. In addition, BPA may charge other direct allowable costs, if applicable. 10 C.F.R. §1004.9.

DOE regulations do not require that we provide fee estimates in the detail you requested, however, we have broken down the fee estimate on each request as follows for your information:

FOIA 05-003:

1 Grade 10 – 4 hours
 1 Grade 11 – 1
 3 Grade 13 – 7.5
 4 Grade 14 – 10
 2 Grade 15 – 6
 2 SES – 3-41 (variable based on docs)
 1 Contractor – 2

FOIA 05-004:

1 Grade 10 – 2 hours
 1 Grade 12 – 1
 4 Grade 13 – 21.5
 5 Grade 14 – 20
 3 Grade 15 – 9.5
 1 SES – 1
 1 Contractor - 2

FOIA 05-005:

1 Grade 10 - 4 hours
 1 Grade 11 - 1
 3 Grade 13 - 5.5
 5 Grade 14 - 13
 2 Grade 15 - 8
 2 SES - 25
 1 Contractor - 3

FOIA 05-006:

1 Grade 10 - 30 hours
 1 Grade 11 - 1.5
 4 Grade 13 - 95
 10 Grade 14 - 192
 6 Grade 15 - 120.5
 2 SES - 26
 1 Contractor - 25

FOIA 05-007:

1 Grade 11 - 1
3 Grade 13 - 6.25
2 Grade 14 - 6
1 Grade 15 - 3
2 SES - 41 – 61 (variable based on docs)
1 Contractor - 1

FOIA 05-008:

1 Grade 11 – 1
3 Grade 13 - 5.25
2 Grade 14 - 6
1 Grade 15 - 2
2 SES - 41-61 (variable based on docs)
1 Contractor - 1

The total estimated cost of processing these requests is \$39,262.22 for staff search and review time, plus estimated copying fees of \$250.00.

Your requests are extremely broad and therefore require a number of BPA staff and a significant number of hours to conduct a reasonable search and review of the records you request. At this time, we are providing you an opportunity to narrow the scope of your FOIA requests. We will not proceed further on your FOIA requests until (1) you provide additional information so that we may evaluate your request for a waiver or reduction of fees, and if denied then (2) your willingness to pay estimated processing fees, or (3) narrow the scope of your FOIA requests. If you have any questions, you may contact me at 503-230-5110.

Sincerely,

Annie Eissler
Freedom of Information Officer



Department of Energy

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

CORPORATE

May 9, 2005

In reply refer to: KDP-7

Mr. Michael A. Goldfarb
1150 Market Place Tower
2025 First Avenue
Seattle, WA 98121
(206) 374-7090

RE: FOIA Request #05-005

Dear Mr. Goldfarb:

I am writing because our office has not yet received your signed agreement to pay the estimated fees to process your FOIA request, designated FOIA #05-005. Because it has been several weeks since we provided a written estimate to you, if we do not receive your signed agreement to pay estimated fees to process your request by May 23, 2005, we will consider your FOIA request withdrawn.

Sincerely,

Debra Smiley
Freedom of Information Office