



Department of Energy

Bonneville Power Administration
P.O. Box 491
Vancouver, Washington 98666-0491

TRANSMISSION BUSINESS LINE

October 3, 2005

In reply refer to:

Christopher J. Watkins
Vice President and Associate General Counsel
CenturyTel
P.O. Box 9901
Vancouver, Washington 98668-8701

Re: Freedom of Information Act (FOIA) request No. 05-044

Dear Mr. Watkins:

This letter conveys a second partial release by Bonneville Power Administration ("BPA") in response to CenturyTel's FOIA request No. 05-044. The enclosed documents are all the remaining documents in BPA's files that are responsive to your request for information concerning Electric Lightwave, Inc. and Electric Lightwave, LLC (together "Electric Lightwave"). BPA is still processing remaining documents relating to NoaNet Oregon, LightSpeed Networks, Incorporated, and LS Networks, and we expect to complete our response by October 4, 2005.

Enclosed please find copies of the following documents relating to Electric Lightwave: 1. BPA contract No. 00TX-30407, 2. amendment No. 2 to that contract, 3. amendment No. 3 to that contract, and 4. fiber task order related to that contract.

The redacted portions of the documents contain information on pricing and specific route locations and maintenance. That information is protected by Exemption 4 of the Freedom of Information Act. Exemption 4 protects from public disclosure information that is obtained from a person that is trade secrets or commercial or financial information that is privileged or confidential. 5 USC § 552(b)(4).

The telecom industry is a highly competitive market. A public release of pricing information, together with the number of miles and detailed maintenance information, would allow a competitor to determine Electric Lightwave's costs, which could then be used by a competitor to develop predatory pricing strategies that would cause Electric Lightwave substantial competitive harm in future business transactions.

Similarly, a public release of detailed route information would also cause Electric Lightwave substantial competitive harm. Detailed route information is a closely guarded secret in the

telecom business. With detailed information on route, a competitor would likely be able to determine what type of technology and equipment is being used by Electric Lightwave by revealing the distance between regeneration points. A competitor would likely be able to estimate the costs of the equipment and the strength and weaknesses of Electric Lightwave's chosen approach of a system (including how easily it is expandable to meet future customer needs).

Electric Lightwave has objected to the public release of this information. Release of the above-described information is not customarily released by Electric Lightwave and is generally kept confidential in the telecom industry.

If you are dissatisfied with this determination, you may appeal within 30 days from the date you receive this letter to the Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. The appeal must be in writing and both the envelope and letter must be clearly marked "Freedom of Information Act Appeal". As mentioned above, BPA expects to make a final release in response to this FOIA request by October 4, 2005.

Charges related to the FOIA request will be provided under separate cover.

Sincerely,

Christy Brannon
Freedom of Information Officer

Enclosures

Appendix A

Documents Withheld Under Exemption 5

1. Two-page document titled “June 15-30 Day due date” – Describes and considers various options regarding remedies for non-payment of Northwest Open Access Oregon’s (“NoaNet Oregon”) charges and assignment to LightSpeed Networks, LLC (“LS Networks”) – Deliberative process, pre-decisional.
2. Email chain including 5/11/05 email from Robb Roberts, 5/10/05 email from Rob Roberts, 5/10/05 email from Matt Rios, and 5/6/05 email from C. Combs – Description of certain legal issues regarding remedies for NoaNet Oregon’s non-payment and assignment to LS Networks – Deliberative process, pre-decisional, attorney-client privilege.
3. Redacted email response from Matt Rios to Pilar Rowe and her email, both dated 3/30/05; subject update on BPA decision process for assignment of NoaNet Oregon license to LS Networks – Redacted part is pre-decisional, deliberative process.
4. Part of Minutes of Finance Management Committee, 3/29/05 – Redact all as non-responsive, except part dealing with NOANET on pp. 3-4. Redact everything in the paragraph before “Decision” after “Debt Collection Improvement Act of 1996” as pre-decisional, deliberative process. Release the “Decision” but redact the sentences under the decision describing deliberations leading to decision and other matters as not responsive to the request and pre-decisional, deliberative process.
5. Email chain including 4/7/05 email from Chuck Combs, 4/7/05 email from R. Ross, 4/7/05 email from T. Timberman, and 4/7/05 email from Matt Rios; subject Questions to NoaNet regarding assignment – pre-decisional, deliberative process and attorney client privilege.
6. 5/10/05 email from Matt Rios forwarding 5/6/05 email from C. Combs; subject legal memo and draft cure letter – Pre-decisional, deliberative process and attorney-client privilege.
7. Email chain including 5/3/05 email from Matt Rios, two 4/27/05 emails from C. Combs, 4/27/05 email from Matt Rios; subject draft letter to NoaNet Oregon – pre-decisional, deliberative process; parts from C. Combs also attorney-client privilege.
8. Email chain including 4/8/05 email from Matt Rios to BPA parties attaching email chain dated 4/7/05 from Al Gonzales of LS Networks to Matt Rios and Matt Rios’ response; subject Questions for NoaNet and Lightspeed networks status – pre-decisional, deliberative process as to Matt Rios’ emails. Exemption 4 applies to Al Gonzales email. See item 4, below.

9. Two draft letters from Matt Rios to Greg Marney relating to past due charges – pre-decisional, deliberative process.
10. Email chain including 5/9/05 email from Pilar Rowe, 5/9/05 email from Matt Rios, 5/9/05 email from Pilar Rowe, 5/6/05 email from Nancy Morgan, 5/6/05 email from Matt Rios, and 5/6/05 email from Chuck Combs; subject: NoaNet interest obligation for late payment – pre-decisional, attorney client privilege
11. Email chain including 5/10/05 email from C. Combs, 5/10/05 email from Matt Rios, 5/6/06 email from C. Combs; subject: C. Combs comments on draft letter – pre-decisional, deliberative process, and attorney-client privilege for C. Combs’ parts.
12. Handwritten notes dated 4/12 relating to status of proposed assignment and collection efforts – Pre-decisional, deliberative process, also parts not related to LightSpeed/NoaNet assignment not responsive.
13. Email chain including 5/11/05 email from Robb Roberts, 5/10/05 email from Robb Roberts, 5/10/05 email from Matt Rios, and 5/6/05 email from C. Combs; subject: NoaNet – pre-decisional, deliberative process, attorney-client privilege.
14. 5/12/05 email from N. Morgan with draft cure letter attachment. Pre-decisional, deliberative process and comments in letter are attorney-client privilege.
15. 5/13/05 email from Matt Rios attaching draft letter to LS Networks. Includes summary of legal advice provided by BPA attorney. Pre-decisional, deliberative process and attorney-client privilege.
16. 5/25/05 email from Sonya Baskerville, redacted; subject issue regarding BPA approval of assignment of NoaNet license to Lightspeed – Redacted part pre-decisional, deliberative process and attorney-client privilege.
17. 5/11/05 email from Robb Roberts with attached draft legal memo relating to NoaNet and assignment to LS Networks – pre-decisional, deliberative process, attorney client privilege.
18. Handwritten notes dated 7/21/05 relating to information needs from LS Networks regarding proposed assignment – pre-decisional, deliberative process.
19. Paper entitled “NOANET” dated 5/6/05, prepared by BPA attorneys discussing legal issues concerning aspect of proposed assignment of NoaNet license to LS Networks – attorney-client, deliberative process privileges.
20. Redacted email chain including 5/9/05 email from T. Timberman, 5/9/05 email from C. Combs, 5/8/05 email from T. Timberman, 5/6/05 email from C. Combs; subject draft letter to NoaNet Oregon regarding past due charges and assignment of license to LS Networks – redacted part is pre-decisional, and partly attorney client privilege.

Documents Withheld Under Exemption 4

1. Agreement for Sale and Purchase of Loan between National Rural Utilities Cooperative Finance Corporation and Lightspeed Networks dated 3/24/05
2. Email from Jim Arntz to Matt Rios dated March 29, 2005, with attachments; subject: financial information relating to NoaNet Oregon
3. Email from Al Gonzalez to Matt Rios dated April 1, 2005, subject: Lightspeed Networks financing
4. Email chain including 4/19/05 email from Al Gonzalez to Matt Rios, 4/7/05 email from Matt Rios, and 4/7/05 email from Al Gonzalez, with attachment, subject: Lightspeed networks status and LS Networks Response to BPA Questions
5. LS Networks FY 2006 – 2010 Pro Forma Income Statement and Cash Flow, dated 10/12/05



Department of Energy

Bonneville Power Administration
P.O. Box 491
Vancouver, Washington 98666-0491

TRANSMISSION BUSINESS LINE

November 2, 2005

In reply refer to:

Christopher J. Watkins
Vice President and Associate General Counsel
CenturyTel
P.O. Box 9901
Vancouver, Washington 98668-8701

Re: Freedom of Information Act (FOIA) request No. 05-044

Dear Mr. Watkins:

On September 1, Bonneville Power Administration provided you with a partial response to your Freedom of Information Act (FOIA) request dated June 23, 2005 (No. 05-044). This letter completes BPA's response.

Enclosed please find redacted copies of the following documents relating to Electric Lightwave: 1. BPA contract No. 00TX-30407, 2. amendment No. 2 to that contract, 3. amendment No. 3 to that contract, and 4. fiber task order related to that contract.

The redacted portions of the documents contain information on pricing and specific route locations and maintenance. That information is protected by Exemption 4 of the Freedom of Information Act. Exemption 4 protects from public disclosure information that is obtained from a person that is trade secrets or commercial or financial information that is privileged or confidential. 5 USC § 552(b)(4).

Also enclosed are copies of the following documents related to the requested assignment of NoaNet Oregon's fiber license to LightSpeed Networks, LLC, or LS Networks:

1. Email from Jim Arntz to Matt Rios dated March 25, 2005, forwarding email dated 1/14/05 from T. Timberman; subject: assignment of Noanet license agreement
2. Email from Jim Arntz to Matt Rios dated March 25, 2005, forwarding email chain between Jim Arntz and G. Stuman and proposed BPA consent document; subject: BPA consent
3. Facsimile cover sheet to Jim Arntz from Charles Combs dated March 29, 2005, attaching proposed confidentiality agreement
4. Email from Jim Arntz to Chuck Combs dated March 29, 2005, subject: confidentiality agreement

5. Signed confidentiality Agreement dated March 29, 2005, between BPA, NoaNet Oregon and Lightspeed
6. Email from Al Gonzalez to Matt Rios dated April 8, 2005, subject: Information request
7. Letter dated May 13, 2005, from Nancy E. Morgan to Al Gonzalez
8. Letter with enclosure dated May 27, 2005, from Nancy E. Morgan to Mark Holden
9. Letter with enclosure dated July 5, 2005, from Virginia to Matt Rios
10. Two page document with questions for NOANET and Light Speed and LS Networks Response to BPA Questions, with the response redacted. Only the questions will be released
11. LS Networks Access Points map dated April 5, 2005.

BPA has determined that some of the documents it reviewed should be withheld in whole or in part under exemptions available to BPA pursuant to 5 USC § 552(b)(4) (Exemption 4) and 5 USC § 552(b)(5) (Exemption 5) of the FOIA, as explained below. The records being withheld are described in Appendix A. Documents withheld in their entirety do not simply recite facts and do not contain any reasonably segregable, non-exempt material.

The document numbers below correspond to the documents numbered in the attached appendix A.

BPA is applying Exemption 4 to withhold certain documents because the telecom industry is a highly competitive market. With respect to withheld information regarding Electric Lightwave, a public release of pricing information, together with the number of miles and detailed maintenance information, would allow a competitor to determine Electric Lightwave's costs, which could then be used by a competitor to develop pricing and marketing strategies that would cause Electric Lightwave substantial competitive harm in future business transactions.

Similarly, a public release of detailed route information would also cause Electric Lightwave substantial competitive harm. Detailed route information is a closely guarded secret in the telecom business. With detailed information on routes, a competitor would likely be able to determine what type of technology and equipment is being used by Electric Lightwave by revealing the distance between regeneration points. A competitor would likely be able to estimate the costs of the equipment and the strength and weaknesses of Electric Lightwave's chosen approach of a system (including how easily it is expandable to meet future customer needs).

Electric Lightwave has objected to the public release of this information. Release of the above-described information is not customarily released by Electric Lightwave and is generally kept confidential in the telecom industry.

With respect to withheld information regarding the requested assignment to LS Networks, the information withheld contains detailed financial, operating, and ownership information regarding NoaNet Oregon and LS Networks. Such information could be used by a competitor to develop

pricing and marketing strategies that would competitively harm LS Networks and NoaNet Oregon. LS Networks has objected to the public release of all but one of the Exemption 4 items listed in Appendix A, and the remaining item they did not have the opportunity to review. Such information is not customarily released by NoaNet Oregon and LS Networks and is generally kept confidential in the telecom industry.

BPA is also withholding all or parts of certain internally generated documents identified in Appendix A. This information is being withheld under the pre-decisional deliberative process or attorney-client privileges. The documents are part of BPA's internal review of the requested assignment of NoaNet Oregon's license to LS Networks, and release of this information would discourage candid discussion within the agency and interfere with BPA's interests of ensuring that its legal counsel can provide frank and complete confidential advice to BPA staff.

If you are dissatisfied with this determination, you may appeal within 30 days from the date you receive this letter to the Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. The appeal must be in writing and both the envelope and letter must be clearly marked "Freedom of Information Act Appeal."

Charges related to the FOIA request will be provided under separate cover.

Sincerely,

Christy Brannon
Freedom of Information Officer

Enclosures

Due to the size of this response you will need to contact the BPA FOIA Officer to obtain a copy - 503-230-7303 or 503-230-7305.