Department of Energy

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

PUBLIC AFFAIRS

January 15, 2008

In reply refer to: DK-7

Mr. Dan Seligman
Attorney at Law
Columbia Research Corporation
P.O. Box 99249
Seattle, WA 98139

RE: FOIA 08-012 and 08-014

Dear Mr. Seligman:

This letter is your final combined response to your Freedom of Information Act (FOIA) Requests #08-012 and #08-014.

In FOIA Request # 08-012 you requested the following:

1. A copy of the complete contract(s), including the scope of work, between BPA and the person selected as the Hearing Officer for the upcoming supplemental WP-07 power rate case or any other upcoming rate case related to the Residential Exchange Program and BPA's compliance with the recent opinions of the U.S. Court of Appeals for the Ninth Circuit.

BPA response: See copy of Contract, Attachment # 1 with some information withheld under Exemption 6, U.S.C. 552(b)(6) of the FOIA.

2. A resume and background materials supplied to BPA by the Hearing Officer regarding his/her credentials.

BPA response: No responsive documents.

3. All communications, whether written or electronic, between BPA and the person(s) selected as the Hearing Officer in item no. 1 above. This request includes all communications leading up to the selection of the person regarding his/her availability, scope of work, budget, potential conflicts of interest, and the scope of the rate case proceeding(s) itself.

BPA response: See copy of emails, Attachment #2 with some information withheld under Exemption 6, U.S.C. 552(b)(6) of the FOIA.

4. All communications, whether written or electronic, between BPA and any outside party, including but not limited to the Oregon Public Utility Commission (OPUC) and the Washington Utilities Transportation Commission (WUTC), regarding the Hearing Officer position for the rate cases listed in item no. 1.

BPA response: No responsive documents.

5. All BPA criteria, rules, regulations, policies and guidelines regarding the selection and management of Hearing Officers.

BPA response: See copy of Part 23, Bonneville Purchasing Instructions (BPI), # Attachment 3. The BPI is available electronically at BPA's website: www.bpa.gov. When you reach the website click on publications, then click on more publications/manual and select Bonneville Purchasing Instructions and refer to Part 23.

6. All criteria, rules, regulations, policies and guidelines from the U.S. Department of Energy regarding the selection and management of Hearing Officers for BPA rate cases.

BPA response: No responsive documents.

7. A list of all BPA employees or contract staff that participated in or reviewed the selection of the Hearing Officer for the rate case(s) listed in item no. 1.

BPA response: No responsive documents.

8. A copy of all internal BPA communications (whether written or electronic), memoranda and meeting notes related to the selection of the Hearing Officer for the rate case(s) listed in item no. 1. This request includes communications, memoranda and meeting notes related to the hiring of the Hearing Officer as a sole-source contractor and/or which provide an explanation of why BPA did not seek a competitive solicitation (bid) for the position(s).

BPA response: No responsive documents.

9. A list of all candidates considered but not hired by BPA for the position(s) listed in item no. 1.

BPA response: No responsive documents.

10. A copy of all BPA communications, whether written or electronic, with the U.S. Department of Energy regarding the contract(s) listed in item no. 1.

BPA response: No responsive documents.

In FOIA Request # 08-014 you requested the following:

1. A copy of the competitive solicitation (including ads), if any, used by BPA in inviting applicants to submit a resume or qualifications to BPA for the position of Hearing Officer for the WP-07 power rate case.

BPA response: No responsive documents.

2. The criteria, rules, regulations, policies and guidelines used by BPA in evaluating these applicants and selecting Allan Arlow as the Hearing Officer.

BPA response: No responsive documents.

3. A list of all candidates considered but not hired by BPA for the position of Hearing Officer for the WP-07 power rate case.

BPA response: No responsive documents.

4. A copy of all internal BPA communications (whether written or electronic), memoranda and meeting notes related to the selection of the Hearing Officer. This request includes all documents related to the hiring of Judge Arlow as a sole-source contractor

BPA response: No responsive documents.

5. All communications, whether written or electronic, between BPA and Judge Arlow prior to signing the contract for the Hearing Officer position. This request includes all communications concerning his availability, his work obligations to the Oregon Public Utility Commission (OPUC), the scope of work, budget, potential conflicts of interest, and the scope of the rate case proceeding(s) itself.

BPA response: See copy of emails, Attachment # 2 with some information withheld under Exemption 6 U.S.C. 552(b)(6), of the FOIA.

6. A copy of the complete signed contract(s), including the scope of work, between BPA and Judge Arlow for the Hearing Officer position for the WP-07 power rate case.

BPA Response: See copy of contract, Attachment #1 with some information withheld under Exemption 6 U.S.C. 552(b)(6), of the FOIA.

7. All communications, whether written or electronic, between BPA and any outside party, including but not limited to the OPUC, regarding the selection of the Hearing Officer for the WP-07 power rate case.

BPA response: No responsive documents.

8. A list of all BPA employees or contract staff that participated in or reviewed the selection of the Hearing Officer for the WP-07 power rate case.

BPA response: No responsive documents.

9. A copy of all BPA communications, whether written or electronic, with the U.S. Department of Energy regarding the selection of the Hearing Officer for the WP-07 power rate case.

BPA response: No responsive documents.

Exemption 6 protects from mandatory disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." A home address and personal email address have been deleted from the Contract.

In applying Exemption 6, the BPA considered (1) whether a significant privacy interest would be invaded; (2) whether release of the information would further the public interest by shedding light on the operations or activities of the Government; and (3) whether in balancing the privacy interests against the public interest, disclosure would constitute a clearly unwarranted invasion of privacy.

The withheld information is of a highly personal nature and the individual to whom it pertains has an expectation that it will remain private. Disclosure of this information could subject the individual in question to unwanted communications, attention, and harassment that would intrude into his personal life. Moreover, the disclosure of this information will not reveal any aspect about the operations or activities of the Government.

If you are dissatisfied with this determination, you may make an appeal within thirty (30) days of the receipt of this letter to the Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585. Both the envelope and letter must be clearly marked "Freedom of Information Act Appeal." There is no charge for these requests.

I appreciate the opportunity to assist you with this matter. If you have any questions about this letter, please contact Laura M. Atterbury, FOIA/Privacy Act Specialist, at 503-230-7305.

Sincerely,

/s/ Christina J. Brannon

Christina J. Brannon
Freedom of Information Act/Privacy Act Officer

Enclosure(s):
Responsive Documents

Due to the size of this response we are not able to put it online. Please contact the BPA FOIA Officer at 503-230-7303 to obtain a copy.