

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
Civil Action No.: 2084CV01858

ENERGY POLICY ADVOCATES)
)
 Plaintiff,)
)
 v.)
)
 OFFICE OF THE ATTORNEY GENERAL OF)
 MASSACHUSETTS, MAURA HEALEY, in her)
 official capacity as Attorney General, et al.,)
)
 Defendants.)

PLAINTIFF’S QUESTIONS PURSUANT TO COURT ORDER DATED MARCH 26,
2024 REGARDING DEFENDANT’S INDEX OF EXEMPTED RECORDS DATED
JANUARY 30

Plaintiff, Energy Policy Advocates (“EPA”), submits the following Questions in regards to the latest version of Defendant, Office of the Attorney General’s, Index of purportedly exempt records produced on or about January 30, 2024.

DEFINITIONS

For the purpose of these Questions¹ definitions are set forth below.

1. “Record” means records as defined and described in M.G.L. c. 4 § 7.
2. “Index” means the latest iteration of the Index of purportedly exempt Records at issue in this action as provided to EPA by the Office of the Attorney General on or about January 30, 2024.
3. “Request” means EPA’s propounded public Records requests made on or about January 17, 2020 and April 28, 2020 and at issue in the above-captioned matter.
4. “Person,” “persons,” “people,” “individual” “party” or “parties” means any natural person, as well as firms, companies, corporations, partnerships, proprietorships, joint ventures, organizations, groups of natural persons or other associations or entities separately identifiable whether or not such associations or entities have a separate legal existence in their own right.
5. “Identify,” “identifying,” and “identification” when referring to a person mean to provide an identification sufficient to notice a deposition of such person and to serve such person with process to require his or her attendance at a place of examination.
6. “Document” means all materials within the full scope of Fed. R. Civ. P. 34 including but not limited to: all writings and recordings, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise.
7. “Metadata” means data that describes and gives information about other data in a Record.

¹ In the hearing held on March 26, 2024 the Court specified that the word “Question” should be used instead of interrogatory to avoid any implied confusion regarding the application of Mass. R. Civ. P. 26.

QUESTIONS

1. *For all one hundred and three Records in the Index except as noted in (1)(b)*, individually and for each, please:
 - a) As to each Record, state the formal name of *any and all* authors of the document or, as to email, all Parties to the correspondence (e.g., email sender, recipient, cc:, bcc;; attachment-author if stated on its face, otherwise as listed in the document's Metadata, and if the two are in conflict please provide both and note both), and the title or position of all such authors or parties to the correspondence and if such title or position is with an entity that is not The Office of the Attorney General or not currently within The Office of the Attorney General, state whether or not the relevant individuals' names are shown in the Index, and provide their email address; if Respondent does not know this information regarding any particular Record, please explain the nature of the Respondent's knowledge or lack of knowledge; and for any Party or Person that is not an employee of the Office of the Attorney General, please state whether the Office has a non-disclosure, confidentiality common interest, other agreement or basis relevant to any claim of privilege, and identify the date such agreement was executed and the parties to any such agreement.
 - b) As to each non-email Record (e.g., attachments), provide the document title as stated on its face otherwise as listed in the document's Metadata; if any of the aforementioned Records in this clause have no title even in the document's Metadata, please state so affirmatively and state with specificity the Record's subject matter. As to records which are emails, please provide the subject line of such email, or, if you assert that you are unable to provide the full subject line without breaching any pertinent privilege, provide

the nonprivileged portions of such subject line and state whether the subject line contains a keyword which is contained within Petitioner's request in this matter.

- c) As to each Record, list which keyword(s), 3rd-party correspondent(s), etc., and which of the two EPA Requests (e.g. January or April request), *make each Record responsive*.
- d) As to each Record, state whether the Record was shared at any time with any other Party by the The Office of the Attorney General, including pursuant to any public records request whether within Massachusetts or without.
 - i) If it was shared, please Identify all Persons or Parties it was shared with, the time and date it was shared, by whom, and whether any further commentary and/or correspondence and/or exchange was included and/or followed that sharing or forwarding.

2. *For all Records for which you have asserted an exemption under M.G.L. c. 4 § 7, cl. 26(d), individually and for each:*

- a) Please describe and provide the title of any factual studies or reports that are the subject of, or related to, the purportedly exempt Record²; and
- b) the date of their creation and the percentage of the factual studies or reports that was complete as of April 16, 2024.

3. *For Index Record numbers 1, 40 and 59, for which you have asserted an exemption under M.G.L. c. 4 § 7, cl. 26(f): individually and for each please provide any facts which support the claim that the contents are confidential, and explain how those contents' revelation would prejudice the alleged underlying investigation.*³

² See *DaRosa v. City of New Bedford*, 30 N.E.3d 790 (Mass. 2015).

³ See *Rahim v. Dist. Attorney for Suffolk Dist.*, 486 Mass. 544 (Mass. 2020).

Dated: April 16, 2024

Respectfully Submitted
Energy Policy Advocates
By its attorneys,

/s/ Nathaniel M. Lindzen
Nathaniel M. Lindzen (BBO #689999)
nlindzen@corpfraudlaw.com
Law Office of Nathaniel M. Lindzen
57 School Street
Wayland, MA 01778
Phone: (212) 810-7627

Certificate of Service

I, Nathaniel M. Lindzen, attorney for plaintiffs Energy Policy Advocates, hereby certify that on April 16, 2024, I served the foregoing, electronically by email on:

Katherine Fahey, Esq.
Office of Massachusetts Attorney General
One Ashburton Place
Boston, MA 02108

Dated: April 16, 2024

/s/ Nathaniel M. Lindzen