

Document 2



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 6, 2013

FOIA/PA-2014-00078

Jessica Azulay
Alliance for a Green Economy (AGREE)
2013 E. Genesee St
Syracuse, NY 13210

Dear Requester:

We received your Freedom of Information Act/Privacy Act (FOIA/PA) request on December 6, 2013.

Your request has been assigned the following reference number that you should use in any future communications with us about your request: **FOIA/PA-2014-00078**

To ensure the most equitable treatment possible of all requesters, the NRC processes requests on a first-in, first-out basis, using a multiple track system based upon the estimated time it will take to process the request. Based on your description of the records you are seeking, we estimate completion of your request will take more than 20 working days. We will advise you of any change in the estimated time to complete your request.

Due to the unexpected events in Japan in March 2011, the NRC is processing a larger than normal volume of FOIA requests including some that have qualified for expedited processing and have therefore been placed at the front of the queue. We are doing our best to process all requests in a timely manner but our response times are being affected. We appreciate your understanding.

For purposes of assessing fees in accordance with our regulations (10 CFR 9.33), we have placed your request in the following category: **Non-Exempted**. If applicable, you will be charged appropriate fees for: **Search and Duplication of Records**.

A sheet has been enclosed that explains in detail the fee charges that may be applicable. **Please do not submit any payment unless we notify you to do so.**

You requested that fees be waived for your request and I have determined that your request for a waiver of fees does not meet the criteria required under 10 CFR 9.41 (copy attached) for the reasons shown on the attached fee waiver denial notice. You may appeal this determination. Any such appeal must be made in writing within 30 calendar days by addressing the appeal to the Executive Director for Operations.

The following person is the FOIA/PA Specialist who has been assigned responsibility for your request: **Mark Graff** at **301-415-8154**.

If you have questions on any matters concerning your FOIA/PA request please feel free to contact the assigned FOIA/PA Specialist or me at (301) 415-7169.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Kellogg for".

Donna L. Sealing
FOIA/Privacy Act Officer
Office of Information Services

Enclosures:

Incoming Request
Explanation of Fees
Fee Wavier Denial Notice

EXPLANATION OF FEES

Requester Fee Categories

Commercial: Fees are charged for document search, duplication, and review, when records are requested for commercial purposes. Fees (above the minimum fee charge) cannot be waived for this category of requester.

Educational, Non-Commercial Scientific, News Media and Privacy Act: Fees may be charged only for document duplication when records are not sought for commercial use and the request is made by an Educational or Non-Commercial Scientific Institution, whose purpose is scholarly or scientific research; or a Representative of the News Media; or a person requesting his/her own records that are in a Privacy Act system of records. No fee is charged for the first one hundred pages of duplication for this category of requester.

Non-Excepted: For any request not described above (Non-Excepted), fees may be charged for document search and duplication. No fee is charged for the first two hours of search time or for the first one hundred pages of duplication for this category of requester.

Fee Schedules

Fee schedules provide only for the recovery of the direct costs of search, duplication, or review. Review costs include only the costs for initial examination of a document to determine whether it must be disclosed and to determine whether to withhold portions that are exempt from disclosure. The fee schedule is as follows:

<u>Search & Review Conducted By</u>	<u>Rate</u>	
! SES/COMMISSIONER	\$90.53/hour	(ES-maximum)
! PROFESSIONAL	\$56.36/hour	(GG-13, Step 6)
! CLERICAL	\$25.16/hour	(GG-7, Step 6)
<u>Duplication Charges</u>	\$.20 per page	

Fees for non-standard search or duplication will be charged at the actual cost (e.g. providing copying of audio tapes or conducting computer searches).

Minimum Fee: No fee will be charged unless the fee is equal to or greater than \$25.00.

When to Pay Fees

If we estimate that fees will not exceed \$25.00 or you have stated in your request a higher amount that you are willing to pay, we assume your willingness to pay up to \$25 or the amount stipulated and you will be billed after we have completed your request.

If we estimate that fees will exceed \$25.00 or any amount that has been stated by you in your request, we will not proceed with your request until we have notified you and obtained your agreement to pay the estimated fees.

If we estimate fees will exceed \$250, you will be required to pay the estimated fees in advance before we proceed further with your request. If, while processing your request, we find that the actual fees exceed the estimated fee, we will obtain your consent to pay the additional fees before continuing to process your request. If the actual fees to process your request are less than any advance payment you have made, you will be refunded the overpayment amount.

Fee Waivers

A waiver or reduction of fees may be granted for furnishing documents if a requester, by fully addressing the eight factors in 10 CFR 9.41, clearly demonstrates that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

Fee Waiver Denial Notice

At this time, your request for a waiver of fees is being denied because your justification has not satisfied all of the factors required under 10 CFR 9.41. The specific factors and reasons why they have not been satisfied are explained below.

Factor (1): Describe the purpose for which the requester intends to use the requested information.

Your answer to this question was to release the information to the public, to elected officials, and to the media. You also indicated that the information pertains to your 2.206 petition and will help facilitate a better understanding of how the agency has dealt with your petition. **This factor has been met.**

Factor (2): Explain the extent to which the requester will extract and analyze the substantive content of the agency records.

Your justification for this question was that you will thoroughly read every document for information pertaining to your petition and to the financial qualifications of Entergy to operate its merchant reactors. You then indicated that information gleaned from the documents will be added to the public record. **This factor has been met.**

Factor (3): Describe the nature of the specific activity or research in which the agency records will be used and the specific qualifications the requester possesses to utilize information for the intended use in such a way that it will contribute to the public understanding.

You provided justification that you will work with the other co-petitioners from your 2.206 Petition to utilize this information. You provided information about some of those co-Petitioners, specifically the Citizens Awareness Network, and their qualifications as an expert in public interest regarding NRC's financial qualification regulations. No qualifications of the requester, however, have been provided, and the records sought are primarily intended specifically to advance your organization's petition, rather than public awareness and education. **This factor has not been met.**

Factor (4): Describe the likely impact on the public's understanding of the subject as compared to the level of public understanding of the subject before disclosure.

You provided justification for this question that the records will help the public understand how NRC staff is attempting to assess the financial health of the economically struggling reactors, how the industry is responding, and how the NRC as a whole is addressing the issue. **This factor has been met.**

Factor (5): Describe the size and nature of the public audience to whose understanding a contribution will be made.

You provided justification that you have relationships with media outlets, and list-serves will reach those located near the financially struggling nuclear reactors and around the nation. **This factor has been met.**

Factor (6): Describe the intended means of dissemination to the general public.

You provided justification for this question that you would disseminate the records via the websites of the Petitioners, through social media, press releases, and journalists. **This factor has been met.**

Factor (7): Indicate if public access to information will be provided free of charge or provided for an access fee or publication fee.

You indicated that this information would be made available free of charge. **This factor has been met.**

Factor (8): Describe any commercial or private interest the requester or any other party has in the agency records sought.

Your answer to this question was that you had no commercial or private interest in this information. However, this contradicts the subject matter of your request, which pertains directly to a petition advanced through your organization. Specifically, you have asked for records regarding not only a draft RAI pertaining to the subject of your petition, but also regarding your organization's petition itself. In responding to the question regarding the nature of the activity to which the records would be put, you indicated that you would "read every document for information related to our petition." This would directly advance the interests of your organization. Whether or not a profit is gleaned from the requested records is not the determining factor of whether or not a requester has a commercial or private interest in the records being sought. Rather, public advocacy groups that seek records regarding the subject matter for which they advocate are, by nature, seeking records that advance the own organization's interests. **This factor has not been met.**

This denial may be appealed by writing to the Executive Director of Operations, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within 30 calendar days from date of receipt. It should clearly state on the envelope and in the letter, "Fee Waiver Appeal."