



STATE OF NEBRASKA
Office of the Attorney General

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June 5, 2026

Via email at [REDACTED]
Travis Weller

RE: *Public Record Matter Involving the Omaha Public Power District*
Our File No. 20261049

Dear Mr. Weller

This letter is in response to your public records petition received by this office on May 21, 2026. You asked us to review the Omaha Public Power District's (OPPD) partial denial of your May 5, 2026, public records request, in which you sought records related to alleged surveillance near your property. We considered your petition, its attached documents, the supplemental information you provided on May 25, 2026, and the information we received from OPPD's attorneys, Stephen M. Bruckner and Karsen Sims, in accordance with the Nebraska Public Record Statutes (NPRS), Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2024). We have completed our review, and our conclusions are detailed below.

RELEVANT FACTS

On May 5, 2026, you submitted a public records request to OPPD seeking six categories of records with keyword search identifiers. On May 11, Ms. Sims acknowledged your request and explained that additional time was needed to gather responsive records. She anticipated that OPPD would provide a further response by May 20, 2026. On that date, Ms. Sims responded to your request and fulfilled several categories of the requested records. However, relevant to your petition, some records were withheld from disclosure, while others were produced with redactions.

Your request sought in part, "Internal & Social Media Communications: All emails, memos, and digital messages (including SMS, Slack, or Teams) discussing the viral

Reddit thread, 'the guy in Fort Calhoun,' or the 'camera incident,' regardless of whether [Travis Weller] is explicitly used." OPPD provided materials in response to this request; however, "some internal e-mail correspondence" was withheld pursuant to Neb. Rev. Stat. § 84-712.05(4).

Further, your request sought "Vendor Identity: The name, corporate address, and the contract of the third-party entity responsible for the equipment at [your address]." OPPD again provided responsive materials, including OPPD's contract with Nielsen Construction Co. (Nielsen Contract). However, certain information was redacted from this contract pursuant to Neb. Rev. Stat. § 84-712.05(3) and (10).

In your correspondence to our office, you challenge OPPD's decision to withhold records and redact information. You allege that the withheld internal communications involve administrative messages, public relations planning, and complainant profiling. Further, you state that any corporate attorney-client privilege was waived. Finally, you assert that the Nielsen Contract was improperly redacted to hide information regarding trespassing and surveillance. You requested that our office "conduct an in camera review of the unredacted files, determine that these withholdings are unlawful, and order the immediate disclosure of the internal communications and unredacted work orders."

DISCUSSION

I. Withholding Records Under Neb. Rev. Stat. § 84-712.05(4)

Neb. Rev. Stat. § 84-712 sets out the basic rule for access to public records in Nebraska. That statute provides, in pertinent part:

Except as otherwise expressly provided by statute, all residents of this state and all other persons interested in the examination of the public records as defined in section 84-712.01 are hereby fully empowered and authorized to (a) examine such records, and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (2) of this section, and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (3) of this section during the hours the respective offices may be kept open for the ordinary transaction of business.

Public records "include all records and documents, regardless of physical form, of or belonging to this state [or] any county" "[e]xcept when any other statute expressly provides that particular information or records shall not be made public..." Neb. Rev. Stat. § 84-712.01(1). In Nebraska, access to public records is broad, but not absolute. Neb. Rev. Stat. § 84-712.05 currently contains twenty-nine categories of records that may

be withheld at the discretion of the records custodian. The burden of showing that a statutory exception applies to the disclosure of records rests upon the custodian of the records. *State ex rel. BH Media Grp., Inc. v. Frakes*, 305 Neb. 780, 788, 943 N.W.2d 231, 240 (2020); *Aksamit Res. Mgmt. LLC v. Neb. Pub. Power Dist.*, 299 Neb. 114, 123, 907 N.W.2d 301, 308 (2018) [*"Aksamit"*].

In this case, OPPD relied on § 84-712.05(4) to withhold responsive records. This exception allows a public body to lawfully withhold “[r]ecords which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body *or which are confidential communications as defined in section 27-503.*” (Emphasis added.) Neb. Rev. Stat. § 27-503 defines confidential communications as those “not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication.”

According to information we received from Mr. Bruckner, the only records withheld from disclosure under § 84-712.05(4) were email correspondence regarding your public records request and the drafting and issuance of a legal hold order to preserve documents. He states that the withheld emails consist simply of OPPD staff seeking and receiving legal advice from their attorneys about your request. Mr. Bruckner explained that these emails were marked as responsive because they contain your keyword search identifiers.

“Statutory language is to be given its plain and ordinary meaning, and an appellate court will not resort to interpretation to ascertain the meaning of statutory words which are plain, direct, and unambiguous.” *Aksamit*, 299 Neb. at 123, 907 N.W.2d at 308. Emails between OPPD employees and counsel made for the purpose of seeking and receiving legal advice in connection with a public records request fall squarely within the § 27-503 definition of confidential communications. The emails were in furtherance of the rendition of legal advice and not intended for disclosure to third parties. Apart from these email chains, OPPD provided you with all responsive records.

II. *Redactions under Neb. Rev. Stat. § 84-712.05(3) and (10)*

In response to your request for the name, corporate address, and contract of the third-party entity responsible for the equipment connected to this matter, OPPD provided you with a copy of the Nielsen Contract with certain sections redacted pursuant to Neb. Rev. Stat. § 84-712.05(3) and (10).

Neb. Rev. Stat. § 84-712.05(3) permits OPPD to withhold “commercial information which if released would give advantage to business competitors and serve no public purpose.” According to Mr. Bruckner, OPPD relied on § 84-712.05(3) to redact the contract price on pages nine and sixty-three, and a rate sheet itemizing the exact costs

for all services and materials on pages fifty-eight and fifty-nine. Ms. Sims stated that releasing pricing and itemized cost information for a widespread cable replacement project would give an advantage to contractors in future bids for similar work. OPPD could be placed at a competitive disadvantage if entities could use this pricing information in later negotiations. Further, she explained that the release of this information would serve no public purpose because it would harm ratepayers, impair future bids and procurements, and is not related to the purpose of your request. We find OPPD properly relied on § 84-712.05(3) to redact this information.

Additionally, under Neb. Rev. Stat. § 84-712.05(10) public bodies may withhold

information that relates details of physical and cyber assets of critical energy infrastructure, critical water infrastructure, critical telecommunications and broadband infrastructure, or critical electric infrastructure, including (i) specific engineering, vulnerability, or detailed design information about proposed or existing critical energy infrastructure, critical water infrastructure, critical telecommunications and broadband infrastructure, or critical electric infrastructure that (A) relates details about the production, generation, transportation, transmission, or distribution of energy, electronic data, or water, (B) could be useful to a person in planning an attack on such critical infrastructure, and (C) does not simply give the general location of the critical infrastructure....

Mr. Bruckner explained that OPPD relied on § 84-712.05(10) as its basis for the redactions on pages fifty-two through fifty-four of the Nielsen Contract. He represented that the redacted materials include detailed design information on the materials and standards to be provided for cable replacements and OPPD system improvement upgrades. The redacted sections contain information about transformers, switches, fuses, cable junctions, pedestals, circuit indicators, and switchgears. This critical design information offers more than the general location of infrastructure and relates details about the distribution of energy. Mr. Bruckner assured our office that the redacted pages do not include any instructions or specific work orders made by OPPD to Nielsen Construction Co. We therefore find OPPD properly relied on § 84-712.05(10) to redact this information.

III. *In Camera Review and Privilege Log*

Finally, you requested that our office conduct an *in camera* review of the materials and compel OPPD to produce an itemized privilege log. Although § 84-712.03(1)(b) creates enforcement responsibility for the Attorney General under the NPRS, our office has no statutory mechanism or other authority under Nebraska law to review withheld or unredacted copies of requested records to determine whether such records have been improperly withheld. Pursuant to § 84-712.03(2), only the courts may conduct an *in camera* review of the requested records without redaction to determine whether a petitioner has been denied any rights under the NPRS. Further, since there is no provision in the NPRS that would require OPPD to produce an “itemized privilege log,” this office has no authority to compel its production. Upon review, we conclude that OPPD’s May 20, 2026, correspondence provided you with the required information regarding the withheld and redacted records in accordance with § 84-712.04.

CONCLUSION

Based on the foregoing, we find that OPPD’s reliance on Neb. Rev. Stat. § 84-712.05(4) as its basis to withhold emails made for the purpose of seeking and receiving legal advice was appropriate. We further find OPPD’s reliance on Neb. Rev. Stat. § 84-712.05(3) and (10) to redact limited pricing information and detailed critical infrastructure materials lawful. Since the withheld information may be kept from public inspection under the NPRS, no further action by this office is necessary, and we are closing this file. If you disagree with our analysis, you may wish to discuss this matter with a private attorney to determine what additional remedies, if any, are available to you under these statutes.

Sincerely,

MIKE HILGERS
Attorney General



Ben Kinnison
Assistant Attorney General

c: Stephen M. Bruckner (via email only)
Karsen Sims (via email only)