

FEDERAL ENERGY REGULATORY COMMISSION

Leonard Tao
Chief FOIA Officer

CHIEF FOIA OFFICER REPORT



2019

2019 Chief FOIA Officer Report
FEDERAL ENERGY REGULATORY COMMISSION

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Chief FOIA Officer
Director of Office of External Affairs

[Section I:](#)

Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's [FOIA Guidelines](#) is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

Section I: FOIA Leadership

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at or above this level?

[Yes](#)

2. Please provide the name and title of your agency's Chief FOIA Officer.

[Leonard M. Tao](#)
[Director of Office of External Affairs](#)

Section I: FOIA Training

3. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any substantive FOIA training or conference during the reporting period such as that provided by the Department of Justice? [Yes](#)

4. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

[FOIA for Attorneys and Access Professionals by Department of Justice.](#)

During FY2018 several FOIA professionals attended a two day training session at the Department of Justice that provided a detailed overview of FOIA procedural requirements, exemptions, proactive disclosure requirement and all major aspects of FOIA.

5. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

FERC has one full time FOIA professional and sixteen individuals who work on FOIA matters along with other responsibilities. Internal training was provided for new employees and refresher training was provided to staff, as necessary. Special training sessions were also conducted for specific program offices to address issues and offer guidance on conducting effective electronic searches for responsive material. Approximately 80% of the FOIA professionals attended or conducted FOIA training during FY2018.

6. OIP has **directed agencies** to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

Section I: Outreach

B. Outreach

7. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and if applicable any specific examples of how this dialogue has led to improvements in your agency’s FOIA Administration.

No

Section I: Other Initiatives

8. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. Please also indicate whether your agency has considered including FOIA-related performance standards in employee work plans for employees who have any role in administering the FOIA.

Training for new employees and refresher training advised individuals of their roles and obligations under FOIA. This includes an employee’s obligations to provide responsive

material along with an opinion regarding the impact of the possible release of such material. These elements are critical to have a successful FOIA program. Performance standards for current FOIA professionals include pertinent language that clearly define the duties and responsibilities of such individuals.

9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

N/A

Section II:

Effective system in place in for responding to requests.

Section II: Processing Procedures.

1. For FY 2018, what was the average number of days your agency reported for adjudicating requests for expedited processing?

7 days

2. If your average was above 10 days, describe your plan to ensure that requests for expedited processing are adjudicated within 10 calendar days.

N/A

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.

No formal assessment was conducted during this period. However, FERC continuously strives to identify methods to improve the FOIA program on a regular basis.

Section II: Requester Services.

4. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2018 (please provide a total number or an estimate of the number).

5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.

Following up with requesters in timely manner to clarify requests or providing guidance on how to conduct searches of the FERC elibrary database. This often includes providing guidance on key terms and types of documents that may be of interest to the request that can be readily viewed and/or downloaded directly to requesters computer outside of the FOIA process.

Section III:

Steps Taken to Increase Proactive Disclosures

Section III: Posting Material.

1. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material

The FERC elibrary database includes an index of documents that have been filed at FERC or issued by FERC. An index of these documents is available, along with the ability to view most public material online.

The following material reflects some of the items that have been posted to the FERC webpage.


August 8, 2018 - Commissioner Powelson looks back on his time at FERC.

Commissioner Rob Powelson sits down with Open Access to discuss the important grid resilience, energy infrastructure and other policy issues that FERC has tackled during his time at the Commission.

Transcript 


MP3

YouTube 

iTunes 



July 24, 2018 - Commissioner Cheryl A. LaFleur Concurrence in Part, Dissent in Part on Millennium Pipeline [Read More](#)

Order No. 848 	July 19, 2018	Cyber Security Incident Reporting Reliability Standards (Final Rule) (RM18-2-000)
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June 25, 2018

FERC Staff Issues Environmental Assessment for the Fields Point Liquefaction Project (CP16-121-000)

[Read More](#)

June 12, 2018 - Commissioner Richard Glick Statement regarding Tennessee Gas Pipeline Company, L.L.C. [Read More](#)

June 7, 2018

Testimony of OEP Director Terry Turpin before the House Energy and Commerce Subcommittee on Energy on Improving the Hydropower Licensing Process [PDF](#)

Subject: Improving the Hydropower Licensing Process

» [Event Details](#)

Memoranda of Understanding (MOU)

Nuclear Regulatory Commission (NRC)	Treatment of Critical Energy/Electric Infrastructure Information (CEII) PDF	June 6, 2018
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May 17, 2018

Item E-1: Staff Presentation on Geomagnetic Disturbance Reliability Standard [Staff Presentation PDF](#) | [NOPR PDF](#)

Reports & Analyses

April 19, 2018	2017 State of the Markets Report PDF Presentation PDF
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April 17, 2018

Chairman Kevin J. McIntyre, and Commissioners Cheryl A. LaFleur, Neil Chatterjee, Robert F. Powelson and Richard Glick's Testimony before the House Energy and Commerce Subcommittee on Energy [Event Details](#) | Testimony: [McIntyre PDF](#), [LaFleur PDF](#), [Chatterjee PDF](#), [Glick PDF](#), [Powelson PDF](#)

Memoranda of Understanding (MOU)

The Department of the Interior, Department of Agriculture, Department of Commerce, Department of Housing and Urban Development, Department of Transportation, Department of Energy, Department of Homeland Security, U.S. Army Corps of Engineers, Environmental Protection Agency, Advisory Council on Historic Preservation, and Federal Permitting Improvement Steering Council	Implementing One Federal Decision under Executive Order 13807 PDF	April 9, 2018
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March 15, 2018

Items G-2 & G-3: FERC Revises Policies, Will Disallow Income Tax Allowance Cost Recovery in MLP Pipeline Rates [News Release](#) | [Presentation](#) [PDF](#) | [Policy Statement](#) [PDF](#) | [Order](#) [PDF](#)

January 8, 2018

FERC Initiates New Proceeding on Grid Resilience, Terminates DOE NOPR Proceeding [News Release](#) | [Order](#) [PDF](#)

December 4, 2017	Energy Infrastructure Update for October 2017 PDF (revised natural gas tables on February 8, 2018 reflect end of year revisions)	
Order No. 838 PDF (RM16-19-000)	December 21, 2017	Annual Charges for Use of Government Lands in Alaska (Final Rule)
November 16, 2017	2017 Report on Enforcement PDF	

November 9, 2017 - Interview with Bloomberg: Balance of Power [Transcript](#) [PDF](#)

Reports & Analyses

October 19, 2017	2017–2018 Winter Energy Market Assessment (As Presented) PDF Full Version PDF
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October 19, 2017

Item H-1: FERC Issues New Policy on License Terms for Hydroelectric Projects [News Release](#) | [Presentation](#) [PDF](#) | [Policy Statement](#) [PDF](#)

News Releases: October–December 2017

TEXT SIZE [S](#) [M](#) [L](#)

RSS News Feed

 [What's New](#)

December 21, 2017

FERC to Review its 1999 Pipeline Policy Statement [News Release](#)

December 21, 2017

Items E-2, E-3, E-4 & E-5: FERC to Investigate Pricing of Fast-Start Resources by Three Grid Operators [News Release](#) | [Presentation PDF](#) | Decisions: [E-2 PDF](#), [E-3 PDF](#), [E-4 PDF](#) and [E-5 PDF](#)

» Visit our [Electric Reliability](#) section

2. Describe how your agency identifies records that have been requested and released three or more times (required to be proactively disclosed pursuant to 5 U.S.C. §552(a)(2)(D)).

[Reports from internal tracking system are reviewed to identify material that has been released three or more times.](#)

2. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe these efforts.

[FERC utilized Twitter, Facebook and Instagram to inform the public of important issuances and other FERC activities. FERC also offered a subscription service that provided realtime notification of FERC filings and issuances. This notification included a direct link to material in the FERC elibrary.](#)

3. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

[Yes](#)

4. If yes, please provide examples of such improvements.

[Ongoing efforts to enhance search capabilities and other functions in online services and create podcasts and videos to provide an overview of FERC functions and responsibilities. FERC also anticipates enhancing the infrastructure of the FERC elibrary database to increase search capabilities of users.](#)

Section III: Other Initiatives

5. Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area.

FERC will continue to pursue potential opportunities to increase proactive disclosures and implement them accordingly.

Section IV:

Steps Taken to Greater Utilize Technology

Section IV: Making Material Posted Online More Usable

1. Is your agency leveraging technology to facilitate efficiency in conducting searches, including searches for emails? If so, please describe the type of technology used. If not, please explain why and please describe the typical search process used instead.

During this period we increased interaction with IT experts and developed guidance that is used by staff to conduct more effective searches for key words in a timely manner. IT experts frequently work directly with staff to assist with searches of emails that are produced in PDF portfolio formats that can be reviewed more efficiently, thus reducing the amount of time required review of such material.

2. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in OIP's guidance on FOIA websites?

Yes.

Section IV: Other Initiatives

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2018? **Yes**

4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2019. **N/A**

5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2017 Annual FOIA Report and, if available, for your agency's Fiscal Year 2018 Annual FOIA Report.

- [2018 Annual FOIA Report](#) Raw Data 

6. Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

FERC has established an internal platform for Staff to share material and is reviewing its FOIA tracking system to implement upgrades, as necessary.

Section V:

Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

Section v: Simple Track

1. Does your agency utilize a separate track for simple requests? If your agency uses a multiple-track system beyond simple, complex, and expedited to process requests, please describe the tracks you use and how they promote efficiency.

Yes

Simple – These request are identified as Track 1.

Complex – These requests are identified as Track 2 and 3.

- Track 2 – Requests for documents that are identifiable and require limited review.
- Track 3 – Requests for documents that are complex and/or voluminous and require a significant search and/or review.

2. If so, for your agency overall in Fiscal Year 2018, was the average number of days to process simple requests twenty working days or fewer?

No (The average number of processing days as 52)

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2018 that were placed in your simple track.

28%

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

N/A

Section V. Backlogs- Requests

5. If your agency had a backlog of requests at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?

No

6. If not, did your agency process more requests during fiscal year 2018 than it did during fiscal year 2017.

Yes

7. If your agency's backlog increased, explain why. Indicate if any of the following were contributing factors:

There was an increase in the number of complex requests that were received in 2018. Many of these requests were processed on a rolling basis which required additional time. This included requests for key words within emails for extended date ranges.

8. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2018.

24%

Section V. Backlogs - Appeals

9. If your agency had a backlog of appeals at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?

No.

10. If not, did your agency process more appeals during Fiscal Year 2018 than it did during Fiscal Year 2017?

No.

11. If your agency's appeal backlog increased, explain why. Indicate if any of the following were contributing factors:

Additional consultation and clarification from requester was required to address concerns that were raised on appeal.

12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2018. If your agency did not receive any appeals in Fiscal Year 2018.

12%

Section V. Backlog Reduction Plans

13. Last year, any agency with a backlog of over 1,000 requests in FY 2017 was asked to provide a backlog reduction plan. Did your agency implement its backlog reduction plan last year? [N/A](#)

14. If so, describe your agency's efforts in implementing this plan and note if you were able to achieve backlog reduction in FY 2018. [N/A](#)

Section V: 10 Oldest Requests

15. In Fiscal Year 2018, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

[No](#)

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2017 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

[9](#)

17. Of the requests your agency was able to close from your 10 oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

[N/A](#)

18. Beyond working on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

[FERC has assigned a specific staff member to routinely monitor rolling, back log and ten oldest requests in an effort to finalize such matters during FY2019.](#)

Section V: 10 Oldest Appeal

19. In Fiscal Year 2018, did your agency close the 10 oldest appeals that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

[Yes.](#)

20. If no, provide the number of these appeals you were able to close by the end of the fiscal year. If you had less than 10 total oldest appeals to close, please indicate that.

N/A

21. Beyond working on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

N/A

Section V: 10 Oldest Consultations

22. In Fiscal Year 2018, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

No.

23. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2017 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

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Section v: Additional Information on 10 Oldest Requests, Appeals, and Consultations & Plans

24. Briefly explain any obstacles your agency faced in closing its 10 oldest requests, appeals, and consultations from Fiscal Year 2017.

These requests dealt with complex matters and/or large volumes of material and were processed on a rolling basis.

25. If your agency was unable to close any of its 10 oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A

E. Additional Information on 10 Oldest

26. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2019.

FERC has assigned a specific staff member to routinely monitor rolling, back log and ten oldest requests in an effort to finalize such matters during FY2019.

F. Success Stories

Out of all the activities undertaken by your agency since March 2017 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from any one of the five key areas. As noted above, OIP will highlight these agency success stories during Sunshine Week. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

N/A