

FEDERAL ENERGY REGULATORY COMMISSION

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Chief FOIA Officer

CHIEF FOIA OFFICER REPORT



March 2015

2015 CHIEF FOIA OFFICER REPORT
FEDERAL ENERGY REGULATORY COMMISSION

SECTION 1: STEPS TAKEN TO APPLY THE PRESUMPTION OF OPENESS

FOIA Training:

1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?

Yes. FOIA professionals attended Annual report and Chief FOIA Officer report refresher sessions at the Department of Justice.

2. 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. Internal training was provided for new employees and refresher training was provided to staff, as necessary. This was approximately 40% of staff.

3. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.

Training was not provided to all FOIA professionals during FY14. However, FERC is continuing to develop a comprehensive training program that may include web based training.

Discretionary Releases:

4. Does your agency have a distinct process or system in place to review records for discretionary release?

Yes.

If so, please briefly describe this process.

FERC has established a policy that includes an additional tier of review before final a determination is rendered. This review places emphasis on identifying potential opportunities to release material that may have been withheld pursuant to exemption 5 or make a partial release of the material.

5. During the reporting period, did your agency make any discretionary releases of information?

Yes

6. What exemption(s) would have covered the material released as a matter of discretion?

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7. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

During FY2014 FERC has made discretionary releases of email communications between FERC and cooperating agencies.

8. If your agency was not able to make any discretionary releases of information, please explain why.

N/A

Other Initiatives:

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.

A comparison of the statistics in FERC’s FY2013 and FY2014 Annual FOIA reports indicates that 12% of the requests in FY2014 were fully granted. In FY2014 39% of requests were partially granted. This is a 9% increase from FY2013. The Commission continues to strive towards being more transparent and making as many releases as possible. This includes our focused efforts to evaluate documents that contain Exemption 5 material and also take the age of the material into consideration when rendering a determination regarding the release of documents.

Breakdown of disclosures: full and partial grant

	PROCESSED	FULL	PARTIAL
FY2014	109	14 (12%)	43 (39%)
FY2013	99	14 (14%)	30 (30%)

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

Processing Procedures:

1. For Fiscal Year 2014, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2014 Annual FOIA Report.

8 days

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

N/A

Requester Services:

3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration? See OIP Guidance, "Notifying Requesters of the Mediation Services Offered by OGIS." (July 9, 2010)

Yes. All appeal response letters advise requesters of mediation services that are available at the Office of Government Information Services.

4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication? See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications." (Nov. 22, 2013)

Yes

5. If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester? See id.

Yes

Other Initiatives:

6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.

New search capabilities were developed to enhance the ability to easily conduct searches of all data contained in the FOIA tracker database. As FERC moves into the final phase of its new tracking system it will continue to evaluate opportunities to enhance the FOIA system.

Section III: Steps Taken to Increase Proactive Disclosures

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

Posting Material:

1. Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.

Yes. The FERC elibrary is monitored to identify specific subject matter, orders, reports and other material that should be prominently reflected on our webpage.

2. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

Yes. FOIA professionals routinely interact with pertinent staff members to identify matters of interest that be may be ripe for proactive disclosure. This includes consultations with staff that interact with members of the public on a daily basis. They often provide insight regarding specific trends of interest amongst members of the public.

3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

Utilizing the FOIA tracker system to identify frequently requested records.

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

The FERC elibrary includes an index of documents that have been filed at FERC or issued by FERC. Public documents can be viewed online.

<http://www.ferc.gov/docs-filing/elibrary.asp>

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

April 30, 2014

FERC Staff Issues Final Environmental Impact Statement on Cameron LNG, LLC's and Cameron Interstate Pipeline, LLC's Liquefaction Project (CP13-25-000 and CP13-27-000) [Read More](#)

May 1, 2014

President Barack Obama announces his intent to nominate Cheryl A. LaFleur as Commissioner, Federal Energy Regulatory Commission [White House Press Release](#)  | [Statement of Acting Chairman LaFleur](#) | [Bio](#)

June 12, 2014

FERC.gov gets a facelift on June 16! Our new homepage will offer easier navigation to important items [Screen Shot](#) 

July 29, 2014

Testimony of FERC Commissioners and Mr. Norman Bay before the House Energy & Commerce Subcommittee on Energy & Power Testimony: [Acting Chairman LaFleur](#)  | Commissioners': [Moeller](#)  | [Norris](#)  | [Clark](#)  and [Mr. Norman Bay](#)  | [Event Details](#)

October 10, 2014

FERC Staff to Convene Workshop on Technical, Operational, and Market Issues Related to Operator Actions in Energy and Ancillary Services Markets Operated by RTOs and ISOs on December 9, 2014 [Notice](#)  | [Event Details](#)

September 2, 2014 –

OnPoint Interview with Chairman LaFleur on carbon rule challenges, reliability, Order 1000, and Senate politics [Transcript](#)  (includes link to video)

December 19, 2014

FERC Staff Issues Final Environmental Impact Statement for the Upper Drum-Spaulding, Lower Drum, Creek, and Yuba-Bear Hydroelectric Projects [Read More](#)

November 20, 2014
[2014 Report of Enforcement](#) PDF

January 20, 2015
[FERC Chairman LaFleur to speak at the National Press Club on January 27, 2015](#) PDF

January 23, 2015
FERC staff postpones January 27, 2015, public scoping meeting for PF15-1-000 [Notice](#) PDF | [Event Details](#)

February 23, 2015
FERC Staff Issues Energy Infrastructure Update for January 2015 [Report](#) PDF | [FERC Staff Reports](#)

March 3, 2015
FERC staff releases new web section on Oil Pipeline Handbooks [Read More](#)

Other Initiatives:

5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

[FERC will continue to pursue potential opportunities to increase proactive disclosures and implement them accordingly.](#)

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that describes your agency's efforts in this area.

Online Tracking of FOIA Requests and Appeals:

Making Material Posted Online More Useful:

1. 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.

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

Webpage was upgraded to provide more effective navigation to material of interest. Members of the public were encouraged to provide feedback on webpage and other FERC matters. This included conducting meetings with some members of public. Individuals were also encouraged to utilize FERC's e-subscription services to receive real-time notifications of FERC issuances, submittals, news releases and other material. FERC also provides pertinent information in real time via face book, twitter and RSS feeds.

3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

No

4. If so, please briefly explain what those challenges are.

N/A

Use of Technology to Facilitate Processing of Requests:

Other Initiatives:

5. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?

No

6. 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 2015.

During FY2014 FERC focused on enhancing the FOIA tracker to increase the quality of data. We expect to use the new FOIA tracker to fully automate the production of future annual and quarterly reports.

7. Do your agency's FOIA professionals use email or other electronic means to communicate with requesters whenever feasible? See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications." (Nov. 22, 2013) If yes, what are the different types of electronic means are utilized by your agency to communicate with requesters?

Yes. Emails are routinely used to communicate with requesters. This includes automated acceptance emails from the FOIA tracker, seeking clarifications, providing status updates and address other FOIA issues as necessary.

8. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations? See id.

N/A

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations. For the figures required in this Section, please use the numbers

contained in the specified sections of your agency's 2014 Annual FOIA Report and, when applicable, your agency's 2013 Annual FOIA Report.

Simple Track: Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multitrack system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (nonexpedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests?

Yes

Simple - These requests are identified as track 1.

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

- Track 2. Requests for documents that are readily 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 2014, was the average number of days to process simple requests twenty working days or fewer?

No. The average number of processing days was 25 days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.

62%.

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

Backlogs:

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

No. FERC received an increased number of requests. The higher number reflects requests that were processed as rolling requests.

6. 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 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with "N/A."

6%

BACKLOGGED APPEALS

7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013.

N/A

8. 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 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A."

N/A

Backlog Reduction Plans:

Status of Ten Oldest Requests, Appeals, and Consultations:

TEN OLDEST REQUESTS

9. In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

No.

10. 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 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Five of the ten requests were closed.

11. Of the requests your agency was able to close from your ten 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?

None

TEN OLDEST APPEALS

12. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

N/A

13. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2013 Annual FOIA Report. If you Had less than ten total oldest appeals to close, please indicate that.

N/A

TEN OLDEST CONSULTATIONS

14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

N/A

15. 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 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A

Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:

16. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.

N/A

17. If your agency was unable to close any of its ten 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

18. 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 2015.

FERC will work aggressively and focus necessary resources to successfully reach our goal of completing each of the ten oldest pending requests by the end of FY2015.

Interim Responses:

Use of the FOIA’s Law Enforcement Exclusions

Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?

No.

If so, please provide the total number of times exclusions were invoked.

N/A