

**FERC-603 (OMB Control No. 1902-0197)
(4/7/2017)**

**SUPPORTING STATEMENT FOR
FERC-603, Critical Energy/Electric Infrastructure Information Data Request**

The Federal Energy Regulatory Commission (FERC or Commission) requests that the Office of Management and Budget (OMB) review and extend its approval of FERC-603, Critical Energy Infrastructure Information Request, for an additional three years. FERC-603 is an existing information collection whose filing requirements are contained in Title 18 Code of Federal Regulations (C.F.R.) Parts 375 and 388, Sections 375.313 and 388.113.

On November 17, 2016, in Order No. 833, the Commission adopted a Final Rule to implement provisions of the Fixing America's Surface Transportation Act (FAST Act) by amending its regulations to add processes for the designation, protection, and sharing of Critical Energy/Electric Infrastructure Information (CEII). Section 215A(a)(3) of the FAST Act defined Critical Electric Infrastructure Information to mean:

[I]nformation related to critical electric infrastructure, or proposed critical electrical infrastructure, generated by or provided to the Commission or other Federal agency other than classified national security information, that is designated as critical electric infrastructure information by the Commission or the Secretary of the Department of Energy pursuant to subsection (d). Such term includes information that qualifies as critical energy infrastructure information under the Commission's regulations.

The Commission defined the term "Critical Electric Infrastructure Information" to include "Critical Energy Infrastructure Information" as defined under the Commission's regulations and determined to refer to both types of information, collectively, as Critical Energy/Electric Infrastructure Information (CEII). The title of FERC 603 should therefore be changed to Critical Energy/Electric Infrastructure Information Data Request.¹ The form also provides clarification by adding a reference to the applicable Commission regulation but the request form will apply to the same basic subset of information.

**1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF
INFORMATION NECESSARY**

¹ More information on CEII is posted at <https://www.ferc.gov/legal/ceii-foia/ceii.asp> .

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Shortly after the attacks on September 11, 2001, the Commission began its efforts with respect to Critical Energy Infrastructure Information.² As a preliminary step, the Commission removed from its public files documents that were likely to contain detailed specifications of facilities and their vulnerabilities, and directed the public to use the Freedom of Information Act (FOIA) request process to obtain such information.³ The Commission was not alone in its reaction to protecting sensitive information. The Associated Press reported on October 12, 2001, that “Federal agencies are scrutinizing their Web sites and removing any information they believe terrorists might use to plot attacks against the nation.” The report referred to action by the Nuclear Regulatory Commission, the Environmental Protection Agency, the Centers for Disease Control and Prevention, and the United States Department of Transportation Office of Pipeline Safety. Concerns about threats to the energy infrastructure over which the Commission has regulatory responsibilities still exist.

Given that such information would typically be exempt from mandatory disclosure pursuant to the FOIA, the Commission determined that it was important to have a process for individuals with a valid and legitimate need to access certain energy infrastructure information. Information provided to the Commission in FERC-603 is necessary to that verification process and essential to keeping critical energy infrastructure information out of the hands of individuals that may do harm to this nation.

Specifically, the Commission implemented the FERC-603 collection in Order No. 630 (RM02-4-000), creating a process for requesters to gain access to Critical Energy Infrastructure Information. Since that time, the Commission has issued several orders refining and simplifying the Critical Energy Infrastructure Information process. For example, in Order No. 702 the Commission eliminated the requirement for several fields

² See Statement of Policy on Treatment of Previously Public Documents, 66 Fed. Reg. 52,917 (Oct. 18, 2001), 97 FERC ¶ 61,130 (2001) [posted at http://elibrary.ferc.gov/idmws/search/intermediate.asp?link_file=yes&doclist=2215938]. See 18 C.F.R. § 388.113(c) (1) (defining Critical Energy Infrastructure Information (CEII) as information about proposed or existing critical infrastructure that (i) relates to the production, generation, transportation, transmission, or distribution of energy, (ii) could be useful to persons in planning an attack on critical infrastructure, (iii) is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552, and (iv) does not simply give the location of the critical infrastructure.)

³ The FOIA process is specified in 5 U.S.C. 552 and the Commission’s regulations at 18 CFR 388.108.

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on the Critical Energy Infrastructure Information request form, making those fields necessary on a case-by-case basis. Order No. 702 also allowed annual certification for repeat requesters, *i.e.*, repeat requesters are no longer required to file a new non-disclosure agreement with each subsequent request. This decreased the use of the Critical Energy Infrastructure Information request form. Finally, in the same order the Commission revised its regulations to allow an authorized representative of an organization to file a Critical Energy Infrastructure Information request on behalf of all that organization's employees. Therefore, individuals from that organization are no longer required to submit individual Critical Energy Infrastructure Information request forms which decreased the overall use of the request form.

In 2013, the online Critical Energy Infrastructure Information request form was redesigned (with no substantive changes) to allow requestors to add additional users more easily. As noted above, in Order No. 833 (in Docket No. RM16-15), the Commission adopted a Final Rule implementing the FAST Act by amending its regulations that pertain to the designation, protection, and sharing of Critical Energy/Electric Infrastructure Information . The Final Rule became effective on February 21, 2017.⁴

FERC-603, now titled "Critical Energy/Electric Infrastructure Information (CEII) request form" is largely unchanged from the previously approved version. As in the previous version, a person seeking access to CEII must file a request for that information by providing information about their identity and reason the individual needs the information. With that information, the Commission is able to assess the requester's need for the information against the sensitivity of the information. As noted, the form will be updated to refer to CEII as Critical Energy/Electric Infrastructure Information as opposed to Critical Energy Infrastructure Information. The form will also be updated to provide clarification about the statement of need that CEII requesters must provide by referring individuals to the regulations.⁵ The reporting requirements are not being

⁴ Order 833 is posted in the Commission's eLibrary at <https://elibrary-backup.ferc.gov/idmws/common/opennat.asp?fileID=14401293> and is included in ROCIS and reginfo.gov.

The sample CEII Request Form was posted with the Notice in Docket No. IC17-3 in eLibrary at <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14470411> .

⁵ Specifically, 18 CFR section 388.113(g)(5)(i)(b) states that a statement of need must include: the extent to which a particular function is dependent upon access to the information; why the function cannot be achieved or performed without access to the information; an explanation of whether other information is available to the requester that could facilitate the same objective; how long the information will be needed; whether or

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revised.

Compliance with these requirements is mandatory. A sample updated CEII request form is attached to the notice in Docket No. IC17-3 and included in reginfo.gov and ROCIS.

For more information regarding the changes to the CEII process since its inception please see <http://www.ferc.gov/legal/maj-ord-reg/land-docs/ceii-rule.asp>.

2. HOW, BY WHOM, AND FOR WHAT PURPOSES THE INFORMATION IS TO BE USED AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION

A CEII Coordinator (currently the Director of the Office of External Affairs) is authorized by 18 C.F.R. § 375.313 to process requests for CEII and make determinations on such requests. 18 C.F.R. § 388.113 (g)(5) sets forth a process where requesters provide the CEII Coordinator information about themselves and their need for the information. The CEII coordinator uses the information to make a determination as to whether to release the information. If the requester is determined to be eligible to receive the information requested, the CEII Coordinator will determine what conditions, if any, to place on release of the information. Filers requesting CEII must also be willing to sign a non-disclosure agreement.

Through this data collection process, the Commission is able to provide CEII information to individuals who need it to participate in the Commission's proceedings, but who might not otherwise have access to the information under FOIA. Without this information, the Commission would not have the ability to provide information in an efficient manner to those with a specific and legitimate need for it. Failure to institute these procedures would mean that FERC is unable to discharge its responsibilities to protect critical information.

3. DESCRIBE ANY CONSIDERATION FOR THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN AND TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN

not the information is needed to participate in a specific proceeding (with that proceeding identified); and an explanation of whether the information is needed expeditiously.

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Requests for access to CEII material can be filed electronically or in hard copy. Approximately 75% of the requests are submitted electronically with the remaining requests submitted via fax or hard copy.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 2.

The information requested here cannot be obtained from other sources as the information is specific to each requester seeking CEII. However, it should be noted that all Commission information collections are subject to analysis and review by Commission staff and are examined for redundancy.

5. METHODS USED TO MINIMIZE BURDEN IN COLLECTION OF INFORMATION INVOLVING SMALL ENTITIES

The Commission believes that the information to be provided by requesters seeking CEII will not impose an undue burden on “small business concerns” under the Regulatory Flexibility Act (RFA).

6. CONSEQUENCE TO FEDERAL PROGRAM IF COLLECTION WERE CONDUCTED LESS FREQUENTLY

It is not possible to collect this data with less frequency. The Commission has no control over when a requester submits a CEII data request. The Commission believes the required information will impose the least possible burden for the public and regulated entities to comply with the Commission’s statutory obligation to protect CEII.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances related to this collection of information.

8. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY: SUMMARIZE PUBLIC COMMENTS AND AGENCY'S RESPONSE TO THESE COMMENTS

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In accordance with OMB requirements, in Docket No. IC17-3, the Commission published a 60-day notice⁶ and a 30-day notice⁷ on this information collection. The Commission received no comments from the 60-day Notice. In the public notices, the Commission noted that it would be requesting a three-year extension of the public reporting burden.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no gifts or payments given to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

Respondents to this collection are those individuals and/or entities requesting access to CEII material. The information gathered in this collection is used to determine eligibility to obtain access to CEII material and is not considered public information.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE.

This collection does not contain any questions of a sensitive nature.

12. ESTIMATED BURDEN ON COLLECTION OF INFORMATION

The estimated burden and cost of FERC-603 follow.

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⁶ 82 FR 8735, 1/30/2017 [without attached form]. The 60-day Notice and attached form are posted in FERC's eLibrary at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14470330> and <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14470411>.

⁷ The 30-day Notice and attached form are posted in eLibrary at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14546384> and <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14546580>.

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	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden hours & Cost Per Response^b (4)	Total Annual Burden Hours & Total Annual Cost (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
Prepare and Submit CEII Data Request	200	1	200	0.3 hrs. (rounded); \$22.35	60 hrs.; \$4,470	\$22.35

13. ESTIMATED OF THE TOTAL COST BURDEN TO RESPONDENTS

There are no estimated non-labor costs. All costs are covered in #12 and #15.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The estimate of the cost to the Federal Government is based on salaries for professional and clerical support. Based on the staff and resources involved in processing the information, the estimated average annual cost to FERC follows.

	Number of FERC Employees (FTE)⁹	Estimated Annual Federal Cost
Analysis and Processing of filings	1	\$154,647
PRA ¹⁰ Administrative Cost ¹¹		\$5,481

⁸ The Commission staff thinks that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. Based upon FERC's 2016 annual average of \$154,647 (for salary plus benefits), the average hourly cost is \$74.50/hour.

⁹ The average annual cost (salary plus benefits) for an FERC full-time employee (FTE) is \$154,647.

¹⁰ Paperwork Reduction Act of 1995 (PRA)

¹¹ The PRA Administrative Cost is the average annual FERC cost associated with

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FERC Total		\$160,128
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15. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE

The reporting requirements and burden have not changed.

The following table shows the annual total burden of the collection of information. The format, labels, and definitions of the table follow the ROCIS (and reginfo.gov) metadata.

FERC-603	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	200	200	0	0
Annual Time Burden (Hours)	60	60	0	0
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

There is no publication of the FERC-603 data.

17. DISPLAY OF EXPIRATION DATE

The OMB control number and expiration date are displayed on the form (electronic and hard-copy) used to request access to CEII information.

The expiration date is also displayed in a table posted on ferc.gov at <http://www.ferc.gov/docs-filing/info-collections.asp>.

18. EXCEPTION TO THE CERTIFICATION STATEMENT

preparing, issuing, and submitting materials necessary to comply with the PRA for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. It also includes the cost of publishing the necessary notices in the Federal Register.

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The data collected for this reporting requirement are not used for statistical purposes.