

**FERC-603 (OMB Control No. 1902-0197)  
(Renewal in Docket No. IC20-13)**

**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/Electric 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.) 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."<sup>1</sup>

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

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

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Shortly after the attacks on September 11, 2001, the Commission began its efforts with respect to Critical Energy Infrastructure Information.<sup>2</sup> 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.<sup>3</sup> 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/Electric Infrastructure Information process. For example, in Order No. 702 the Commission eliminated the requirement for several

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<sup>2</sup> 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](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.)

<sup>3</sup> The FOIA process is specified in 5 U.S.C. 552 and the Commission’s regulations at 18 CFR 388.108, et al.

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fields 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<sup>4</sup> and the FERC-603 title was changed to be consistent with Order No. 833.

FERC-603, titled "Critical Energy/Electric Infrastructure Information (CEII) request form" is largely unchanged from the previously approved versions. As in the previous versions, 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. There are no changes to the current reporting and recordkeeping requirements, other than requiring a signed statement from the requester attesting to the accuracy of the information provided in the request, which was inadvertently omitted from the previous form.

Compliance with these requirements is mandatory. The Request Form is attached to the 30-day notice and included in [reginfo.gov](http://reginfo.gov) and ROCIS. For more information regarding the CEII program and process, please see <http://www.ferc.gov/legal/maj-ord-reg/land-docs/ceii-rule.asp>.

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<sup>4</sup> 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](http://reginfo.gov). The sample CEII Request Form was posted with the Notice in Docket No. IC20-13 in eLibrary at <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14470411>.

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

FERC-603 includes a statement of need for the CEII information with details on:

- 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 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.

The 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 sign the appropriate non-disclosure agreement. Examples of the non-disclosure agreements are available at: <https://www.ferc.gov/enforcement-legal/ceii/overview>.

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**

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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 because the information is specific to each requester and the CEII information they want. 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 other 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 Docket No. IC20-13, the Commission published a 60-day notice.<sup>5</sup> The Commission received one comment on the 60-day notice from the Eastern Interconnection Planning Collaborative (EIPC) with recommendations for changes to the FERC-603 and to the CEII process generally. EIPC states that the form does not adequately protect CEII, specifically the detailed grid information included in Parts 2, 3, and 6 of FERC Form No. 715. EIPC urges the Commission to revamp the statement of need section to “require a demonstration that dissemination of the information would enhance the work of those entities charged with ensuring bulk power reliability of the electric grid.”

While the Commission acknowledges EIPC’s comments and Commission staff will coordinate a meeting to hear EIPC’s concerns, the purpose of the FERC-603 form review is to determine the burden on public requesters who need to complete the form to receive CEII. EIPC’s comments do not address this issue and could result in additional burdens on CEII requesters. Accordingly, EIPC’s concerns do not support modifying the CEII request form for purposes of the Paperwork Reduction Act. We emphasize and reiterate, however, that EIPC will have a subsequent opportunity to more fully express its concerns and to be heard in the appropriate forum and at the appropriate time.

The Commission issued a 30-day Notice<sup>6</sup> on 7/10/2020; the notice was published in the Federal Register (85 FR 43234, 7/16/2020).

**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**

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<sup>5</sup> The 60-day notice was published at 85 FR 17326 (3/27/2020). In addition, FERC issued an Errata Notice on 4/1/2020 (posted in eLibrary at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15501007> and <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15501008>).

<sup>6</sup> The Notice and attachment are posted in the Commission’s eLibrary at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15580906> and <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15580907>. They are also included in ROCIS and reginfo.gov.

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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<sup>7</sup> of FERC-603 (including the request form and non-disclosure agreement) follow.

<b>FERC-603</b>					
<b>Number of Respondents (1)</b>	<b>Annual Number of Responses per Respondent (2)</b>	<b>Total Number of Responses (1)*(2)=(3)</b>	<b>Average Burden Hrs. &amp; Cost (\$) Per Response (4)</b>	<b>Total Annual Burden Hrs. &amp; Total Annual Cost (\$) (3)*(4)=(5)</b>	<b>Cost (\$) per Respondent (5)÷(1)</b>
100	1	100	0.3 hrs.; \$24	30 hrs.; \$2,400	\$24

**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**

<sup>7</sup>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 the FERC’s 2019 average cost for salary plus benefits, the average hourly cost is \$80/hour.

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The estimate of the cost for “analysis and processing of filings” is based on wages and benefits for professional and clerical support. This estimated cost represents staff analysis, decision-making, and review of any actual filings submitted in response to the information collection.

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

	<b>Number of FERC Employees (FTE)</b>	<b>Estimated Annual Federal Cost</b>
Analysis and Processing of filings <sup>8</sup>	1	\$167,091
PRA <sup>9</sup> Administrative Cost		\$4,832
<b>FERC Total</b>		<b>\$171,923</b>

**15. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE**

The reporting requirements (other than the signed statement from the requester attesting to the accuracy of the information provided in the request) and burden have not changed. Since the implementation of Order No. 833 in early 2017, CEII requests have steadily decreased. Moreover, in FY2020, the CEII Coordinator has only received 18 CEII requests to date.

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

<b>FERC-603</b>	<b>Total Request</b>	<b>Previously Approved</b>	<b>Change due to Adjustment in Estimate</b>	<b>Change Due to Agency Discretion</b>
Annual Number of Responses	100	200	-100	0

<sup>8</sup> The FY2019 average Commission cost (for wages plus benefits) per FTE (Full-Time Equivalent) is \$167,091 (or \$80/hour).

<sup>9</sup> Paperwork Reduction Act of 1995 (PRA)



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Annual Time Burden (Hours)	30	60	-30	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**

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