

# **FEDERAL ENERGY REGULATORY COMMISSION**

**Leonard Tao**  
**Chief FOIA Officer**

## **CHIEF FOIA OFFICER REPORT**



**MARCH 2018**

# 2018 CHIEF FOIA OFFICER REPORT FEDERAL ENERGY REGULATORY COMMISSION

**Leonard Tao**  
**Chief FOIA Officer**  
**Director of the Office of External Affairs**

## 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 professional attended the American Society of Access Professionals 10th National Training Conference and the Chief FOIA Officers Council Meeting.**

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

**The Chief FOIA Officers Council meeting provided guidance to FOIA Liaisons on how to improve their interaction with requesters. Individuals from the requester community shared their insight and offered suggestions on how their FOIA experience could be improved. The 10<sup>th</sup> National Training conference provided guidance on proper steps that should be taken by agencies when they are involved in FOIA litigation, encouraged that agencies apply more discretionary releases of material and emphasized the importance of proper record management.**

- 3. 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. Special training sessions were also conducted for specific program offices that address the majority of FOIA requests. These accounted for 80% of the individuals that work on FOIA requests.**

4. *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 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 years.*

*B. Outreach*

5. *Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?*

N/A

*C. Other Initiatives*

6. *Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA.*

**Training for new employees and refresher training advised individuals of their role 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.**

7. *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

### **STEPS TAKEN TO ENSURE THAT YOUR AGENCY HAS AN EFFECTIVE SYSTEM IN PLACE FOR RESPONDING TO REQUESTS**

*1. For Fiscal Year 2017, 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 2017 Annual FOIA Report.*

**8**

*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**

*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.*

**N/A**

*4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2017 (please provide a total number or an estimate of the number).*

**60**

*5. Optional Survey Question: If possible, please provide an estimate of the average number of pages that your agency processes for each request. You may provide estimates for each track.*

**N/A**

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

**During this period we have experienced an increase in requests for email communications. In an effort to assist with this process we have increased interaction with IT experts for assistance with conducting more precise searches to identify specific and/or multiple key words more effectively.**

### **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.

*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 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.**

#### **FERC Calendar**

---

Commission Meetings, Conferences, Hearings and Scoping Meetings

<http://www.ferc.gov/EventCalendar/EventsList.aspx?CalendarID=0&Date=6/1/2017&View=listview&DisplayString=All+Events%20-%20June%202017&IsSearch=false>

(Can select date)

**February 27, 2018**

FERC Staff Inquiry Finds No Withholding of Pipeline Capacity in New England Markets [News Release](#)

**February 14, 2018**

FERC's Open Access Podcast: Commissioner LaFleur on her 2018 priorities [Podcast](#) 

**January 23, 2018** - Chairman Kevin J. McIntyre Testimony before the Senate Energy & Natural Resource subcommittee on the Performance of the Electric Power System in the Northeast and Mid-Atlantic Under Certain Weather Conditions [Transcript](#) 

### **January 23, 2018**

Chairman Kevin J. McIntyre Testimony before the Senate Energy & Natural Resource subcommittee on the Performance of the Electric Power System in the Northeast and Mid-Atlantic Under Certain Weather Conditions [Testimony](#)  | [Event Details](#)

### **January 19, 2018**

FERC Statement on Operations if Congress Does Not Pass a New Funding Resolution [Read More](#)

<a href="#">RM17-2-000</a> 	January 19, 2017	Uplift Cost Allocation and Transparency in Markets Operated by Regional Transmission Organizations and Independent System Operators (Notice of Proposed Rulemaking)
--	------------------	---

### **January 8, 2018**

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

### **December 21, 2017**

**Item E-1:** FERC Proposes to Require Expanded Cyber Security Incident Reporting [News Release](#) | [Presentation](#)  | [NOPR](#) 

» Visit our [Electric Reliability](#) section

### **December 21, 2017**

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

**December 20, 2017** - Meet Chairman Kevin J. McIntyre:

FERC Chairman Kevin J. McIntyre sits down for his first Open Access interview to discuss his views on energy and his goals as Chairman, recorded December 15, 2017 [Transcript](#) 

[MP3](#)

[YouTube](#) 

[iTunes](#) 

November 16, 2017

[2017 Report on Enforcement](#) 

Decisions and notices (*can select date*)

<http://www.ferc.gov/docs-filing/dec-not/2017/oct.asp>

### September 20, 2017

**Items E-1, E-2, & E-3:** FERC Issues Final Rules to Enhance Bulk Electric System Resilience, Reliability [News Release](#) | [Order No. 836](#)  | [Order No. 837](#)  | [NOPR](#) 

» Visit our [Electric Reliability](#) section

### September 12, 2017

FERC Announces 2018 Open Meeting Schedule [News Release](#)

<a href="#">RM16-19-000</a> 	August 17, 2017	Annual Charges for Use of Government Lands in Alaska (Notice of Proposed Rulemaking)
--	--------------------	--

*City of Rockingham, North Carolina, et al. v. FERC, et al.* 

No. 15-2535 (4th Cir. July 6, 2017)

<http://www.ferc.gov/legal/court-cases.asp>

### June 23, 2017

FERC Staff Issues Final Environmental Impact Statement for the Mountain Valley Project and Equitrans Expansion Project (CP16-10-000 and CP16-13-000) [Read More](#)

**June 1, 2017** - Joint Statement of Acting Chairman Cheryl A. LaFleur and Commissioner Colette D. Honorable on Tuscarawas River Horizontal Directional Drill - Drilling Fluid Composition [Read More](#) | [Letter to Rover Pipeline](#) 

**May 3, 2017** - Terry Turpin opening statement before the House E&C Committee [Transcript](#) 

### Of Current Interest

» [Oroville Dam Service Spillway \(P-2100\)](#)

<http://www.ferc.gov/industries/hydropower/safety/projects/oroville.asp>

April 13, 2017

FERC Staff Issues the 2016 State of the Markets [Report](#) 

*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 and Facebook to inform the public of important issuances and other FERC activities. FERC also offered 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 created podcasts and videos to provide an overview of FERC's functions and responsibilities.**

*5. If there are any other steps your agency has taken to improve 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**

*1. Has your agency identified any best practices to leverage technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes please describe the best practices, the types of technology used and the impact on your agency's processing.*

**FERC has established an internal platform for Staff to share material and is also reviewing it's FOIA tracking system to implement upgrades, as necessary.**

*2. Did your agency successfully post all four quarterly reports for Fiscal Year 2017?*

**NO.**

*3. 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 2018.*

**During FY2018 FERC will continue to focus on enhancing the FOIA tracker to increase the quality of the data. We expect to use this data to automate the production of quarterly reports.**

*4. 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 2016 Annual FOIA Report and, if available, for your agency's Fiscal Year 2017 Annual FOIA Report.*

**We are currently working to comply**

*5. If there are any other steps your agency has taken to improve use of technology in FOIA, please describe them here.*

**N/A**

## **SECTION V**

### **STEPS TAKEN TO IMPROVE TIMELINES IN RESPONDING TO REQUESTS AND REDUCING BACKLOGS**

The President's **FOIA Memorandum** and the Attorney General's **2009 FOIA Guidelines** have emphasized the importance of improving timeliness in responding to requests. This section of 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 2016 Annual FOIA Report and, when applicable, your agency's 2017 Annual FOIA Report.*

## **A. 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 multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) 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 2017, was the average number of days to process simple requests twenty working days or fewer?*

**NO** (The average number of processing days was 34)

*3. Please provide the percentage of requests processed by your agency in Fiscal Year 2017 that were placed in your simple track.*

**74%**

*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**

## **B. 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 2016 and Fiscal Year 2017 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 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?*

**NO**

*6. If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:*

**There was an increase in the number of requests that were received and processed in 2017. Some of the requests involved complex issues that required additional processing time.**

*7. 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 2017.*

**14%**

## **BACKLOGGED APPEALS**

*8. If your agency had a backlog of appeals at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?*

**N/A**

*9. If not, explain why and describe the causes that contributed to your agency not being able reduce backlog. When doing so, please also indicate if any of the following were contributing factors:*

**N/A**

*10. 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 2017. If your agency did not receive any appeals in Fiscal Year 2017 and/or has no appeal backlog, please answer with "N/A."*

N/A

### **C. Backlog Reduction Plans**

*11. In the 2017 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2016 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2017?*

N/A

*12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2017, what is your agency's plan to reduce this backlog during Fiscal Year 2018?*

N/A

### **D. Status of Ten Oldest Requests, Appeals, and Consultations**

#### **Status of Ten Oldest Requests, Appeals, and Consultations:**

***Status of Ten Oldest Requests, Appeals, and Consultations:*** Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2017 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

#### **TEN OLDEST REQUESTS**

*13. In Fiscal Year 2017, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2016 Annual FOIA Report?*

**NO**

*14. 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 2016 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.*

**4**

*15. 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?*

**N/A**

### **TEN OLDEST APPEALS**

*16. In Fiscal Year 2017, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2016 Annual FOIA Report?*

**N/A (No oldest Appeals)**

*17. 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 2016 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.*

**N/A**

### **TEN OLDEST CONSULTATIONS**

*18. In Fiscal Year 2017, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2016 Annual FOIA Report?*

**N/A**

*19. 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 2016 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.*

**N/A**

## **E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans**

*20. Briefly explain any obstacles your agency faced in closing its ten 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.**

*21. 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

*22. 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 2017.*

**FERC will work aggressively and focus necessary resources to successfully reach our goal of completing the ten oldest pending requests by the end of FY2018.**

## **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