FEDERAL ENERGY REGULATORY COMMISSION

Leonard Tao
Chief FOIA Officer

CHIEF FOIA OFFICER REPORT

March 2011

I. Steps Taken to Apply the Presumption of Openness

1. Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

a. Describe how the President's FOIA Memorandum and the Attorney General's FOIA Guidelines have been publicized throughout your agency.

FOIA training now includes detailed discussions regarding the Presidents FOIA Memorandum and the Attorney General's FOIA Guidelines. These documents are also included in the FOIA training handouts. A copy of this material is also posted on the FERC webpage.

b. What training has been attended and/or conducted on the new FOIA Guidelines?

During FY2009 the Chief FOIA Officer implemented mandatory training for all FERC employees to emphasize the important role of each employee in the FOIA process. This training also provided detailed discussions regarding the new FOIA guidelines.

During FY2010 FERC provided training to new employees and offered refresher training to various program offices. All staff have also been strongly encouraged to contact the FOIA professionals if they have additional FOIA concerns.

c. How has your agency created or modified your internal guidance to reflect the presumption of openness?

The focus during the review process now emphasizes that documents that pose no reasonable expectation of foreseeable harm be considered for release or at a minimum partial release.

d. To what extent has your agency made discretionary releases of otherwise exempt information?

During FY2010 four full discretionary releases and one partial discretionary release was made to requesters.

e. What exemptions would have covered the information that was released as a matter of discretion?

Exemption 5

f. How does your agency review records to determine whether discretionary releases are possible?

When a request is received that may implicate Exemption 5, the FOIA officer *communicates with program offices within the agency to determine whether a discretionary release may be undertaken in accordance with guidelines set forth in the Attorney General's memorandum dated March 2009.*

g. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

FERC personnel receive continuous training as to how to properly respond to FOIA requests in an effort to maximize compliance with the law.

2. Report the extent to which the numbers of requests where records have been released in full and the numbers of requests where records have been released in part has changed from those numbers as reported in your previous year's Annual FOIA Report.

A comparison of the statistics in FERC's FY2009 and FY2010 Annual FOIA reports reflect that 21% of the requests in FY2010 were fully granted. This is a 1% increase in the number of requests that were fully granted in FY2009. In FY2010 33% of requests were partially granted. This represents a 9% increase over the number of requests that were partially granted in FY2009.

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

	FULL	PARTIAL
FY2010	25	38
FY2009	23	27
FY2008	39	21

II. Steps Taken to Ensure that Your Agency has an Effective System In Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open Government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests."

Describe how the President's FOIA Memorandum and the Attorney General's FOIA Guidelines have been publicized throughout your agency. Do FOIA professionals within your agency have sufficient IT support?

    a. Do FOIA professionals within your agency have sufficient IT support?

Yes. The FOIA professionals have always had access to IT professionals. However, during FY2010 a specific IT professional was assigned to work directly with the FOIA professionals to gain an overall understanding of the dynamics of the FOIA process, to enhance technical support and assist with new FOIA software issues.

    b. Describe how your agency's FOIA professionals interact with your Open Government Team.

The FOIA professionals and Open Government team expect to enhance their efforts to be more interactive by conducting routine briefings.

c. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to responding to FOIA requests.

We have reviewed the overall functionality of the FOIA program and determined that we currently have adequate staffing to successfully carry out the necessary tasks in a timely manner. However, we will continue to monitor this situation and make adjustments as necessary.

d. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.

Weekly reports are reviewed to monitor the FOIA process. Staff reassignments are made as necessary to accommodate FOIA timelines that may conflict with other workload of Staff.

III. Steps Taken To Increase Proactive Disclosures

a. Has your agency added new material to your agency website since last year?

In an effort to increase proactive disclosures FERC has posted many documents of interest on the FERC webpage. The list below is a partial listing of material that has been posted since October 1, 2009.

December 24, 2009 - Chairman Wellinghoff and John Norris statements on U.S. Senate vote confirming Mr. Norris' nomination to FERC PDF

December 17, 2009 - Chairman Wellinghoff's statement on enforcement issues Read More

November 19, 2009 - Items E-1: Chairman Wellinghoff's statement on notice of cancellation of Entergy Arkansas and Entergy Mississippi's participation in the Entergy System agreement Read More

November 19, 2009 - Items G-3, G-4, G-5: Chairman Wellinghoff's statement on

natural gas pipeline rate investigations [Read More](#)

November 4, 2009 - E&ETV video of Chairman Wellinghoff at Environmental Law Institute panel on future energy policy [Watch video](#) | [Transcript](#)

October 15, 2009 - Chairman Wellinghoff's statement on The Strategic Plan [Read More](#)

October 7, 2009 - Chairman Wellinghoff gives keynote speech at the CAISO Stakeholder Symposium [Event Details](#) | [Presentation](#) PDF

October 1, 2009 - Chairman Wellinghoff speaks at the EEI 2009 EEI Legal Conference [Event Details](#) | [Speech](#) PDF

December 17, 2009
Item M-1 and M-2: FERC makes enforcement process transparent, accessible to public [News Release](#) | [Chairman's Statement](#) | Commissioner's Statement: [Kelly's](#), [Moeller's](#) and [Spitzer's](#) | [Decision M-1](#) PDF | [Policy Statement M-2](#) PDF

- » Visit our [Enforcement](#) section

December 17, 2009
Item A-3: FERC 2010 enforcement priorities include fraud, market manipulation, reliability [News Release](#) | [Chairman's Statement](#) | Commissioner's Statement: [Kelly's](#), [Moeller's](#) and [Spitzer's](#) | [Staff Report](#) PDF

- » Visit our [Enforcement](#) section

December 17, 2009
Item E-4: FERC approves First Smart Grid proposal using new Policy [News Release](#) | [Decision](#) PDF

- » Visit our [Smart Grid](#) site

November 19, 2009
Items G-3, G-4, G-5: FERC launches investigations into pipeline rates [News Release](#) | [Chairman's Statement](#) | [Chairman's Statement](#) | Decisions: [G-3](#) PDF, [G-4](#) PDF and [G-5](#) PDF

November 19, 2009
Item E-1: FERC accepts system exit plan for Entergy's Arkansas, Mississippi companies [News Release](#) | [Chairman's Statement](#) | [Decision](#) PDF

November 19, 2009

> **Item C-2**: FERC OKs Florida Gas expansion project to serve state's power generation demand [News Release](#) | [Certificate](#) 📕

- ▪ » Visit our [Gas Pipelines](#) section

October 15, 2009

> **Items E-3 & E-4**: FERC confirms reliability jurisdiction over Federal agencies, approves NERC budget [News Release](#) | Decisions: [E-3](#) 📕 and [E-4](#) 📕

- ▪ » Visit our [Electric Reliability](#) section

October 8, 2009

> FERC approves settlement, $25 million fine for FPL's 2008 Blackout [News Release](#) | [Decision](#) 📕

b. What types of records have been posted?

Notification of new FERC initiatives, Orders, Rulemakings, pertinent meetings and technical conferences, speeches, news releases.

c. Give examples of the types of records your agency now posts that used to be available only by making a FOIA request for them.

There have been no major changes in the types of records that are reflected on the FERC webpage. However, FERC will add additional types of records that may be identified in the future as items of interest to the public.

d. What system do you have in place to routinely identify records that are appropriate for posting?

One system includes reviewing FOIA requests to identify the types of material that is most frequently sought by requesters and determining if this information can be made available proactively.

e. How do you utilize social media in disseminating information?

FERC routinely posts pertinent information regarding Commission meetings, technical conferences, and other meeting that may be of interest to the public on Face book, Twitter and RSS News feed.

- http://www.facebook.com/FERC.gov
- http://twitter.com/ferc
- http://www.ferc.gov/help/rss.asp

f. Describe any other steps taken to increase proactive disclosures at your agency.

The FERC webpage was recently redesigned to provide additional descriptive information and tips on how to obtain a wide range of materials that are readily available for users. The FERC e-library is a database that provides a listing of all filings and submittals for proceedings. It provides access to over two million documents with over 10 million pages that have been archived over more than 20 years. It contains electronic versions of documents issued by FERC from 1989 to present, microfilm of documents for 1981 to 1995, native files electronically submitted from November 2000 to present. Members of the public can instantaneously access public material in the e-library. http://www.ferc.gov/docs-filing/elibrary.asp

The FERC webpage includes grouping by various industries, new releases, Policy Statements, Memorandums of Understanding, Staff reports, Federal Statutes, Major Orders and Regulations, settlements, and court cases. http://www.ferc.gov

Members of the public may also register and sign up for eSubscription to receive real time notification of issuances, filings, news releases and correspondence in docketed proceedings at FERC. http://www.ferc.gov/docs-filing/esubscription.as

IV. Steps Taken To Greater Utilize Technology

1. Electronic receipt of FOIA requests:

a. What proportion of the components within your agency which receive FOIA requests have the capability to receive such requests electronically?

FERC is comprised of one FOIA component and has the ability to receive FOIA requests electronically.

b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

N/A

c. What methods does your agency use to receive requests electronically?

- FERC Webpage: **www.ferc.gov**
- E-mail: **FOIA-CEII@ferc.gov**

2. Electronic tracking of FOIA requests:

a. What proportion of components within your agency which receive FOIA requests have the capability to track such requests electronically?

FERC is comprised of one FOIA component and has the ability to track FOIA requests electronically.

b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

N/A

c. What methods does your agency use to track requests electronically?

A non FOIA processing system is currently being used to track requests.

Electronic processing of FOIA requests:

d. What proportion of components within your agency which receive FOIA requests have the capability to process such requests electronically?

FERC is comprised of one FOIA component and has the ability to process portions of FOIA requests electronically.

e. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

N/A

f. What methods does your agency use to process requests electronically?

Adobe PDF is used for electronic redactions. All requesters who have provided a valid e-mail address are provided electronic response letters as well as responsive material, when possible.

3. Electronic preparation of your Annual FOIA Report:

a. What type of technology does your agency use to prepare your agency Annual FOIA Report, i.e., specify whether the technology is FOIA-specific or a generic data-processing system.

FERC is currently using a non FOIA processing system to prepare the Annual FOIA Report.

b. If you are not satisfied with your existing system to prepare your Annual FOIA Report, describe the steps you have taken to increase your use of technology for next year.

FERC recently acquired commercial FOIA software, and expects to fully utilize this new software to prepare subsequent FOIA Annual Reports. We also expect to use this software to simultaneously add postings of responsive

documents to the webpage when it is saved into the SharePoint component of this software.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. If your agency has a backlog, report here whether that backlog is decreasing. That reduction should be measured in two ways. First, report whether the number of backlogged requests and backlogged administrative appeals that remain pending at the end of the fiscal year decreased or increased, and by how many, when compared with last fiscal year. Second, report whether your agency closed in Fiscal Year 2010 the ten oldest of those pending requests and appeals from Fiscal Year 2009, and if not, report how many of them your agency did close.

FERC has no backlog.

There is one pending request that was reflected as one of the ten oldest pending requests.

2. If there has not been a reduction in the backlog as measured by either of these metrics, describe why that has occurred. In doing so, answer the following questions and then include any other additional explanation:

> **a. Is the backlog increase a result of an increase in the number of incoming requests or appeals?**

N/A

> **b. Is the backlog increase caused by a loss of staff?**

N/A

> **c. Is the backlog increase caused by an increase in the complexity of the requests received?**

N/A

> **d. What other causes, if any, contributed to the increase in backlog?**

N/A

3. Describe the steps your agency is taking to reduce any backlogs and to improve timeliness in responding to requests and administrative appeals. In doing so answer the following questions and then also include any other steps being taken to improve timeliness.

    a. Does your agency routinely set goals and monitor the progress of your FOIA caseload?

Yes. Weekly reports are reviewed to monitor the progress of FOIA requests. The main objective is to complete processing of requests within the statutory timeline of twenty days, as possible.

    b. Has your agency increased its FOIA staffing?

No.

    c. Has your agency made IT improvements to increase timeliness?

N/A

    d. Has your agency Chief FOIA Officer been involved in overseeing your agency's capacity to process requests?

Yes. The Chief FOIA Officer participates in daily briefings regarding the status of FOIA requests and the FOIA program in its entirety.

[Spotlight on Success](#)

    Out of all the activities undertaken by your agency in this last year to increase transparency, describe here one success story that you would like to highlight as emblematic of your efforts.

Through implementation of the new FOIA software system, FERC will be able to more effectively and nimbly respond to citizens' FOIA requests so that FERC may maximize an already high level of compliance with the law.