

key communication facilities, control centers, and switching facilities,”⁷⁰ and information that “identifies major transmission interconnections and other system components.”⁷¹

29. The Commission has considered the commenters’ arguments and suggestions especially with respect to protecting information that may otherwise be available to the public. For this purpose, a check of the Internet revealed that some of the information that had been removed after September 11 is once again available. For instance, the International Nuclear Safety Center currently has interactive maps available on its web site,⁷² and the United States Geological Survey lists a variety of maps for sale, including 7.5 minutes maps.⁷³ Although some information, such as the DOT pipeline maps have not been restored to public access, the Commission believes that there are publicly available sources that would enable a terrorist to locate most energy infrastructure. Without further guidance from the Congress or the Administration, the Commission is reluctant to withhold from public access location information that is otherwise available.

30. The Commission concludes nevertheless that there is some “location” information that does warrant protection as CEII. The Commission intends to release location information generally needed to participate in the National Environmental Policy Act (NEPA) process, while protecting information containing technical details not usually needed by most NEPA participants. Accordingly, the Commission considers the following types of gas and hydropower location information as outside the definition of CEII: (1) USGS 7.5-minutes topographic maps showing the location of pipelines, dams, or other aboveground facilities; (2) alignment sheets showing the location of pipeline and aboveground facilities, right of way dimensions, and extra work areas; (3) drawings showing site or project boundaries, footprints, building locations and reservoir extent; and (4) general location maps. In order to alleviate commenters’ concerns about making this information so easily available, the Commission instructs filers to segregate this non-CEII location information into a separate volume or appendix, label it clearly “Non-Internet

Public,” and submit it with instructions that it not be placed on the Internet.⁷⁴ To the extent permissible and practical, the Commission will adhere to those instructions, but the information will still be publicly available through the Public Reference Room.

31. Conversely, the Commission considers the following gas information to qualify as CEII because it provides more than just location: (1) Diagrams of valve and piping details at compressor stations, meter stations, LNG facilities, and pipeline interconnections; (2) flow diagrams and other drawings or diagrams showing similar details such as volumes and operating pressures like those found in Exhibit G; (3) environmental resource reports for LNG facilities, and (4) drawings matching labels with specific buildings at the site, e.g., central gas control centers or gas control buildings.

32. Similarly, examples of hydropower location-related information that the Commission considers to be CEII include: (1) General design drawings of the principal project works (e.g., plan, elevation, profile, and section of dam and powerplant), such as those found in Exhibit F; (2) maps of projects (including location of project works with respect to water bodies, permanent monuments, or other structures that can be noted on the map and recognized in the field), such as those found in Exhibit G; (3) drawings showing technical details of a project, such as plans and specifications, supporting design reports, Part 12 independent consultant reports,⁷⁵ facility details, electrical transmission systems, and communication and control center information; (4) locations of critical or vulnerable components of the project; (5) inundation information; and (6) global positioning system (GPS) coordinates of any project features (precise surveyed or GPS coordinates at or above two decimal points of accuracy of equipment and structures).

33. A filing such as a license or certificate application could contain a variety of information falling into one or more of the following categories: public, non-Internet public information, nonpublic CEII, and other nonpublic privileged. In that case, the preferred method of filing would be to segregate each type of information into separate volumes or appendices, each clearly marked with the appropriate heading, and with a cover letter explaining the

treatment each volume/appendix should receive as follows:

- The public volume/appendix should be marked “Public,” although public is the default treatment for unmarked documents
- The non-Internet public volume/appendix containing non-CEII location information should be marked “Non-Internet Public”
- The CEII volume/appendix should be marked “Contains Critical Energy Infrastructure Information—Do Not Release,” in accordance with § 388.112(b), and
- Any other nonpublic privileged volumes/appendices should be marked “Contains Privileged Information—Do Not Release.”

Filers should note that any filing containing non-Internet public, CEII or other privileged information currently may not be submitted using the electronic filing process.

34. The electric transmission grid differs from dams and pipelines in that the Commission does not have regulatory responsibilities over the siting or licensing of these facilities. Therefore, the Commission is not charged with conducting the NEPA reviews on these facilities. For that reason, there is far less need for the public as a whole to have unfettered access to location information submitted to the Commission regarding the electric grid. Some companies state that portions of FERC Form No. 715, Annual Transmission Planning and Evaluation Report, should fall outside the definition of CEII because it is location information.⁷⁶ The Commission disagrees. Certain information in Part 3 of FERC Form No. 715 is not intended primarily to identify the location of the facilities, but rather to show the interrelationship of facilities. Therefore, the Commission considers Part 3 transmission system maps and diagrams used by the utility for transmission planning to be CEII.

3. Information Regarding Proposed Facilities

35. In the NOPR, the Commission reversed its earlier position that information relating to proposed facilities should not be treated as CEII.⁷⁷ As noted in the NOPR, “[t]he major concern initially about withholding information about proposed projects was that people might not be able to participate effectively in the National Environmental Policy Act (NEPA) process.”⁷⁸ After the Policy Statement was issued in October 2001, the

⁷⁰ BPA at p. 4.

⁷¹ National Grid USA at p. 3.

⁷² See http://www.insc.anl.gov/pwrmaps/map/world_map.php.

⁷³ See <http://mapping.usgs.gov/digitalbackyard/topobkyd.html#5>.

⁷⁴ Until instructed otherwise, filers may not submit non-Internet public documents through the electronic filing process. Document submitted through that process are automatically placed in public FERRIS, and are visible on the Internet.

⁷⁵ See 18 CFR part 12, subpart D.

⁷⁶ E.g., Commonwealth Associates, Inc. at p. 2; Whitfield Russell Associates at p. 8.

⁷⁷ 67 FR 57994 at p. 58000, FERC Stats. & Regs. ¶ 32,564 at p. 34,548.

⁷⁸ *Id.*