

# **New England Participating Transmission Owner (PTO) Procedure for Disclosure of Critical Energy Infrastructure Information (CEII)**

1. This Procedure for Disclosure of CEII (Procedure) has been developed by the New England PTOs and is intended to meet the requirements of FERC Order No. 890. Order No. 890 requires that Transmission Providers establish disclosure procedures for any CEII that is required to be disclosed under provisions of Order No. 890. This Procedure applies to all required disclosures by PTOs of CEII under any of the provisions of Order No. 890, including any required postings on OASIS, and disclosures during stakeholder planning meetings, or otherwise.
2. CEII, as defined by FERC in Section 388.113(c)(1) of the FERC regulations, means information about proposed or existing critical infrastructure that: (1) relates to the production, generation, transportation, transmission, or distribution of energy; (2) could be useful to a person in planning an attack on critical infrastructure; (3) is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and (4) does not simply give the general location of the critical infrastructure. FERC further elaborated in Section 388.113(c)(2) of its regulations that “critical infrastructure” means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters. This Procedure will specifically adopt any future modifications to these definitions as approved by FERC.
3. Each PTO will designate a CEII Coordinator, who will be responsible for designating CEII pertaining to that PTO, and who will be responsible for administering this Procedure. All CEII that is intended for disclosure will be clearly identified with the following heading on each page of material: **“Contains Critical Energy Infrastructure Information (CEII)—Subject to New England PTO Procedure for Disclosure of CEII”**. Any person requesting CEII must do so in writing to the CEII Coordinator. Each requester must provide their name, address, telephone number, and the name of any person or entity on whose behalf the CEII is requested, together with a detailed explanation of the particular need for, and intended use of the information. The requester must also include a statement of willingness to adhere to all limitations on use of CEII, as specified in this Procedure.
4. Any access to CEII posted on any PTO OASIS site will be password restricted. Any party desiring access to CEII must make a written request to the appropriate PTO CEII Coordinator, who will provide a password upon the execution of a Non-Disclosure Agreement (NDA) in a form as attached hereto, and upon satisfaction that the disclosure is consistent with FERC policy, FERC regulations, including CEII regulations, and any other applicable law. Attachment 1 hereto is

a form of general NDA, Attachment 2 is a form of organizational NDA, and Attachment 3 is a form of state government agency NDA.

5. For purposes of any public stakeholder meeting in which CEII will need to be disclosed, advance notification of this fact will be provided if possible. In any event, no party will be allowed access to CEII at such meeting until such party makes a written request as specified in this Procedure, executes an NDA and satisfies the designated CEII Coordinator that access to the CEII is consistent with FERC policy and regulations, including CEII regulations, and any other applicable law.
6. For any other instance in which a party requests any information involving CEII from a PTO, the affected PTO CEII Coordinator will provide access to the CEII upon the execution of an NDA, and upon satisfaction that the disclosure is consistent with FERC policy and regulations, including CEII regulations, and any other applicable law.
7. In all instances involving disclosure of CEII, each PTO CEII Coordinator will have full discretion to grant or deny access to CEII to any party, based upon FERC policy and regulations, including CEII regulations, and any other applicable law. Any party denied access to CEII by a PTO may request further guidance, or review of such decision from FERC.

# **Attachment 1 to New England PTO Procedure for Disclosure of Critical Energy Infrastructure Information (CEII)**

## **Form of General Non-Disclosure Agreement for Critical Energy Infrastructure Information**

1. These provisions govern the use of CEII provided to an individual by a New England PTO (PTO), through OASIS access, at a public meeting, or otherwise.
2. Definitions - For purposes of these provisions:
  - a. The terms "non-disclosure agreement" and "NDA" mean this agreement by which requesters certify their understanding that access to CEII is provided pursuant to the terms and restrictions of these provisions, and that such requesters have read the provisions and agree to be bound by them.
  - b. The term "Recipient" means someone who is approved to receive CEII in accordance with the provisions of this NDA and the provisions of the New England PTO Procedure for Disclosure of CEII (Procedure), posted on OASIS.
3. A Recipient may only discuss CEII with another Recipient of the identical CEII. A Recipient may check with the PTO who provided access to CEII to determine whether another individual is a Recipient of the identical CEII.
4. If any Recipient submits information to the Federal Energy Regulatory Commission ("FERC" or "Commission") that includes CEII obtained under these provisions, portions of the filing containing CEII must be submitted in accordance with 18 C.F.R. § 388.112(b).
5. A Recipient of CEII may use CEII as foundation for advice provided to others, but may not disclose CEII to another individual unless that individual is an approved Recipient of the same CEII.
6. A Recipient will not knowingly use CEII for an illegal or non-legitimate purpose.
7. All CEII shall be maintained by Recipient in a secure place. Access to those materials shall be limited to other Recipients of the identical material. Recipients may make copies of CEII, but such copies become CEII and subject to these same procedures. Recipients may make notes of CEII, which shall be treated as CEII notes if they contain CEII.

8. Recipients must return CEII to the PTO that provided the CEII, or destroy CEII within fifteen days of a written request by such PTO to do so, except that CEII notes may be retained in accordance with Paragraph 7, above. Within such time period, each Recipient, if requested to do so, shall also submit to the PTO an affidavit stating that, to the best of his or her knowledge, all CEII has been returned or destroyed and that CEII notes have either been returned, destroyed or are being maintained by Recipient in accordance with Paragraph 7.
9. The Recipient remains bound by these provisions unless the PTO or the Commission rescinds the Procedure and these provisions, or a court of competent jurisdiction finds that the information does not qualify as CEII.
10. A PTO may request that FERC audit the Recipient's compliance with this non-disclosure agreement.
11. All violations of this non-disclosure agreement will be reported to FERC, and FERC will determine whether to take further action.

12. I hereby certify my understanding that access to Critical Energy Infrastructure Information (CEII) is provided to me pursuant to the terms and restrictions of the above CEII provisions, that I have been given a copy of and have read the provisions, and that I agree to be bound by them. I understand that the contents of the CEII, any notes or other memoranda, or any other form of information that copies or discloses CEII shall not be disclosed to anyone other than another person who has been granted access to these same materials by the PTO, or by FERC. I acknowledge that a violation of this agreement will be reported to FERC for further action, I agree that my compliance with this agreement is subject to audit by FERC.

By: \_\_\_\_\_  
Signature

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Representing: \_\_\_\_\_

Date: \_\_\_\_\_

# **Attachment 2 to New England PTO Procedure for Disclosure of Critical Energy Infrastructure Information (CEII)**

## **Form of Organizational Non-Disclosure Agreement for Critical Energy Infrastructure Information**

1. These provisions govern the use of CEII provided by a New England PTO (PTO), through OASIS access, at a public meeting, or otherwise, to an organization when that organization intends for employees, agents and consultants of the organization to have access to the CEII.
2. Definitions - For purposes of these provisions:
  - a. The terms "non-disclosure agreement" and "NDA" mean this agreement by which requesters certify their understanding that access to CEII is provided pursuant to the terms and restrictions of these provisions, and that such requesters have read the provisions and agree to be bound by them.
  - b. The term "Recipient" means someone who is approved to receive CEII in accordance with the provisions of this NDA and the provisions of the New England PTO Procedure for Disclosure of CEII (Procedure), posted on OASIS. In the event that a Recipient is an organization, and it is intended that employees, agents and consultants of the organization will have access to the CEII, an official of the organization authorized to bind that organization, including all its employees, agents and consultants shall execute the NDA on behalf of the organization. Upon execution of an organizational NDA under these terms, any employees, agents and consultants of that organization who have access to CEII shall be bound by the provisions of the Procedure and the NDA. Any employee, agent and consultant of that organization who has access to CEII under these provisions shall also be deemed a Recipient.
3. A Recipient may only discuss CEII with another Recipient of the identical CEII. A Recipient may check with the PTO who provided access to CEII to determine whether another organization is a Recipient of the identical CEII.
4. If any Recipient submits information to the Federal Energy Regulatory Commission ("FERC" or "Commission") that includes CEII obtained under these provisions, portions of the filing containing CEII must be submitted in accordance with 18 C.F.R. § 388.112(b).

5. A Recipient of CEII may use CEII as foundation for advice provided to others, but may not disclose CEII to another individual unless that individual is an approved Recipient of the same CEII.
6. A Recipient will not knowingly use CEII for an illegal or non-legitimate purpose.
7. All CEII shall be maintained by Recipient in a secure place. Access to those materials shall be limited to other Recipients of the identical material. Recipients may make copies of CEII, but such copies become CEII and subject to these same procedures. Recipients may make notes of CEII, which shall be treated as CEII notes if they contain CEII.
8. Recipients must return CEII to the PTO that provided the CEII, or destroy CEII within fifteen days of a written request by such PTO to do so, except that CEII notes may be retained in accordance with Paragraph 7, above. Within such time period, each Recipient, if requested to do so, shall also submit to the PTO an affidavit stating that, to the best of his or her knowledge, all CEII has been returned or destroyed and that CEII notes have either been returned, destroyed or are being maintained by Recipient in accordance with Paragraph 7.
9. The Recipient remains bound by these provisions unless the PTO or the Commission rescinds the Procedure and these provisions, or a court of competent jurisdiction finds that the information does not qualify as CEII.
10. A PTO may request that FERC audit the Recipient's compliance with this non-disclosure agreement.
11. All violations of this non-disclosure agreement will be reported to FERC, and FERC will determine whether to take further action.

12. I hereby certify my understanding that access to Critical Energy Infrastructure Information (CEII) is provided to me pursuant to the terms and restrictions of the above CEII provisions, that I have been given a copy of and have read the provisions, and that I agree to be bound by them. I understand that the contents of the CEII, any notes or other memoranda, or any other form of information that copies or discloses CEII shall not be disclosed to anyone other than another person who has been granted access to these same materials by the PTO, or by FERC. I acknowledge that a violation of this agreement will be reported to FERC for further action, I agree that my compliance with this agreement is subject to audit by FERC. I am authorized to execute this agreement on behalf of the organization designated below, thereby binding all employees, agents and consultants of the designated organization who have access to CEII to the terms herein.

By: \_\_\_\_\_  
Signature

Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Representing: \_\_\_\_\_  
Date: \_\_\_\_\_

# **Attachment 3 to New England PTO Procedure for Disclosure of Critical Energy Infrastructure Information (CEII)**

## **Form of State Government Agency Non-Disclosure Agreement for Critical Energy Infrastructure Information**

1. These provisions govern the use of CEII provided to a state government agency employee by a New England PTO (PTO), through OASIS access, at a public meeting, or otherwise.
2. Definitions - For purposes of these provisions:
  - a. The terms "non-disclosure agreement" and "NDA" mean this agreement by which requesters certify their understanding that access to CEII is provided pursuant to the terms and restrictions of these provisions, and that such requesters have read the provisions and agree to be bound by them.
  - b. The term "Recipient" means a state government agency that is approved to receive CEII in accordance with the provisions of this NDA and the provisions of the New England PTO Procedure for Disclosure of CEII (Procedure), posted on OASIS. An appropriate official of the state government agency shall execute the NDA on behalf of the agency thereby binding any employees, agents and consultants of the agency who have access to CEII to the requirements of the NDA. Any such bound individual will be deemed a Recipient.
3. A Recipient may only discuss CEII with another Recipient of the identical CEII. A Recipient may check with the PTO who provided access to CEII to determine whether another state agency is a Recipient of the identical CEII.
4. If any Recipient submits information to the Federal Energy Regulatory Commission ("FERC" or "Commission") that includes CEII obtained under these provisions, portions of the filing containing CEII must be submitted in accordance with 18 C.F.R. § 388.112(b).

5. A Recipient of CEII may use CEII as foundation for advice provided to others, but may not disclose CEII to another individual unless that individual is an approved Recipient of the same CEII.
6. A Recipient will not knowingly use CEII for an illegal or non-legitimate purpose.
7. All CEII shall be maintained by Recipient in a secure place. Access to those materials shall be limited to other Recipients of the identical material. Recipients may make copies of CEII, but such copies become CEII and subject to these same procedures. Recipients may make notes of CEII, which shall be treated as CEII notes if they contain CEII.
8. Recipients must return CEII to the PTO that provided the CEII, or destroy CEII within fifteen days of a written request by such PTO to do so, except that CEII notes may be retained in accordance with Paragraph 7, above. Within such time period, each Recipient, if requested to do so, shall also submit to the PTO an affidavit stating that, to the best of his or her knowledge, all CEII has been returned or destroyed and that CEII notes have either been returned, destroyed or are being maintained by Recipient in accordance with Paragraph 7.
9. The Recipient remains bound by these provisions unless the PTO or the Commission rescinds the Procedure and these provisions, or a court of competent jurisdiction finds that the information does not qualify as CEII.
10. A PTO may request that FERC audit the Recipient's compliance with this non-disclosure agreement.
11. All violations of this non-disclosure agreement will be reported to FERC, and FERC will determine whether to take further action.

12. I hereby certify my understanding that access to Critical Energy Infrastructure Information (CEII) is provided to me pursuant to the terms and restrictions of the above CEII provisions, that I have been given a copy of and have read the provisions, and that I agree to be bound by them. I understand that the contents of the CEII, any notes or other memoranda, or any other form of information that copies or discloses CEII shall not be disclosed to anyone other than another person who has been granted access to these same materials by the PTO, or by FERC. I acknowledge that a violation of this agreement will be reported to FERC for further action, I agree that my compliance with this agreement is subject to audit by FERC. I am authorized to execute this agreement on behalf of the state agency designated below, thereby binding all employees, agents and consultants of the designated state agency who have access to the CEII to the terms herein.

By: \_\_\_\_\_  
Signature

Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Representing: \_\_\_\_\_  
Date: \_\_\_\_\_