

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Commission Information	)	Docket No. IC14-7-000
Collection Activities (FERC-603):	)	
Comment Request	)	

**COMMENTS OF THE  
MODESTO IRRIGATION DISTRICT**

The Modesto Irrigation District (“MID”), by and through counsel, and pursuant to the Federal Energy Regulatory Commission’s (“Commission”) May 1, 2014 Comment Request on Commission Information Collection Activities (FERC-603) (“Comment Request”) in the above-captioned proceeding, and the Notice published in the May 9, 2014 Federal Register, respectfully tenders for filing these Comments regarding the Commission’s Critical Energy Infrastructure Information (“CEII”) procedures.

**I. CONTACT INFORMATION**

The persons to whom correspondence, pleadings, and other papers in relation to this proceeding should be addressed and the persons whose names are to be placed on the Commission’s official service list are designated as follows pursuant to Rule 203, 18 C.F.R. § 385.203 (2013):

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## **II. DESCRIPTION OF MID**

1. MID is an irrigation district, organized and operated under the laws of the State of California, which undertakes both electric and water operations. With regards to its electric operations, MID owns and operates facilities for the generation,

transmission, distribution, purchase, and sale of electric power and energy at wholesale and retail. MID is a fully integrated, fully resourced, credit worthy utility. The electric utility side of MID serves approximately 113,000 customers with a peak summer load of 697 MW (2006). The water operations division serves 3,100 irrigation customers, and provides 30 million gallons per day of wholesale treated water to the City of Modesto.

2. MID owns and operates its own transmission facilities, which are interconnected with the California Independent System Operator Corporation-Controlled Grid. MID is a Member of the Transmission Agency of Northern California (“TANC”). MID has a substantial percentage share of TANC’s Entitlement to capacity on the 340 mile, 500 kV California-Oregon Transmission Project, and, in addition, an allocation of TANC’s Entitlement to transmission service on the Pacific Gas and Electric Company transmission system under the South of Tesla Principles.

3. MID is additionally a Member of the M-S-R Public Power Agency (“M-S-R”), a California joint powers agency. As a Member of M-S-R, MID has a percentage share of the Mead-Adelanto Transmission Project and the Mead-Phoenix Transmission Project, an allocation of M-S-R’s entitlements of transmission service purchased from the Department of Water and Power of the City of Los Angeles and from Southern California Edison Company. MID and the Turlock Irrigation District (“TID”) jointly own the Westley-Tracy Transmission Project, a 27-mile, double-circuit, 230 kV transmission line which interconnects their systems with Western Area Power Administration’s (“Western”) transmission facilities at Western’s Tracy Station. MID and TID also jointly own the Westley Substation, and the Westley-Parker, Westley-

Walnut and Parker-Walnut 230 kV lines, which allow power received at the Westley Substation interconnection to flow to MID and TID loads.

### III. RELEVANT BACKGROUND

4. In Order No. 630,<sup>1</sup> the Commission established regulations for the treatment of CEII, providing that persons submitting CEII may request privileged treatment for information exempt from the mandatory public disclosure requirements of the Freedom of Information ACT (“FOIA”).<sup>2</sup> Such requests must be accompanied with a form of protective agreement if a right of intervention exists in the proceeding.<sup>3</sup> Participants or interveners to a proceeding may seek access to CEII material if they execute a copy of the protective agreement.<sup>4</sup> If an objection is filed to a requested disclosure of CEII, then the Commission will determine if such information should be disclosed.<sup>5</sup>

5. On February 5, 2014, the Commission issued a Notice of Information Collection and Requests for Comments on its CEII procedures, proposing no changes to its current requirements.<sup>6</sup> In response to the notice, Southern Company Services, Inc. (“SCS”) filed comments stating the Commission should only collect CEII

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<sup>1</sup> *Critical Energy Infrastructure Information*, Order No. 630, FERC Stats. & Regs. ¶ 31,140 (2003), *order on reh’g*, Order No. 630-A, FERC Stats. & Regs. ¶ 31,147 (2003).

<sup>2</sup> *See* 18 C.F.R. § 388.112 (2013).

<sup>3</sup> *Id.* § 388.112(b)(2)(i).

<sup>4</sup> *Id.* § 388.112(b)(2)(iii).

<sup>5</sup> *Id.* § 388.112(b)(2)(iv).

<sup>6</sup> Notice of Information Collection and Request for Comments, Docket No. IC14-7-000 (February 5, 2014).

information when such information is absolutely necessary.<sup>7</sup> In support, SCS stated the Commission could use alternatives to its current information collection requirements, including on-site reviews, webinars, and other technological solutions, that would allow it to review CEII information without having to possess it in its records.<sup>8</sup> SCS also stated that it agreed with Acting Chairman LaFleur, who explained in testimony before the U.S. Senate Committee on Energy and Natural Resources, that a more clearly defined exemption under FOIA limiting the amount of information that must be disclosed for physical or cyber threats to the bulk power system is needed.<sup>9</sup>

6. On May 1, 2014, the Commission issued the instant Comment Request, proposing no changes to its current requirements, but stating it “is committed to ensuring security by pursuing the practices that SCS advocates.”<sup>10</sup>

#### **IV. COMMENTS**

7. MID appreciates the opportunity to comment on the Commission’s CEII processes, and believes that modifications to the Commission’s requirements may help reduce the burden on CEII-filing entities, while protecting sensitive information essential to the security of integrated electric systems, while also ensuring that the Commission collects the same quality of information needed for execution of the Commission’s duties.

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<sup>7</sup> SCE’s April 15, 2014 Filing in Docket No. IC14-7-000 at 3.

<sup>8</sup> *Id.* at 3–4.

<sup>9</sup> *Id.* at 3.

<sup>10</sup> Comment Request, Docket No. IC14-7-000, at 6 (February 5, 2014).

8. MID, a municipality as defined under Section 3(7) of the Federal Power Act with generation and transmission assets, is concerned with the security of the sensitive information it provides to the Commission. Although the Commission requires entities seeking CEII information to sign protective agreements for such information, and understands that Commission Staff attempts to verify that the requesting person or entity is seeking information for a legitimate purpose, there is still potential for disclosure of confidential information to individuals who do not have a legitimate need such information or may not have the means to fully protect such information. These disclosures are important to MID, among other reasons, as MID is entrusted with securing confidential information consistent with the directives of both the North American Electric Reliability Corporation (“NERC”) and the Western Electricity Coordinating Council (“WECC”), and MID works to meet those obligations.

9. MID supports SCS’s position that the Commission should collect CEII and other sensitive information only when it is absolutely necessary. MID concurs with SCS that there are alternative mechanisms available for the Commission to gain access to needed information other than requiring the blanket submittal of sensitive information that may or may not be useful. For instance, the Commission may suffice many of its information needs through telephone conferences, webinars, Skype conferences, and other technological solutions that do not require the Commission to possess and retain CEII information in its records. Limiting the amount of physical information that must be submitted to the Commission through more precise requests for data is one means of helping secure the protection of CEII in a manner that is less burdensome to entities required to provide such information.

10. In addition, MID agrees with Acting Chairman LaFleur that Congress should explore a more robust exemption under FOIA to limit the risk of unnecessary, public disclosure of sensitive information relating to the critical infrastructure of the bulk power system. MID commends Acting Chairman LaFleur's actions bringing attention to this issue and supports Commission action that reduces the amount of information that must be submitted under its procedures to secure the confidentiality and integrity of the bulk power system.

## **V. CONCLUSION**

**WHEREFORE**, MID appreciates the opportunity to provide comments on the Commission's CEII procedures, and urges the Commission to adopt the recommendations provided by MID in its Comments submitted today.

Dated: June 9, 2014

Respectfully submitted,

/s/ Sean M. Neal

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day submitted the above comments to the Office of Management and Budget according to the procedures set forth in the Commission's Notice and have served the foregoing upon each of the parties shown on the official service list compiled by the Secretary of the Commission by electronic service or U.S. Mail, as appropriate. Dated at Washington, D.C., this 9th day of June, 2014.

/s/ Harry A. Dupre  
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