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NCLA Persuades Energy Dept. to Halt Unlawful Emergency Demand for Cryptocurrency Mining Data

Texas Blockchain Council and Riot Platforms, Inc. v. Dept. of Energy, Office of Management and Budget, and Energy Information Administration, Secretary Jennifer Granholm, Administrator Joseph DeCarolis, et al.

Washington, DC (March 1, 2024) – Today, the New Civil Liberties Alliance [settled](#) with the Department of Energy (DOE) and the Energy Information Administration (EIA) to formally end an attempt to force cryptocurrency mining companies to hand over sensitive information about their operations through a mandatory Cryptocurrency Mining Facilities Survey. NCLA alleged that the Office of Management and Budget (OMB) had given EIA emergency permission to collect this data despite EIA’s failure to demonstrate that short-cutting the statutory process would prevent public harm, as federal law requires. Representing the Texas Blockchain Council and Riot Platforms, Inc., NCLA celebrates this victory in defense of privacy rights and the rule of law, thanking co-counsel Gray Reed and Cherry Johnson Siegmund James for their tireless work every step of the way.

Without following the notice-and-comment process, EIA Administrator Joseph DeCarolis requested on January 24 that OMB allow his agency to demand monthly information collections from cryptocurrency mining companies about their energy consumption, including sensitive and highly proprietary information. DeCarolis’s request relied on EIA’s assertion that cryptocurrency mining “potentially disrupted the electric power industry,” claiming that EIA should be allowed to skip the Paperwork Reduction Act’s required comment process before such data collection “because public harm is reasonably likely if normal clearance procedures are followed.” In fact, EIA never established that public harm would likely result if its faux “emergency” request were denied.

On February 23, NCLA secured a Temporary Restraining Order blocking EIA’s survey for 14 days nationwide. Now, DOE and EIA have agreed to withdraw the survey and destroy any information they received in response to it. They also agreed to withdraw their February 9 notice, which sought comments about continuing the emergency survey. Instead, the agencies will publish a new notice in the Federal Register proposing data collection and allow comments to be submitted for 60 days afterward, in accordance with the Paperwork Reduction Act. The federal agencies have additionally agreed to fully reimburse NCLA’s travel expenses under the Equal Access to Justice Act through today.

NCLA’s *Texas Blockchain Council v. Dept. of Energy* lawsuit alleged that in unlawfully demanding these companies’ data, EIA appeared to be responding to political pressure rather than a genuine emergency implicating public harm. But the Paperwork Reduction Act allows emergency exceptions only in limited circumstances. EIA is wise to abandon this effort and pursue any proposed survey through proper legal channels. NCLA will remain vigilant against future Administrative State attempts to unlawfully collect Americans’ information and property.

NCLA released the following statements:

“Public notice and comment is integral to how our government functions. We are pleased that the parties were able to reach an agreement and secure the opportunity for our clients—and the public at large—to comment on

the government’s proposal. It is critical that our nation’s data remain impartial and that starts with an open and transparent process.”

— **Kara Rollins, Litigation Counsel, NCLA**

“We appreciate the government’s prompt recognition that it had no plausible ‘emergency’ justification for circumventing the notice-and-comment requirements put in place to prevent rushed and ill-considered agency action, but it shouldn’t have required an emergency lawsuit to stop EIA’s lawless survey. OMB and the Office of Information and Regulatory Affairs are supposed to be the watchdogs here, but it seems they may be asleep at the switch.”

— **Russ Ryan, Senior Litigation Counsel, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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