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## **NCLA Suit Challenges DOE's Unlawful Attempt to Collect Cryptocurrency Miners' Energy Use 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 (February 23, 2024)** – The New Civil Liberties Alliance has filed a [Complaint](#) and [TRO](#) on behalf of the Texas Blockchain Council and Riot Platforms, Inc. to stop the Department of Energy (DOE) and Energy Information Administration (EIA) from forcing cryptocurrency mining companies to hand over sensitive information about their electricity consumption through a mandatory survey. The Office of Management and Budget (OMB) granted EIA's emergency request to collect this data, despite EIA's failure to demonstrate that short-cutting the statutory process would prevent public harm, as federal law requires. The *Texas Blockchain Council v. Department of Energy* suit is pending in the U.S. District Court for the Western District of Texas.

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. Carolis'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 notice-and-comment process to approve such data collection "because public harm is reasonably likely if normal clearance procedures are followed." In fact, EIA did not establish that public harm would likely result if its "emergency" request were denied.

OMB approved EIA's slapdash Cryptocurrency Mining Facilities Survey request just two days after receiving it. In doing so, both agencies violated the Paperwork Reduction Act and its implementing regulations. OMB and EIA's arbitrary and capricious actions in this process also ran afoul of the Administrative Procedure Act.

In attempting to seize these companies' data, EIA appears to be responding to political pressure rather than a genuine "emergency" implicating public harm. Several U.S. Senators and Members of Congress have suggested that cryptocurrency mining has "a major impact on climate change" and determined "that federal intervention is necessary[.]" The Biden White House has put forward the possibility of taking executive action "to limit or eliminate the use of high energy intensity consensus mechanisms for crypto-asset mining[.]" But the Paperwork Reduction Act allows emergency exceptions only in limited circumstances—not including political pressure. NCLA urges the Court to set aside this unlawful action and force DOE and OMB back to the drawing board.

### **NCLA released the following statements:**

"It is Government 101 that agencies only have those powers that Congress has granted to them and that they are bound to follow the law. From the very outset of this process, DOE and OMB have ignored those simple requirements, harming our clients in the process."

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

“The Energy Department’s phony ‘emergency’ claim is a brazen attempt to circumvent the PRA’s notice-and-comment requirements and related guardrails Congress put in place to limit the government’s ability to bury private industry with intrusive information demands under threat of criminal prosecution. Shame on OMB for simply rubber-stamping this egregious abuse of its processes.”

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

“A federal agency cannot avoid the strictures of the Paperwork Reduction Act by claiming there is an unproven emergency while simultaneously admitting that it does not yet know whether there is a problem. This survey request is ridiculous. DOE wants to get away with assuming the results of the very survey it hopes to conduct.”

— **Mark Chenoweth, President and Chief Legal Officer, 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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