

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

Revised Critical Infrastructure)
Protection Reliability Standards) **Docket Nos. RM15-14-000**
)

**RESPONSE OF THE EDISON ELECTRIC INSTITUTE, THE AMERICAN PUBLIC
POWER ASSOCIATION, ELECTRICITY CONSUMERS RESOURCE COUNCIL,
ELECTRIC POWER SUPPLY ASSOCIATION, LARGE PUBLIC POWER COUNCIL,
THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION, AND
TRANSMISSION ACCESS POLICY STUDY GROUP**

In response to the Notice Shortening Answer Period of the Federal Energy Regulatory Commission (“FERC” or “Commission”) issued on February 5, 2016, in the above-captioned proceeding, the Edison Electric Institute, the American Public Power Association, Electricity Consumers Resource Council, Electric Power Supply Association, Large Public Power Council, the National Rural Electric Cooperative Association, and Transmission Access Policy Study Group (collectively, the “Trade Associations”), respectfully submit the following brief response to clarify a new issue raised by the North American Electric Reliability Corporation (“NERC”) in its February 8, 2016 comments submitted in this docket.¹ The Trade Associations believe the information provided herein will facilitate the Commission’s decisional process.

¹ NERC Comments respond to the Trade Associations motion for extension of time to defer implementation of certain Critical Infrastructure Protection (“CIP”) Version 5 Reliability Standards to align with the effective date for the CIP Order No. 822 Reliability Standards. (“Motion”) *See also Revised Critical Infrastructure Protection Reliability Standards*, Order No. 822, 154 FERC ¶ 61,037 at P 81 (issued January 21, 2016) (“Order No. 822”).

In its Comments, NERC asserts that the only modification approved in Order No. 822 that necessitates having different sets of processes and procedures is that the revised standards eliminate “identify assess correct” language in 17 of the CIP Version 5 Reliability Standards requirements. *See* NERC Comments at 2.

The Trade Associations disagree with the characterization made by NERC that the transition to CIP Order No. 822 Reliability Standards from Version 5 mandatory CIP Reliability Standards involves only the process generally known as “identify assess correct.” Seven of the ten mandatory CIP Reliability Standards change in this complex transition, changes that involve an overlapping set of implementation dates, and changes that will involve far more than “identify assess correct.”² While the expedited answer period does not afford the opportunity to provide the Commission with a comprehensive mapping of the changes, at this time we offer two examples:

First, companies must create a list of items covered under the “Cyber Security Training Program” required by CIP-004-5, R2.1. Many companies may have developed this training and plan to have it in place by April 1, 2016. For some companies, this process involves a broad range of facilities. However, CIP-004-6, R2.1 expands the list of items that the training program must address to include Transient Cyber Assets (“TCA”) and Removable Media (“RM”). Companies will therefore have the burden of potentially delivering two rounds of training, if they are not able to revise their training programs prior to the April 1, 2016, deadline to include the TCA and RM material.

² *See* attached CIP V5 Revision Implementation Plan – Worksheet that shows the effective dates and how many of the standards are impacted by the changes in response to FERC's directives.

Second, CIP-006-5 R1 states requirements for an acceptable “Physical Security Plan.” It contains nine subparts that must be incorporated in the plan. However, CIP-006-6, R1 includes ten subparts (including Communication Networks protections) that must be included in a Physical Security Plan. Companies are now developing these plans to meet the April 1, 2016, deadline, including the process of executive review and approval. For any company with assets covered under CIP version 3 as of April 1, 2016, if CIP Version 5 and CIP Order No. 822 Reliability Standards are not aligned to a July 1, 2016, enforcement date, those companies will need to revise their Physical Security Plan and secure a second round of executive approvals (including the CIP Senior Manager) before the July 1, 2016, deadline. For companies large and small, that process involves considerable time and other resources. Additionally, the Physical Security Plan would need to be revised in either case, but only a single round of executive approvals would be required if CIP Version 5 and CIP Order No. 822 Reliability Standards are aligned with the July 1, 2016, enforcement date.

While NERC indicates its intention to use its enforcement discretion without any documented guidance for measures outside of the “identify assess correct” language in 17 of the CIP Version 5 Reliability Standards requirements, the Trade Associations remain concerned that registered entities still face unnecessary enforcement risk. *See* NERC Comments at 2. As a practical matter, companies have received no direct communication from NERC of this intended action and thus have not had any opportunity to evaluate its true impact on compliance efforts. The Trade Associations therefore continue to be

concerned, particularly at this late date, in absence of a FERC order that audits would not be conducted with NERC's guidance in mind. As a result, the Trade Associations do not find NERC's suggestion constitutes sufficient reassurance. Further, independent of NERC and regional entity plans to exercise enforcement discretion, the Commission has its own independent enforcement authority. As stated in our Motion, Trade Associations strongly believe that only the Commission can provide the necessary regulatory certainty with regard to this matter. *See* Motion at 4.

Respectfully submitted,

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Dated: February 12, 2016

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 12th day of February 2016.

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CIP V5 Revision Implementation Plan - Worksheet

as of 1/26/16

Standard/Requirement	Revision	NERC Board Adoption	Order Effective Date: March 31, 2016	V5 Enforcement Date
			<i>Compliance Deadline</i>	
CIP-002-5	not up for revision	IAC, CN revisions - November 13, 2014 LI, TD revisions - February 12, 2015	1-Apr-16	April 1, 2016 - CIP V5 Approved Compliance Date
CIP-003-6			1-Jul-16	
CIP-003-6, R1, part 1.1*	H/M - Policy		1-Apr-16	
CIP-003-6, R1, part 1.2	LI - Policy		1-Apr-17	
CIP-003-6, R2	LI - Plan		1-Apr-17	
CIP-003-6, Att 1, Sect. 1	LI - Sec Awareness		1-Apr-17	
CIP-003-6, Att 1, Sect. 2	LI - Phys Security		1-Sep-18	
CIP-003-6, Att 1, Sect. 3	LI - Elec. Access		1-Sep-18	
CIP-003-6, Att 1, Sect. 4	LI - Incident Resp		1-Apr-17	
CIP-004-6	TCA & RM added to Training		1-Jul-16	
CIP-005-5	not up for revision		1-Apr-16	
CIP-006-6			1-Jul-16	
CIP-006-6, R1, part 1.10**	CN		1-Apr-17	
CIP-007-6			1-Jul-16	
CIP-007-6, R1, part 1.2**	CN, RM capitalized		1-Apr-17	
CIP-008-5	not up for revision		1-Apr-16	
CIP-009-6			1-Jul-16	
CIP-010-2			1-Jul-16	
CIP-010-2, R4	TD		1-Apr-17	
CIP-011-2	TCA & RM added to Guidelines		1-Jul-16	
TCA, RM Glossary Terms	TD		1-Apr-17	
BCA, PCA Glossary Terms	TD		1-Apr-17	
LERC, LEAP Glossary Terms	LIA		1-Apr-17	

Notes:

- The implementation deadline does not change for the IAC requirements. NERC and the Regions committed not to enforce IAC language in V5 even if the revisions are not effective by 4/1/16.

* The CIP-003-6, part 1.1 requirements are the same as in CIP-003-5, R1.1 and will become enforceable on 4/1/16. So even though the CIP-003-6 implementation plan language provides a later compliance date it will effectively be a continuation of compliance obligations.

** The extension limited: for CIP-006, part 1.10, only newly identified BES Cyber Systems at control centers receive the extra time. BES Cyber Systems that were CCAs under V3 must comply with CIP-006, R1, part 1.10 by April 1, 2016 or the new effective date; for CIP-007, part 1.2, more time is allowed to implement protections on ports & services for PCAs & non-programmable devices at control centers, but ports & services for other High & Medium Impact BES Cyber Systems at Control Centers are to be compliant by April 1, 2016 or the new effective date.