

154 FERC ¶ 61,137
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Revised Critical Infrastructure Protection
Reliability Standards

Docket No. RM15-14-000

ORDER GRANTING EXTENSION OF TIME

(Issued February 25, 2016)

1. On February 4, 2016, the Edison Electric Institute, the American Public Power Association, Electricity Consumers Resource Council, Electric Power Supply Association, Large Public Power Council, National Rural Electric Cooperative Association, and Transmission Access Policy Study Group (Trade Associations) filed a motion requesting that the Commission grant an extension of time to defer the implementation of the critical infrastructure protection (CIP) version 5 Reliability Standards from April 1, 2016 to July 1, 2016 to align with the effective date for the revised CIP Reliability Standards approved in Order No. 822.¹ In this order, we grant the requested extension of time.

Background

2. In Order No. 791, the Commission approved the CIP version 5 Standards (Reliability Standards CIP-002-5 through CIP-009-5, and CIP-010-1 and CIP-011-1) proposed by the North American Electric Reliability Corporation (NERC). In addition, pursuant to section 215(d)(5) of the FPA, the Commission directed NERC to: (1) remove the “identify, assess, and correct” language in 17 of the CIP Standard requirements; (2) develop enhanced security controls for Low Impact assets; (3) develop controls to protect transient electronic devices; (4) define the term “communication networks;” and

¹ *Revised Critical Infrastructure Protection Reliability Standards*, Order No. 822, 154 FERC ¶ 61,037 (2016).

(5) develop new or modified Reliability Standards to protect the nonprogrammable components of communications networks. The Commission also approved NERC's implementation plan, which set a compliance date of: (1) April 1, 2016 for entities with High and Medium Impact Bulk Electric System (BES) Cyber Systems; and (2) April 1, 2017 for Low Impact BES Cyber Systems.²

3. On January 21, 2016, the Commission issued Order No. 822, which approved revisions to seven CIP Reliability Standards that NERC submitted in response to Order No. 791. In addition, Order No. 822 approved NERC's implementation plan, which requires compliance with the revised CIP standards on the first day of the first calendar quarter that is three months after the effective date of the Final Rule, i.e., July 1, 2016. In response to commenters, the Commission recognized the potential burden of implementing two versions of certain CIP reliability Standards within a short period of time, and indicated the Commission's willingness to consider a proposal to align the implementation dates of the version 5 CIP standards (April 1, 2016) and the revised standards approved in Order No. 822 (July 1, 2016).³

Trade Associations' Motion

4. On February 4, 2016, Trade Associations filed a request that the Commission grant an extension of time to defer the implementation of the CIP version 5 Reliability Standards for entities with High and Medium Impact BES Cyber Systems from April 1, 2016 to July 1, 2016 to align with the effective date for the revised CIP Reliability Standards approved in Order No. 822. Trade Associations assert that having two related implementation dates within a few months "unnecessarily complicates the ongoing transition to the new versions and presents a significant increase in administrative burdens with no tangible benefits to security or bulk power system reliability."⁴ Trade Associations state that the timing issues associated with implementing two versions of the CIP Reliability Standards within a short period of time will be "severely problematic" due to, among other things, developing and maintaining two sets of processes and procedures to cover each version of the relevant standards, including the maintaining two sets of compliance demonstration materials for audit purposes. Trade Associations also note the associated training burden for both company

² *Version 5 Critical Infrastructure Protection Reliability Standards*, Order No. 791, 145 FERC ¶ 61,160 (2013), *order on clarification and reh'g*, Order No. 791-A, 146 FERC ¶ 61,188 (2014).

³ See Order No. 822, 154 FERC ¶ 61,037 at P 81.

⁴ Trade Associations Motion at 2.

employees and third-party vendors, which the Trade Associations assert “could involve hundreds, and for some companies, thousands of employees.”⁵

5. In addition, the Trade Associations assert that “only Commission action will provide the regulatory certainty that is necessary to avoid imposing unnecessary administrative burdens and related costs on industry and customers.”⁶ Specifically, the Trade Associations state that although “NERC and the regions may seek to propose various forms of informal ‘compliance guidance’ to address these issues ... the pressing urgency for regulatory certainty can be fully and decisively addressed only by the Commission.”⁷

Notice of Filing, Interventions, and Comments

6. On February 5, 2016, the Commission issued a notice shortening the response period for the Trade Associations’ motion to February 12, 2016. California Independent System Operator Corporation, Electric Reliability Council of Texas, Inc., Midcontinent Independent System Operator, Inc., PJM Interconnection, L.L.C., and Southwest Power Pool, Inc. (Joint Commenters); NERC; and International Transmission Company (ITC) filed comments. In addition, Trade Associations filed a response to NERC’s comments.

7. Joint Commenters and ITC state that they support Trade Associations’ motion. NERC, in its comments, asserts that a delay in the implementation date is not necessary. NERC claims that it “can adequately address the Trade Associations’ concerns without delaying the implementation” of the CIP version 5 Reliability Standards.⁸ Specifically, NERC avers that the only modification approved in Order No. 822 that results in different sets of processes and procedures is the elimination of the “identify, assess, and correct” language in 17 of the CIP version 5 Reliability Standard requirements, and NERC states that it will not enforce the “identify, assess, and correct” language during the short period of time the language would be effective.⁹ NERC notes, however, that it will adjust its compliance monitoring and enforcement activities should the Commission conclude that an extension is appropriate.

⁵ *Id.* at 3.

⁶ *Id.*

⁷ *Id.*

⁸ NERC Comments at 2.

⁹ *Id.*

8. On February 12, 2016, Trade Associations responded to NERC's comments, stating that the changes in compliance extend beyond the "identify, assess, and correct" language as NERC asserts. Trade Associations provide examples where compliance programs and training associated with the CIP Reliability Standards approved in Order No. 822 differ from the CIP version 5 Standards. Trade Associations claim that having two implementation dates for these (and possibly other) CIP Reliability Standards would require modification to compliance documentation, redundant training, and potentially multiple rounds of executive approvals.¹⁰

Discussion

9. We are persuaded that the separate implementation dates in short succession create unnecessary administrative burdens with little or no commensurate benefit to reliability. Therefore, we grant Trade Associations' request for an extension of time for compliance with the CIP Version 5 Reliability Standards. Accordingly, the implementation of the CIP version 5 Reliability Standards for entities with High and Medium Impact BES Cyber Systems is deferred from April 1, 2016 to July 1, 2016 to align with the effective date for the revised CIP Reliability Standards approved in Order No. 822.

The Commission orders:

The Commission hereby grants Trade Association's motion to defer the implementation of the CIP version 5 Reliability Standards for entities with High and Medium Impact BES Cyber Systems from April 1, 2016 to July 1, 2016 to align with the effective date for the revised CIP Reliability Standards approved in Order No. 822.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁰ Trade Associations Comments at 3.