

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

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| Joint Staff White Paper on Notices of Penalty |) | |
| Pertaining to Violations of Critical Infrastructure |) | Docket No. AD19-18-000 |
| Protection Reliability Standards |) | |
| |) | |

**MOTION OF THE EDISON ELECTRIC INSTITUTE,
THE AMERICAN PUBLIC POWER ASSOCIATION,
THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION,
THE LARGE PUBLIC POWER COUNCIL
THE TRANSMISSION ACCESS POLICY STUDY GROUP,
THE ELECTRIC POWER SUPPLY ASSOCIATION,
AND THE ELECTRICITY CONSUMERS RESOURCE COUNCIL
FOR EXTENSION OF TIME TO SUBMIT COMMENTS AND
REQUEST FOR SHORTENED COMMENT PERIOD**

Pursuant to Rule 212 of the Federal Energy Regulatory Commission’s (“Commission’s”) Rules of Practice and Procedure,¹ the Edison Electric Institute (“EEI”), the American Public Power Association (“APPA”), the National Rural Electric Cooperative Association (“NRECA”), the Large Public Power Council (“LPPC”), the Transmission Access Policy Study Group (“TAPS”), the Electric Power Supply Association (“EPSA”), and the Electricity Consumers Resource Council (“ELCON”), on behalf of their respective members (collectively, the “Joint Associations”), hereby respectfully submit this motion for an additional 30 days, until October 27, 2019, to file comments in response to the Joint Commission and the North American Electric Reliability Corporation (“NERC”) Staff White Paper in the above-referenced docket and request

¹ 18 C.F. R. § 385.212 (2018).

a shortened comment period on this motion.² Comments on the White Paper are currently due September 26, 2019.

EEI is the association that represents all U.S. investor-owned electric companies. Our members provide electricity for about 220 million Americans and operate in all 50 states and the District of Columbia. As a whole, the electric power industry supports more than 7 million jobs in communities across the United States. EEI's members are committed to providing affordable and reliable electricity to customers now and in the future. EEI's members include Generator Owners and Operators, Transmission Owners and Operators, Load-Serving Entities, and other entities that are subject to the mandatory Reliability Standards developed by NERC and enforced by NERC, the Regional Entities, and the Commission. Accordingly, EEI members are directly affected by the Staff White Paper.

APPA is the national service organization representing the interests of the nation's 2,000 not-for-profit, community-owned electric utilities. Public power utilities account for 15 percent of all sales of electric energy (kilowatt-hours) to ultimate customers and collectively serve over 49 million people in every state except Hawaii. Approximately 261 public power utilities are registered entities subject to compliance with NERC mandatory reliability standards.

NRECA is the national trade association representing nearly 900 local electric cooperatives operating in 48 states. America's electric cooperatives power over 20 million businesses, homes, schools, and farms across 56 percent of the nation's landmass and serve one in eight (42 million) consumers. NRECA's member cooperatives include 62 generation and

² *Joint Staff White Paper on Notices of Penalty Pertaining to Violations of Critical Infrastructure Protection Reliability Standards*, Docket No. AD19-18-000 (Aug. 27, 2019) ("Joint Staff White Paper").

transmission (“G&T”) cooperatives and 831 distribution cooperatives. The G&T cooperatives generate and transmit power to distribution cooperatives that provide it to the end-of-the-line co-op consumer-members. Collectively, G&T cooperatives provide power to nearly 80 percent of the nation’s distribution cooperatives. The remaining distribution cooperatives receive power from other generation sources within the electric sector. Both distribution and G&T cooperatives share an obligation to serve their members by providing safe, reliable, and affordable electric service. NRECA’s member cooperatives include cooperatives that are registered entities with compliance obligations under Reliability Standards established by NERC. Therefore, the Joint Staff White Paper’s proposals will directly affect NRECA’s member cooperatives and their consumer-members.

LPPC is an association of the 27 largest state-owned and municipal utilities in the nation and represents the larger, asset-owning members of the public power sector. Eight LPPC members are also members of APPA and own approximately 90 percent of the transmission assets owned by non-federal public power entities.

TAPS is an association of transmission-dependent utilities (“TDUs”) in more than 35 states promoting open and non-discriminatory transmission access.³ Representing entities entirely or predominantly dependent on transmission facilities owned and controlled by others, TAPS has long recognized the need for reliable and secure transmission infrastructure that enables TAPS members to serve their load affordably. As TDUs, TAPS members make investments to secure their own assets and pay, through transmission rates, for investments made by other utilities to improve their transmission facilities’ security. In addition, many TAPS

³ David Geschwind, Southern Minnesota Municipal Power Agency, chairs the TAPS Board. Jane Cirrincione, Northern California Power Agency, is TAPS Vice Chair. John Twitty is TAPS Executive Director.

members participate in the development of and are subject to compliance with NERC reliability standards, including CIP standards.

EPSA is the national trade association representing leading independent power producers and marketers. EPSA members provide reliable and competitively priced electricity from environmentally responsible facilities using a diverse mix of fuels and technologies. Power supplied on a competitive basis collectively accounts for 40 percent of the U.S. installed generating capacity. EPSA seeks to bring the benefits of competition to all power customers. The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

ELCON is the national association representing large industrial consumers of electricity. ELCON member companies produce a wide range of products from virtually every segment of the manufacturing community. ELCON members operate hundreds of major facilities and are consumers of electricity in the footprints of all organized wholesale markets. Reliable electricity supply at just and reasonable rates is essential to our members' operations.

I. NOTICE AND COMMUNICATIONS

All notices and communications with respect to this proceeding should be directed to the representatives listed below:

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The Joint Associations request waiver of 18 C.F.R. § 203.(b)(3) to permit more than three persons to receive communications in this proceeding.

II. MOTION FOR A LIMITED EXTENSION OF TIME

The Joint Associations request a limited extension of time until October 27, 2019, to allow the Joint Associations to evaluate the Joint Staff White Paper and work with their respective members to solicit feedback and develop their response. Protecting the Bulk Electric System from cyber and physical attacks is of critical importance to all electric utilities and their customers. The electric utilities represented by the Joint Associations take seriously their obligations to protect their systems, comply with NERC Critical Infrastructure Protection (“CIP”) Standards, and report to NERC violations of those Standards. The Joint Staff White Paper requests comment on issues of critical importance to electric industry stakeholders, including Joint Associations’ respective members, and proposes significant changes to what information on CIP Notices of Penalty (“NOPs”) is provided to the public.⁴ The Joint Staff White Paper and the proposed new format for NOPs raise important issues with complicated implications for security, including potential security concerns that could arise from the proposal and implementation difficulties.⁵ Given that none of the Joint Associations had any notice that the Commission and NERC were considering taking such action as proposed by the White Paper, more than 30 days to assess and respond to the White Paper is appropriate, especially when the 30 days afforded stakeholders includes a major U.S. holiday.

Joint Associations appreciate that the Commission has given interested stakeholders an opportunity to submit comments on the Joint Staff White Paper; however, Joint Associations respectfully submit that 30 days is an insufficient period of time for interested stakeholders to prepare comments that will provide the Commission with a fully-developed record given the

⁴ Joint Staff Whitepaper, pp. 3-4.

⁵ *Id.*, p. 4.

scope of the issues raised in the Joint Staff White Paper and their importance to industry stakeholders. Joint Associations will be required to work closely with their respective members to evaluate the Joint Staff White Paper. Thus, an extended period of time for comments is appropriate.

Further, Joint Associations would use additional time to try to reach consensus, where possible, on the range of issues raised by the Joint Staff White Paper. Consensus responses to the questions posed by the paper will be of more use to the Commission and NERC than a range of potentially disparate responses as they consider next steps with respect to NOPs and Freedom of Information Act requests for critical electric infrastructure information.

Accordingly, Joint Associations request that interested persons have until October 27, 2019 to file reply comments in response to the Joint Staff White Paper—an extension of 30 days from the current comment deadline.⁶ Joint Associations' request for additional time in which to file reply comments is not intended to delay the Commission's consideration of the important issues the Joint Staff White Paper raises, nor will it prejudice other participants. Rather, Joint Associations seek additional time to allow them and other stakeholders sufficient time to develop thorough – and potentially consensus – reply comments so that there is a more robust record on which the Commission can evaluate the proposed new NOP format and the questions raised by the Joint Staff White Paper.

III. REQUEST FOR SHORTENED ANSWER PERIOD

Pursuant to 18 C.F.R. § 385.213(d)(1)(i), Joint Associations request that the Commission shorten the time period for answers to five (5) business days after this filing (September 18,

⁶ Thirty days from September 26, 2019, is October 26, 2019, which is a Sunday. In order to provide a full 30 days' extension, the Joint Trade Associations request that comments be due the next business day, Monday, October 27, 2019.

2019), and respectfully request action on this motion as soon as possible thereafter, but no later than September 20, 2019.

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, Joint Associations respectfully request that the Commission grant this motion to provide until October 27, 2019 to file comments in response to the Staff White Paper and that the Commission act on this motion no later than September 20, 2019.

Respectfully submitted,

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September 11, 2019