

144 FERC ¶ 61,123
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony Clark.

Version 4 Critical Infrastructure Protection Reliability Standards Docket Nos. RM11-11-000

Version 5 Critical Infrastructure Protection Reliability Standards RM13-5-000

ORDER GRANTING EXTENSION OF TIME

(Issued August 12, 2013)

1. On July 18, 2013, American Public Power Association, Edison Electric Institute, Electricity Consumers Resource Council, Electric Power Supply Association, Large Public Power Council, National Rural Electric Cooperative Association, and Transmission Access Policy Study Group (collectively, “Trade Associations”) filed a motion to delay the deadline for complying with Version 4 of the Critical Infrastructure Protection (CIP) Reliability Standards. The Commission approved the Version 4 CIP Reliability Standards in Order No. 761, in Docket No. RM11-11-000. The Version 4 CIP Reliability Standards are currently scheduled to become effective on April 1, 2014.¹ For the reasons discussed below, we grant a six-month extension of the compliance deadline for the Version 4 CIP Reliability Standards, from April 1, 2014 to October 1, 2014.

I. Background

2. On April 19, 2012, the Commission issued Order No. 761, a Final Rule approving the Version 4 CIP Reliability Standards. In Order No. 761, the Commission approved the effective date proposed by the North American Electric Reliability Corporation (NERC) for the Version 4 CIP Reliability Standards, which was eight calendar quarters following

¹ *Version 4 Critical Infrastructure Protection Reliability Standards*, Order No. 761, 77 Fed. Reg. 24,594 (Apr. 25, 2012), 139 FERC ¶ 61,058 (2012), *order denying reh’g*, 140 FERC ¶ 61,109 (2012).

regulatory approval (i.e., April 1, 2014). On January 31, 2013, in Docket No. RM13-5-000, NERC filed a petition requesting approval of the proposed Version 5 CIP Reliability Standards. On April 18, 2013, the Commission issued a Notice of Proposed Rulemaking in which the Commission proposed to approve the Version 5 CIP Reliability Standards.² In the NOPR, the Commission proposed to approve the part of NERC's implementation plan whereby responsible entities would transition from the currently-effective Version 3 CIP Reliability Standards directly to the proposed Version 5 CIP Reliability Standards, thereby bypassing the Version 4 CIP Reliability Standards.

II. Trade Associations' Motion

3. The Trade Associations state that an extension of time for compliance with the Version 4 CIP Reliability Standards is justified because an extension of time will likely allow responsible entities to transition directly from the currently-effective Version 3 CIP Reliability Standards to the proposed Version 5 CIP Reliability Standards, thus bypassing the Version 4 CIP Reliability Standards. The Trade Associations state that transitioning directly from the Version 3 CIP Reliability Standards to the Version 5 CIP Reliability Standards will allow responsible entities "to avoid wasting valuable time and resources preparing to comply with CIP Version 4."³ The Trade Associations maintain that "there is no useful purpose served by having registered entities expend time and resources attempting to comply with CIP Version 4 standards that are likely to not become applicable ... [n]ot only would this be a waste of resources, but it would also divert attention from other compliance efforts generally and relating to CIP Version 5 specifically."⁴ The Trade Associations further state that, without an extension of time, "registered entities have indicated that, in order to meet the April 1, 2014 deadline, they will need to begin implementing, and incurring the costs of, modifications this summer."⁵ The Trade Associations note that the "Commission has previously delayed implementation of a final rule where there is a genuine possibility that a requirement will not be in place in the near future, and the costs of compliance with the requirement are

² *Version 5 Critical Infrastructure Protection Reliability Standards*, 78 Fed. Reg. 24,107 (Apr. 24, 2013), 143 FERC ¶ 61,055 (2013) (NOPR).

³ Motion at 5.

⁴ *Id.* at 5-6.

⁵ *Id.* at 6.

largely incurred up front,” which the Trade Associations state is the case regarding compliance with the Version 4 CIP Reliability Standards.⁶

III. Notice of Filing

4. On July 24, 2013, the Commission issued a notice extending the response period for the Trade Associations’ motion to August 5, 2013. Comments in support of the Trade Associations’ motion were filed by ISO/RTO Council, NRG Companies, PSEG Companies,⁷ PHI Companies,⁸ ITC,⁹ and Duke Energy Corporation.

IV. Discussion

5. Pursuant to 18 C.F.R. § 39.5(d) (2013), the Commission grants a six-month extension of the compliance deadline for the Version 4 CIP Reliability Standards, from April 1, 2014 to October 1, 2014. We agree with the Trade Associations that an extension of time for compliance with the Version 4 CIP Reliability Standards is warranted in order to allow responsible entities to more efficiently utilize resources to transition directly from the currently-effective Version 3 CIP Reliability Standards should the Commission adopt its proposal to approve the Version 5 CIP Reliability Standards. Moreover, a six-month extension is consistent with the NOPR proposal regarding implementation of the proposed Version 5 Reliability Standards (i.e., transition from the Version 3 CIP Reliability Standards directly to the Version 5 CIP Reliability Standards).¹⁰

⁶ *Id.* (citing *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act*, 142 FERC ¶ 61,105, at PP 2-3 (2013); *Revisions to Electric Reliability Organization Definition of Bulk Electric System and Rules of Procedure*, 143 FERC ¶ 61,231 (2013)).

⁷ The PSEG Companies are comprised of Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC.

⁸ The PHI Companies are comprised of Pepco Holdings, Inc., Potomac Electric Power Company, Delmarva Power & Light Company, and Atlantic City Electric Company.

⁹ ITC is comprised of International Transmission Company, Michigan Electric Transmission Company, LLC, ITC Midwest LLC, and ITC Great Plains LLC.

¹⁰ By granting the Trade Associations’ motion, we are not pre-judging the determinations in the forthcoming final rule concerning the Version 5 CIP Reliability Standards.

The Commission orders:

The Commission hereby extends the compliance deadline for the Version 4 CIP Reliability Standards from April 1, 2014 to October 1, 2014.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.