

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Rule Regarding Critical Energy Infrastructure Information	)	Docket No. RM02-4-000
Policy Statement on the Treatment Previously Public Documents	)	Docket No. PL02-1-000

REVISED COMMENTS OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL  
IN RESPONSE TO NOTICE OF INQUIRY

The North American Electric Reliability Council (“NERC”) submits these comments in response to the Notice of Inquiry that the Commission issued on January 16, 2002, on the subject of protecting critical energy infrastructure information. NERC welcomes the Commission’s attention to this important issue. In these comments, NERC will restrict its comments to matters affecting the bulk electric system, although certain of the comments would likely have broader application.

All correspondence, communications, pleadings and other documents related to this matter should be addressed to the following:

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NERC is a not-for-profit organization formed after the Northeast blackout in 1965 to promote the reliability of the bulk electric systems that serve North America. It works

with all segments of the electric industry as well as customers to “keep the lights on” by developing and encouraging compliance with rules for the reliable operation and adequacy of supply of these systems. NERC comprises ten Regional Reliability Councils that account for virtually all the electricity supplied in the United States, Canada, and a portion of Baja California Norte, Mexico. In addition, NERC serves as the electric industry’s designated Information Sharing and Analysis Center working in coordination with the Federal government’s National Critical Infrastructure Protection Center and has been designated the Electric Power Sector Coordinator by the Department of Energy.

The terrorist attacks of September 11 have made it imperative for all of us to reassess the scope and magnitude of the risks we face and the steps necessary to guard against those risks. Access to critical energy infrastructure information must be a part of that reassessment. Within days after September 11, NERC blocked public access to information on its web site that related to critical aspects of the bulk electric system. NERC adopted a policy of “responsible access” to information, meaning that the information was no longer available to the general public but was available to participants in the electricity markets as well as certain others on a need-to-know basis. An individual could gain access to the information only through use of a unique user identification and password. An individual could only obtain a user ID and password by being sponsored or vouched for by a responsible individual of an entity registered on the TSIN Registry.<sup>1</sup>

NERC’s Critical Infrastructure Protection Advisory Group is in the process of developing further advice for the electric industry to limit the

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<sup>1</sup> TSIN is the Transmission Services Information Network maintained by NERC as the central registry for entities doing business in the electricity markets. Registration on TSIN is a prerequisite for doing business on OASIS nodes and for tagging interchange transactions.

publication of potentially sensitive information. Such advice will focus on both the posting of information on electric sector entity websites as well as on information filed with and published by FERC, DOE, EPA and other government agencies. The advice will include the alternative of making certain information available on a need-to-know basis. The advice will include a specification of the types of information that should be considered highly sensitive and an emphasis on the need to develop and conduct employee awareness training to ensure that appropriate confidentiality is maintained. A similar approach is being taken in Canada and is being endorsed by the Department of National Defence's Office of Critical Infrastructure and Emergency Preparedness.

As a general matter NERC believes that real-time operating data, information about the nature and location of critical facilities and assets, power system restoration plans, and assessments of vulnerabilities should not be made generally available to the public. Critical assets would include the data, communications, energy and operational systems or processes necessary to sustain business continuity. At the same time, NERC is committed to ensuring that market participants have fair and non-preferential access to the data they need. A system of registration and password protection, coupled with agreements on how sensitive information can be used, may be the most effective near-term solution. Longer term, NERC is exploring encryption as a means to protect sensitive data. NERC will provide additional details concerning the nature of the sensitive information to the Commission in a non-public manner.

The Commission has correctly identified the Freedom of Information Act as one limitation on the Commission's ability to protect sensitive data that is filed with the Commission. Legislation is currently pending in Congress that would amend the Freedom of Information Act to add an exemption for critical infrastructure information and would place limits on the government's use of critical infrastructure information. NERC urges the Commission to support that legislation, so that a consistent government-wide approach can be taken on this issue. A copy of NERC's letter to Senator Bingaman in support of that legislation is attached to these comments.

The Commission faces a particular challenge in dealing with critical energy infrastructure information that is needed as decisional material in its pending cases. As a general matter, parties to the Commission's cases must also be given access to such information. Clear identification of the data recipients, coupled with mandatory agreements restricting use and dissemination of critical energy infrastructure information should enable the Commission to strike the proper balance between fairness to the parties and protection of information from harmful disclosure.

NERC will be pleased to work with the Commission to further define the nature of the information to be protected and effective measures for doing so.

NORTH AMERICAN  
ELECTRIC RELIABILITY COUNCIL

By:

A handwritten signature in black ink that reads "David M. Cook". The signature is written in a cursive style with a large, stylized "D" and "C".