

Grid Security

Summary

A reliable energy grid is the lifeblood of the nation's economic and national security, as well as vital to the health and safety of all Americans. Public power utilities, together with the entire electric utility industry, take very seriously their responsibility to maintain a secure and reliable electric grid. The electric sector has mandatory and enforceable federal regulatory standards in place for cyber and physical security (collectively known as grid security). Cyber-attacks, relatively new compared to long-known physical threats, have rapidly evolved, and could have operational consequences. The American Public Power Association (APPA) believes that the industry and its federal government partners have made great strides in addressing cybersecurity threats, vulnerabilities, and potential emergencies. Given the persistence and sophistication of threats, APPA knows that utilities cannot prevent all attacks at all times. For both cyber and physical threats, electric utilities employ risk management programs to prioritize facilities and equipment, develop contingency plans, and employ defense-in-depth techniques to keep the power on.

Key Pillars of Grid Security

Mandatory and Enforceable Standards

Congress approved the mandatory and enforceable standards regulatory regime for the bulk power system in the Energy Policy Act of 2005 (EPA05) (section 215 of the Federal Power Act (FPA)). Under section 215, the North American Electric Reliability Corporation (NERC), working with electric industry experts, regional entities, and government representatives, regularly drafts reliability, physical security, and cybersecurity standards that apply across the North American grid, including Canada.¹ Participation by industry experts and compliance personnel in

the NERC critical infrastructure protection (CIP) standards development process ensures that the standards are technically sound, fair, and balanced. The Federal Energy Regulatory Commission (FERC) has the power to then approve or remand those standards as they apply in the United States. To ensure compliance, under FERC's oversight, NERC and its regional entities conduct rigorous audits and can levy substantial fines for non-compliance. Additionally, FERC can instruct NERC to develop new or revised reliability standards with a very short turn-around time. CIP standards establish an important baseline of security—but they are a floor, not a ceiling—and grid security is and should be much more than a compliance exercise.

Information Sharing & Protection

President Biden signed the Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCIA) in March as part of the Consolidated Appropriations Act of 2022. The law will require covered critical infrastructure entities to report cyber incidents within 72 hours and ransomware payments within 24 hours to the Department of Homeland Security's (DHS) Cybersecurity and Infrastructure Security Agency (CISA). CISA has 24 months to issue a notice of proposed rulemaking (NPR) and a final rule must be issued 18 months after the NPR is issued. The law gives CISA significant discretion in implementation, including defining what constitutes a covered entity.

The electricity sector is unique in that it is already subject to cyber incident reporting mandates to the Department of Energy (DOE) via an Electricity Emergency Incident and Disturbance Report (OE-417) and NERC/FERC. Moreover, public power utilities have long participated in robust voluntary information sharing organizations, such as the Electricity Information Sharing and Analysis Center (E-ISAC), as well as the Multi-State Information Sharing and Analysis Center. APPA President & CEO Joy Ditto wrote to CISA Director Jennifer Easterly in June 2022 asking her to take a careful and deliberative approach in

¹ NERC standards cover the Bulk Electric System (BES).

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implementing CIRCIA that takes into account existing reporting mandates and organizations, and to appropriately tailor reporting mandates commensurate with risk to national security. CISA is expected to issue a request for information to kick off the implementation process in the summer of 2022.

The ability to protect sensitive electric information from public disclosure is critical to grid security. The Fixing America's Surface Transportation Act of 2015 or "FAST Act" (Sec. 61003 of P.L. 114-94) gave the Secretary of Energy broader authority to address grid security emergencies under the FPA and clarified the ability of FERC and other federal agencies to protect sensitive critical electric infrastructure information (CEII) from public disclosure under the Freedom of Information Act and other sunshine laws. Under the FAST Act, FERC-designated CEII is exempted from disclosure for a period of up to five years with a process to lift the designation or challenge it in court. In addition, it established sanctions for the unauthorized disclosure of shared information. It is critical to operational security that the industry is confident that sensitive information about critical infrastructure that might provoke new threats or endanger the integrity of the electric power grid not be publicized. CEII in the public sphere creates a grave vulnerability to the electric power grid by significantly reducing the surveillance effort required by dedicated domestic and foreign adversaries. APPA has supported legislation and actions by DOE and FERC that would further clarify and enhance the ability of the federal government and other stakeholders to maintain the confidentiality of CEII to minimize the risk that such information could be used by malicious actors to target grid infrastructure.

Public-Private Partnerships

The electric power industry works closely with the federal government, including NERC, FERC, DOE, and DHS, on matters of critical infrastructure protection. One important venue for this collaboration is the Electric Subsector Coordinating Council (ESCC). The ESCC serves as the principal liaison between the federal government and the electric power sector, with the mission of coordinating efforts to prepare for, and respond to, national-level disasters or threats to critical infrastructure. APPA and public power utilities play a leadership role on the ESCC, which includes utility CEOs and trade association leaders representing all segments of the industry. Their counterparts include senior administration officials from the White House, relevant Cabinet agencies, federal law enforcement, and national security organizations.

APPA works directly with DOE on a number of fronts. Most recently, in September 2020, DOE's Office of Cybersecurity, Energy Security, and Emergency Response (CESER) awarded APPA a grant of \$6 million over a three-year period to develop and deploy cyber and cyber-physical solutions for public power utilities. The program's goal is to assist utilities with cybersecurity sensor capabilities to protect key operational technology (OT) assets that enable the safe operation of the physical systems that deliver electric power. This effort builds on the accomplishments of another three-year grant CESER awarded to APPA in 2016, with which APPA assessed and helped to strengthen the cybersecurity posture of small- and medium-sized public power utilities. This grant enabled the development of a cybersecurity scorecard for public power utilities to assess their cyber readiness, the production of a cybersecurity roadmap, an incident response playbook, and other guidance documents to help utilities develop a culture of cybersecurity within their organization.

Legislation based on the success of the 2016 grant program, H.R. 2931, the Enhancing Grid Security through Public-Private Partnerships Act, was introduced by Representatives Jerry McNerney (D-CA) and Bob Latta (R-OH) and passed as part of H.R. 3684, the Infrastructure Investment and Jobs Act, in November 2021. The provision directs DOE to carry out a program to promote and advance the physical and cybersecurity of electric utilities, with priority provided to utilities with fewer resources. The Infrastructure Investment and Jobs Act contains other provisions authorizing funding at DOE to work with the industry on improving grid security.

"Defense-in-Depth" and Sector-Wide Preparation Exercises

The goal of every utility and the entire industry is to manage risk prudently. Still, there are tens of thousands of diverse facilities throughout the U.S. and Canada that cannot be protected 100 percent of the time from all threats, requiring utilities to prioritize facilities that, if damaged, would have the most severe impacts on their ability to keep the power on. As such, the electric power industry employs threat mitigation known as "defense-in-depth" that focuses on preparation, prevention, response, and recovery to "all hazard" threats to electric grid operations.

Electric utilities plan and regularly exercise for a variety of emergency situations that could impact their ability to provide electricity. One of the biggest exercises, GridEx, takes place every two years. GridEx VI took place in November 2021 and involved hundreds of organizations and thousands of participants from industry, government agencies, and partners in Canada and

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Mexico. Managed by NERC and the E-ISAC, the event included a tabletop exercise where electric sector executives and senior government officials worked through incident response protocols in a scenario involving multiple operating challenges.

The three primary segments of the electric utility industry—public power, investor-owned, and rural electric cooperatives—have long had in place mutual aid response networks to share employees and resources to restore power after natural disasters and other emergencies. The ESCC used the concept of traditional mutual assistance networks to develop the Cyber Mutual Assistance program that can help electric and natural gas companies, public power utilities, and/or rural electric cooperatives restore critical computer systems following significant cyber incidents. The program now includes 175 entities across all segments of the industry, serving more than 80 percent of all U.S. electricity customers.

Finally, electric utilities regularly share transformers and other equipment through long existing bilateral and multilateral sharing arrangements and agreements. The industry is expanding equipment sharing programs—like the Spare Transformer Equipment Program (STEP), SpareConnect, and Grid Assurance—to improve grid resiliency.

Administrative Action

Supply Chain Security Executive Actions

On May 1, 2020, President Trump signed an Executive Order 13920 (EO or order), *Securing the United States Bulk Power System*, deeming “the unrestricted foreign supply of bulk-power system electric equipment” as an “unusual and extraordinary threat to national security.” The order broadly prohibited any person subject to federal jurisdiction from acquiring, importing, transferring, or installing bulk-power system electric equipment designed, developed, manufactured, or supplied by foreign adversaries when those transactions pose an undue or unacceptable risk to the grid or national security. DOE was tasked with leading a broad inter-agency effort to further define and implement the order’s requirements within 150 days. As part of the implementation of the EO, on December 17, 2020, DOE released a prohibition order aimed at reducing the risks that entities associated with China pose to the nation’s BPS. The order, which took effect January 16, 2021, prohibited utilities that supply critical defense facilities from procuring from China specific BPS equipment that poses an undue risk to the BPS,

the security or resilience of critical infrastructure, the economy, national security, or safety and security of Americans. The order only applied to utilities that have been designated as defense critical electric infrastructure (DCEI).

Under the Biden administration, DOE in April 2021 announced that it was revoking the December 17, 2020, prohibition order on securing critical defense facilities and that the emergency declaration of EO 13920 would expire on May 1, 2021. In conjunction with the announcement that it was revoking the prohibition order, DOE announced a new request for information (RFI), “Ensuring the Continued Security of the United States Critical Electric Infrastructure,” seeking input from stakeholders to inform future recommendations for supply chain security in U.S. energy systems. APPA submitted comments in response to the RFI on June 7, 2021, asking DOE to focus on four foundational principles as it considers further action on energy sector supply chain security: (1) new measures must be risk-based; (2) directives should be clear, prospective, and scalable; (3) directives must be cost-conscious; and (4) DOE should focus on vendor risks.

NSC “100 Day ICS Cybersecurity Sprint” & Related Initiatives

On April 20, 2021, the Biden administration announced that it was launching a new initiative to enhance the cybersecurity of electric utilities’ industrial control systems (ICS). This 100-day “sprint” is a coordinated effort between the National Security Council (NSC), DOE, and the ESCC to encourage and support utilities’ visibility and situational awareness into their ICS and OT networks. APPA, as the primary public power point of contact for the initiative, worked with public power utilities to facilitate their participation in this voluntary pilot program. This effort has appropriately raised the issue of ICS security to a higher priority in the federal government. APPA views this sprint as the start of a long journey of collaboration between public power and the federal government, which includes the work being done through the CESER grant to APPA. Building on the work pioneered with the electric sector on the “100-day sprint,” President Biden on July 28, 2021, signed a *National Security Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems*, expanding the effort to other sectors. The memo also directed DHS and other agencies to develop sector-specific critical infrastructure cybersecurity performance goals within one year.

APPA Position

The regulations and standards (“NERC-FERC”) process set up in EPAct05 provide a solid foundation for strengthening the industry’s security posture. These mandatory standards evolve with input from subject-matter experts from across industry and government. However, the industry recognizes that it cannot protect all assets from all threats all the time, and instead must manage risk. APPA believes that close coordination among industry and government partners at all levels is imperative to deterring attacks and preparing for emergency situations. Finally, APPA believes that any additional cyber incident reporting requirements must be risk-based and harmonized with the existing reporting requirements for the electric utility industry.

APPA Contact

Amy Thomas, Senior Government Relations Director,
202-467-2934 / athomas@publicpower.org

Bridgette Bourge, Senior Director, Cybersecurity,
202-467-2925, bbourge@publicpower.org

The American Public Power Association is the voice of not-for-profit, community-owned utilities that power 2,000 towns and cities nationwide. We represent public power before the federal government to protect the interests of the more than 49 million people that public power utilities serve, and the 96,000 people they employ. Our association advocates and advises on electricity policy, technology, trends, training, and operations. Our members strengthen their communities by providing superior service, engaging citizens, and instilling pride in community-owned power.