



June 9, 2022

The Honorable Jennifer Easterly
Director, Cybersecurity and Infrastructure Security Agency
Department of Homeland Security
CISA Stop 0380, 245 Murray Lane
Washington, D.C. 20528-0380

Dear Director Easterly:

I write to you as your agency prepares to lead the implementation of the Cyber Incident Reporting for Critical Infrastructure Act of 2022, which was signed into law by President Biden in March as part of H.R. 2471, the Consolidated Appropriations Act, 2022, to ask for your commitment to take a careful and deliberative process that takes into account existing reporting mandates and to appropriately tailor reporting mandates commensurate with risk to national security. I would also like to request a meeting with you and your team leading implementation to discuss these matters in detail.

APPA is the voice of not-for-profit, community-owned utilities that power 2,000 towns and cities nationwide. APPA represents 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. Public power utilities range in size, from very large to very small; approximately 67 percent of public power utilities serve communities of 10,000 people or less. They own, operate, or use generation and transmission infrastructure, as well as distribution infrastructure directly serving homes and businesses.

Public power utilities know that 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. Electric utilities 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. These standards include mandatory reporting of specific cyber incidents to the Department of Energy (DOE) via an Electric Emergency Incident and Disturbance Report (OE-417) and to the North American Electric Reliability Corporation (NERC) and Federal Energy Regulatory Commission (FERC).

Outside of these mandatory reporting standards, public power utilities participate in robust voluntary information sharing systems such as the Electric Subsector Coordinating Council and the Electricity Information Sharing and Analysis Center, as well as the Multi-State Information and Sharing Analysis Center. Moreover, electric utilities worked closely with the National Security Council, DOE, and DHS on the "100 Day Electric Sector Industrial Control Systems Cybersecurity Sprint" to encourage and support utilities' visibility and monitoring of their industrial control system and operational technology networks, as well as automated sharing into government.

As outlined above, the electric sector is unique among critical infrastructure sectors in the extent and maturity of existing information sharing regulations and programs. Public power utilities, as units of state and local governments and varying so widely in size and risk profiles, are still more unique. Given these complexities, and pursuant to Congress' expressed intent, it is critical that CISA work directly with our industry's sector risk management agency, DOE, as well as FERC and NERC, and industry itself, to

harmonize, to the maximum extent possible, new reporting mandates and processes with those that already exist.

Furthermore, I strongly urge CISA to use the considerable discretion given to it by Congress in the law to define covered entities for the purposes of mandated reporting of cybersecurity incidents in a risk-based manner. As Congress explicitly stated in the law, CISA must define the types of entities that constitute covered entities based on the “consequences that disruption to or compromise of such an entity could cause to national security, economic security, or public health and safety.” This is of particular importance to public power utilities, as APPA’s members have widely different risk profiles ranging from an electric utility with transmission assets that serves millions of customers to a very small distribution electric utility without an industrial control system serving 200 customers.

I appreciate the enormity of the task CISA has been directed to undertake in implementing this law and my team and I stand ready to work with you to achieve an outcome that is both workable for our members and provides meaningful information to the government in order to strengthen our national security. I look forward to scheduling a meeting at your convenience to discuss these matters in person.

Sincerely,

A handwritten signature in black ink, appearing to read "JD", with a long horizontal line extending to the right.

Joy Ditto
President & CEO
American Public Power Association