

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

January 17, 2008

OFFICE OF THE CHAIRMAN

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to follow up on the comments you submitted in response to the Commission's proposal to approve a set of reliability standards to safeguard the nation's bulk-power system against potential disruptions from cyber incidents. Specifically, you expressed your view that the reliability of the nation's bulk-power system will be better protected by a cybersecurity standard that incorporates the additional security measures of National Institute of Standards and Technology (NIST) 800-53 as applied to industrial control systems. You also raised concerns about the scope of the reliability standards and the need to address interdependencies with other critical infrastructure.

Today, the Commission issued a Final Rule, which approves eight Critical Infrastructure Protection (CIP) reliability standards submitted to the Commission for approval by the North American Electric Reliability Corporation (NERC). In addition, the Commission directed NERC to modify the eight approved CIP standards to address specific issues and concerns identified by the Commission in the Final Rule. The eight reliability standards require certain users, owners, and operators of the bulk-power system to comply with specific requirements to safeguard critical cyber assets.

I would like to thank you for the benefit of your views and explain what the Commission did in response to your comments. You provided us with compelling information that suggests that the NIST standards may provide superior measures for cyber security protection. The Commission, however, is concerned that the rejection of the NERC proposal and adoption of the NIST standards would result in unacceptable delays in having any mandatory and enforceable reliability standards that relate to cyber security. The Commission has the authority to direct the ERO to develop a new or modified standard through an Electric Reliability Organization (ERO) standards development process. The Commission does not, however, have authority under section 215 of the Federal Power Act (FPA) to either revise a proposed standard or establish a new standard that has not gone through some type of ERO-administered process that complies with the basic statutory requirements of section 215. Our options were to approve standards that improve cyber security, and direct the ERO to strengthen them

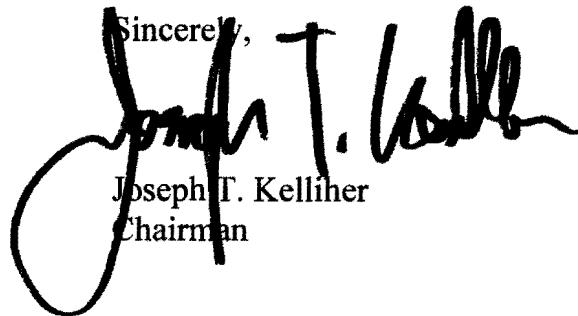
over time, or reject the proposed standards and remand them to the ERO, leaving a void in cyber security of the bulk power system. We chose the former. The Commission's action in approving the CIP standards proposed by NERC allows for immediate implementation of mandatory and enforceable standards while contemporaneously directing improvements.

The Final Rule directs NERC to monitor the development and implementation of the NIST cyber security standards to determine if they contain provisions that will protect the bulk-power system better than the CIP reliability standards. In fact, the Final Rule directs NERC to consult with certain federal entities that are required to comply with the NIST standards on the effectiveness of those standards and on implementation issues. NERC is to report those findings to the Commission. The Commission may revisit this issue in future proceedings as part of an evaluation of existing reliability standards or the need for new CIP reliability standards, or as part of an assessment of NERC's performance of its responsibilities as the ERO.

In the Final Rule, the Commission agreed with you and other commenters regarding the importance of considering interdependencies with other critical infrastructures. The Commission explained that, to meaningfully address interdependencies with other critical infrastructures, it is important to coordinate with the stakeholders of these other infrastructures as well as with other government agencies and organizations. While the Commission, in the Final Rule, expressed its intent to revisit this matter through future proceedings and with other agencies, the Commission declined to extend the scope of the term "critical asset" as used in the CIP reliability standards to include facilities critical to other infrastructure. The Commission stated its belief that its authority under section 215 of the FPA does not extend to other infrastructure or to distribution facilities.

I appreciate your thoughtful comments on the issues raised in the Commission rulemaking. Cyber security protection in the electric industry is a relatively new topic for both NERC and the Commission. I anticipate that, as awareness increases, the significance of cyber security protection will take on a heightened role in bulk-power system reliability. As indicated in the Final Rule, the Commission will continue to play an active role in cyber security of the bulk power system. If I can be of further assistance in this or any other Commission matter, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph T. Kelliher". The signature is stylized and cursive, with a large loop at the end of the last name.

Joseph T. Kelliher
Chairman