

**UNITED STATE OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

<b>Standards of Conduct for Transmission</b>	)	
<b>Providers</b>	)	<b>Docket No. RM01-10-000</b>
	)	
	)	

**EDISON ELECTRIC INSTITUTE  
EMERGENCY MOTION FOR EXTENSION OF TIME FOR COMPLIANCE**

Pursuant to Rule 212, 18 C.F.R. § 385.212 (2003), the Edison Electric Institute ("EEI") moves that the Federal Energy Regulatory Commission ("Commission") at a minimum extend the time for training of employees pursuant to 18 C.F.R. §358.4(e)(5) and the posting requirements under 18 C.F.R. §358.4(b) of Order No. 2004 until September 1, 2004. EEI further requests that the Commission consider extending the deadline for compliance with all Order No. 2004 requirements until September 1, 2004 in view of the approaching summer peak season. Virtually all EEI members are Transmission Providers required to comply with Order No. 2004 and are undertaking efforts to implement Standards of Conduct compliance programs, including the training and posting requirements, both of which are the subject of substantial uncertainty.

EEI also takes this opportunity to request clarification on a procedural point that will affect the computer-based training ("CBT") in the Standards of Conduct requirements that EEI is developing for many within the industry.

***Action on this motion is requested by the end of March.*** Transmission Providers will need to begin training and other compliance activities soon to meet the June 1 deadline. For example, if a rehearing order changes the rules after training has occurred,

any retraining on the revised rules would be an inefficient additional expense. Such training and retraining also could promote confusion amongst those trained twice, and undermine the goal of providing employees a clear understanding of the Standards of Conduct requirements. By acting on this motion by the end of March, the Commission will help Transmission Providers avoid such inefficiency and confusion.

**1. The Compliance Deadlines Should Be Extended in Recognition of the Time that Rehearing Has Been Pending.**

The Commission originally gave Transmission Providers approximately six months after the issuance of Order No. 2004 to come into compliance. Almost four of those months have now passed. The requests for rehearing or clarification that have been pending for three months address almost every major aspect of Order No. 2004. As the Commission is aware, many of those requests addressed inconsistencies between the preamble and the regulatory text that have created uncertainty concerning several of the requirements, in particular the extent of the training requirement. There is also uncertainty regarding the treatment of certain categories of employees, for example, the definition of “energy affiliate,” that affects whether they are covered by the posting requirements. This uncertainty as to what the requirements are has made it difficult for EEI’s members to develop and implement their compliance programs, in particular the requirements for training and for posting of organization charts and employee information.<sup>1</sup>

---

<sup>1</sup> EEI is not suggesting that the Commission rush out an order on rehearing and clarification. To the contrary, the issues raised in the requests for clarification and rehearing show that what this rule needs, as much as anything, is the type of clarity that will come only through careful consideration. However, EEI’s request for an extension until September 1, 2004 is based on the hope that the rehearing order will be issued in the near future.

Some EEI members have thousands of employees who may require training. As the February compliance filings demonstrated, compliance efforts will involve significant expenditures of money and staff time. Similarly, compliance with the posting requirements will require substantial efforts, including determining what employee categories are covered, developing job descriptions and developing software and other systems to track hires and transfers that are required to be posted. If, for example, the definition of “energy affiliate” is changed on rehearing or the scope of the posting requirement in §358.4(b)(ii) is changed, much of the work already done to meet the June 1 deadline may have to be undone and done again. Granting the extension will help avoid duplicative expenditures caused by uncertainty as to what the rule requires.

The training requirement presents another example. Several EEI member companies, as well as non-member companies, plan to use the EEI CBT program as the basis for meeting the Order No. 2004 training requirement. The CBT program has met with an enthusiastic response as a cost-effective means of developing training materials that comprehensively cover the Order No. 2004 requirements and that can be communicated to large numbers of employees. Making revisions to the CBT can be time-consuming. Thus, if the order on rehearing is issued, for example on April 1, it would require at least until April 15 to make the required changes in the program, even on an expedited basis. This effectively leaves only six weeks for training, which may be insufficient for companies of any significant size. While using the CBT platform for training will allow employees to take the training course “on their own schedule,” some companies using the CBT program still plan to use in-person classroom training for some employees, requiring additional time to schedule and conduct the training. Moreover,

companies undertaking their own separate training programs also need sufficient time to make the changes in their training programs and then train employees.

Therefore, EEI requests that the Commission extend the deadline for compliance with the training and posting requirements until September 1, 2004, in effect restoring to Transmission Providers more of the six month period originally granted by the Commission to develop and carry out their compliance programs. This additional time is needed for companies to understand the final order on rehearing, determine what changes to their original compliance plans are required, make plans to implement those changes, in particular with regard to the training and posting requirements.

**2. The Deadline Should Be Extended in View of the Approaching Summer Peak Season.**

EEI believes that the extension until September 1 is the minimum time required for the training and posting compliance efforts in view of the approaching summer peak season for electric Transmission Providers. We ask the Commission to consider this extension of the compliance deadline so that employees are not diverted from their responsibilities their jobs during the summer peak period and the readiness period immediately before the summer peak. EEI member companies report that management, transmission operations employees, engineers, construction teams and other employees are working overtime to ensure that their entire systems, including transmission and distribution, are ready to respond to summer constraints, a concern every year but in particular after the summer 2003 blackout. For many companies, this work has to be

completed by May 1.<sup>2</sup> Many of these same employees are critical to implementing the company's Standards of Conduct compliance program.

For example, because of the expansion of the "energy affiliate" definition and the resulting expansion of the number of employees that can no longer have access to non-public transmission information, a company may be required to identify every computer application and system and "folders" of shared information to determine which employees can have access to what information. After this initial determination, which can involve thousands of folders of information and thousands of employees, the company must determine how to restrict access and then to implement that plan. Many of the employees that would be required to be involved in this effort may also be critical to summer peak activities.

Because of the extensive efforts required, in addition to granting the extension of time for the training and posting requirements at a minimum, EEI also asks the Commission to grant an extension until September 1, 2004 for compliance with all requirements of Order No. 2004. EEI's request for an extension of time in no way minimizes the importance of the Commission's objective in issuing Order No. 2004 to prevent discriminatory access to transmission information. Instead, we raise these concerns in light of the Commission's (and EEI member companies') commitment to assuring reliability and taking appropriate measures to prepare for the summer peak.

*Because of these concerns, EEI requests that the Commission grant this extension in a separate order before the end of March, regardless of when the rehearing ultimately*

---

<sup>2</sup> Some of these same employees may also be preparing for and responding to the readiness audits of major control areas being conducted by NERC in conjunction with Commission staff.

is issued. This will relieve Transmission Providers of the need to begin compliance activities, in particular to undertake training on the existing rules and implementation of the posting requirements, in order to meet the June 1 deadline, and therefore will avoid the inefficiency and confusion that would be caused by any changes in the requirements made in the order on rehearing. The requested extensions of time for compliance with the training and posting as well as all other Order No. 2004 requirements will enable Transmission Providers to meet their obligations both to prepare for the summer for the summer peak and to implement their compliance with Order No. 2004.

**3. Electronic Certification of Training is Appropriate.**

EEI's CBT will allow subscribing companies to track, in database form, which employees have completed training, and which have not. Order No. 2004 requires that trained employees sign an affidavit to the effect that they have been trained. EEI requests clarification that having an employee acknowledge that he or she has been trained by "clicking" on a "button" at the end of a CBT program, creating a verifiable electronic record, meets this requirement. It accomplishes the same purpose, and promotes a more orderly, paper-free system of record keeping. In this regard it is consistent with several recent Commission initiatives, such as those regarding electronic filings of pleadings and quarterly reports.

Therefore, for the reasons stated above, EEI requests that the Commission

1. Grant an extension of time until September 1, 2004 for compliance with Order No. 2004, or if that request is not granted,
2. Grant an extension of time until September 1, 2004 for compliance with the requirements in 18 C.F.R. § 358 (b) and (e); and

3. Clarify that electronic record keeping is sufficient to meet the requirements of 18 C.F.R. §358.4(e)(5).

Respectfully submitted,

Edison Electric Institute

/s/

Edward H. Comer  
Vice President and General Counsel

Barbara A. Hindin  
Associate General Counsel  
Edison Electric Institute  
701 Pennsylvania Ave. NW  
Washington, DC 2004-2696  
202-508-5019

March 22, 2004