

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

<b>Joint Staff White Paper on</b>	)	
<b>Notices of Penalty Pertaining to</b>	)	<b>Docket No. AD19-18-000</b>
<b>Violations of Critical Infrastructure</b>	)	
<b>Protection Reliability Standards</b>	)	

**COMMENTS OF  
COGENTRIX ENERGY POWER MANAGEMENT, LLC**

Pursuant to the August 27, 2019, *Notice of White Paper* issued in the above-referenced docket, Cogentrix Energy Power Management, LLC (“CEPM”) respectfully and timely files these comments in response to the Federal Energy Regulatory Commission (“FERC”)/North American Electric Reliability Corporation (“NERC”) Joint Staff White Paper on Notices of Penalty for Violations of NERC CIP Standards (“White Paper”).<sup>1</sup>

CEPM’s affiliates own, and CEPM provides asset management, operations and regulatory compliance services for approximately 8,600 MW of electric generation facilities throughout the United States. CEPM has participated in the development of the wholesale markets in most of the major power regions in the U.S., and directly and materially contributed to the comments of the North American Generator Forum (NAGF).

Cogentrix submits these comments in support of the comments offered in the docket by the North American Generator Forum (“NAGF”), the Edison Electric Institute (“EEI”), the

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<sup>1</sup> On August 27, 2019, FERC and NERC staff published the White Paper setting out a proposed new format for NERC Notices of Penalty involving violations of Critical Infrastructure Protection Reliability Standards. On August 27, 2019, the Commission issued a Notice of White Paper establishing a 30-day comment period to submit comments in response to the White Paper, with comments due by September 26, 2019. On September 19, 2019, the deadline for submitting comments was extended to and including October 28, 2019.

American Public Power Association (“APPA”), the Electric Power Supply Association (“EPSA”), the Large Public Power Council (“LPPC”), the National Rural Electric Cooperative Association (“NRECA”), and the Transmission Access Policy Study Group (“TAPS”) (together, “the Trade Associations”).

CEPM’s comments specific to the NAGF filing are as follows:

- CEPM specifically concurs that publicly identifying a CIP violating entity along with the CIP standard violated provides a more acute attack vector for a potential bad actor to attempt to exploit. To avoid the potential for a more focused hacking strategy, CEPM strongly recommends that FERC not publicly identify the CIP violating entity at all, thereby continuing the current practice of utilizing the label ‘URE’ or “Unidentified Registered Entity.”
- CEPM also agrees that the NERC and the industry participants need to address the unintended consequence of removing useful technical violation information from Registered Entity access as is available today. Registered Entities utilize this information as a means to apply lessons learned and/or as an additional control against which they compare their own practices and approaches. In FERC’s proposal, this technical information would be relegated exclusively to a confidential attachment.
- CEPM is also concerned about the public relations impacts created when incomplete CIP violation information is placed in the public domain as posited by the FERC proposal, resulting in the potential for reputational harm due to inaccurate conjecture about the severity and nature of the issues.

CEPM’s specific comments on the Trade Associations’ filing are as follows:

- Section III.A – CEPM asserts that there is no benefit to the security and reliability of the BPS if CEII or other information in the CIP NOPs were made public. In fact, CEPM agrees that any incremental disclosure of CEII, even balancing that with public transparency, creates additional risk of hostile attacks that threaten a reliable and secure BPS .
- Section III.C – CEPM agrees that the revised NOP format should not include information about the CIP Reliability Standards violated.
- Sections III.D– CEPM agrees that if FERC orders the publication of violating entity names in the CIP Notices of Penalty cover letters, additional controls must be instituted to protect the NOP details in order to mitigate the increased risk of attack, and that NOP details must be classified as CEII and protected from disclosure

*Wherefore*, CEPM respectfully requests that FERC accept these comments and invites any questions or comments to clarify or supplement the information herein.

Respectfully Submitted,

/s/

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