

Renewed Scrutiny of Foreign Electric Grid Equipment: What EO14420 Means for Utilities and Suppliers

Client Alerts

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On August 26, 2026, President Trump issued Executive Order No. 14420, “Declaring a National Emergency to Secure the United States Bulk Power System.” The Order takes a similar approach to prior executive orders under the International Emergency Economic Powers Act (IEEPA), and declares a national emergency related, in this case, to foreign supply of bulk-power system electric equipment. This expands upon the President’s 2020 bulk-power EO 13920, which similarly targeted the acquisition, import, and installation of equipment for the electric grid supplied by companies in nations that are deemed foreign adversaries. After the issuance of that EO, the Department of Energy posted a Frequently Asked Questions discussion on its website. In addition, when setting up similar regimes, other agencies, like Treasury and Commerce, have also used FAQs, sometimes adding specific email addresses or “hotlines” where companies can seek guidance about potentially affected transactions. We expect to see the same steps taken here.

We provide below a few key takeaways, along with a more detailed summary of the EO.

- Like Executive Order 13873 (on information and communications technology and services (ICTS)) issued under the first Trump Administration, this Order lays the groundwork for a regime to regulate supply-chain transactions and equipment for possible foreign adversary risks. Similar to the Treasury Department’s Outbound Investment Rule (sometimes called “reverse CFIUS”), the EO contemplates potential class-wide restrictions on a set of covered transactions. While the new bulk-power EO may implicate several countries, like the ICTS and Outbound Investment rules, the real focus is on transactions involving China.
- Similar to other IEEPA-based frameworks, the Order does not itself impose restrictions. Rather, it authorizes the Secretary of Energy to determine that a transaction meets the Order’s criteria, at which point the Secretary may impose conditions or mitigation requirements. In making these determinations, the Secretary of Energy is required to consult with other executive departments, including the Secretaries of War, Commerce, and Homeland Security, and the Director of National Intelligence, and to coordinate with the Office of Management and Budget.

- The transaction-related requirements will apply to transactions initiated after the date of the EO (August 26, 2026). However, existing equipment (including that installed before the date of the EO) is also covered by the Order. Such equipment may be subject to conditions on its continued use, operation, maintenance, servicing, or updating, including requirements to identify, isolate, monitor, secure, disconnect, replace, or remove the equipment. Before this happens, however, the Secretary must consider effects on “reliability and safety, the availability of secure replacements, and continuity of essential service.”
- While the text of the EO might sweep broadly, there will likely be limitations on the application of any new regulatory regime, given practical limitations on the ability of implementing agencies to review and take action with respect to transactions and equipment potentially within scope. The details of exactly how the Secretary will enforce these provisions will hinge on rules published within 120 days of the EO (Christmas Eve 2026).
- In our view, it will be critical for potentially affected companies to seek to convey their views before implementing regulations are finalized. A public comment process would help to minimize the prospects of disruptive or destabilizing regulatory action.

Prohibited transactions. As to any transactions initiated after the date of the EO (August 26, 2026), the Order prohibits “any acquisition, importation, transfer, or installation of any foreign-produced bulk-power system electric equipment,” where the Secretary of Energy has determined that:

1. The transaction “involves bulk-power system electric equipment” (or any critical components, software, etc. associated with such equipment) that is “designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of a Covered Foreign Entity;” and
2. The transaction:
 - Poses “an undue risk of sabotage, subversion, unauthorized access, malicious remote action, or supply disruption affecting the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of the bulk-power system in the United States;”
 - Poses “an undue risk of catastrophic effects” upon the security or resilience of critical infrastructure; or
 - “[O]therwise poses an unacceptable risk to the national security of the United States” or to the safety of US persons.

Existing equipment. The EO also authorizes the Secretary to make determinations and impose conditions on bulk-power equipment acquired or installed before the date of the EO.

If the Secretary determines that a transaction is covered by the Order, he may impose conditions on the continued use or operation of foreign-manufactured bulk-power system electric equipment acquired or installed before August 26, 2026. These conditions may include requirements to “identify, isolate, monitor, secure, disconnect, replace, or remove such equipment.”

But before the Secretary imposes such conditions on existing equipment, he must consider effects on reliability and safety, the availability of secure replacements, and continuity of essential service. The Secretary may also establish “phased compliance.”

The Order also empowers the Secretary of Energy to design or negotiate measures to mitigate concerns, and such measures may serve as a precondition to approval of a transaction or of a class of transactions that would otherwise be prohibited by the EO.

Pre-qualification. The EO contemplates a “pre-qualification” system, under which the Secretary may establish criteria and procedures to treat particular equipment or vendors in the bulk-power system electric equipment market as pre-qualified for future transactions.

Timing of implementation. Section 3 of the EO lays the groundwork for the creation of a regulatory regime to administer its requirements. These regulations should be published within 120 days of the EO’s issuance (Dec. 24, 2026). The Secretary is also required to submit recommendations to the White House’s national security staff as soon as practicable on ways to identify, inventory, isolate, monitor, or replace such foreign bulk-power equipment.

Impacts on government contracting. Section 4 relates to how government contracting processes will deal with the risks identified in the EO. Within 180 days of the Order, the Federal Acquisition Regulatory Council (FAR Council) or other executive branches/officials, as appropriate, is required to “develop and submit a set of recommended revisions to the Federal Acquisition Regulation (FAR) to ensure that national security risks are adequately considered in any Federal procurement concerning energy infrastructure and to prioritize the acquisition of United States-manufactured energy infrastructure.” Such recommendations may then be proposed for notice-and-comment rulemaking processes to amend the relevant FAR provisions.

Scope. The bulk-power system is defined to cover “facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof),” as well as the energy from generating facilities needed to maintain system reliability. Equipment thus covers items used in such facilities, control systems, and power plants—but is not limited to physical equipment, and includes associated software and firmware, remote access capabilities, and “other supply chain dependencies.”

The EO broadly defines a “Covered Foreign Entity” as encompassing “any person owned by, controlled by, or subject to the jurisdiction or direction of a government of” a country subject to an arms embargo or sanctions regime under section 126.1 of the International Traffic in Arms Regulations (ITAR), including China.

The EO does not appear to be limited to FERC’s plenary jurisdiction. By using the term “bulk-power system,” the Order covers entities outside of FERC’s reach, including the Electric Reliability Council of Texas and other entities exempt from FERC’s jurisdiction under Federal Power Act Section 201(f). *See N. Am. Elec. Reliability Corp.*, 129 FERC 61,033, 61,171 (2009) (noting the broad scope of Federal Power Act Section 215 and its corresponding jurisdictional term “bulk-power system”). And the EO does not include an express jurisdictional carve-out for Texas or other Section 201(f) entities.

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