Effective Date: 10/19/2026
Note: This supersedes all previous revisions of this document

FERC STANDARDS OF CONDUCT COMPLIANCE PROGRAM

Purpose

This document summarizes the processes and controls established within FirstEnergy to ensure compliance with the Federal Energy Regulatory Commission ("FERC" or "Commission") Standards of Conduct for Transmission Providers. This document ("**FERC Standards of Conduct Compliance Program**") is intended to function as a reference guide and reflects the ongoing commitment of the FirstEnergy Companies to comply fully with the Standards of Conduct.

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Applicability

This FirstEnergy Standards of Conduct Compliance Program, and all related compliance documents, are directly applicable to all FirstEnergy employees, contractors, consultants, and agents (together, "Employees"), including: (1) Transmission Function Employees ("TFEs"); (2) Regulated Marketing Function Employees ("MFEs"); and (3) Competitive MFEs. In addition, all employees, including those who do not meet the definition of a TFE or MFE, are subject to the No Conduit Rule prohibiting employees from transmitting restricted information, subject to non-disclosure rules, to those who are not permitted to have it.

FirstEnergy Approach

Due to the changing nature of FERC's Standards of Conduct regulations over time, FirstEnergy has taken a conservative approach in complying with Order 717 and subsequent Orders on Rehearing and Clarification[1] by making selective changes to its compliance program in matters related to structural and physical separation and information technology network controls. For the most part, controls continue to be maintained at a corporate separation level. These types of controls are extremely complex to implement and are not easily undone or reinstated. Any questions or concerns related to FirstEnergy's

[1] Standards of Conduct for Transmission Providers, Order No. 717,125 FERC ¶ 61,064 (October 16, 2008); 73 Fed. Reg. 63796 (October 27, 2008); Order No. 717-A, 129 FERC ¶ 61,043 (October 15, 2009); 74 Fed. Reg. 54463 (October 22, 2009); Order No. 717-B, 129 FERC ¶ 61,123 November 16, 2009); 74 Fed. Reg. 60153 (November 20, 2009); Order No. 717-C, 131 FERC ¶ 61,045 (April 16, 2010); 75 Fed.Reg. 20909 (April 22, 2010); Order No. 717-D, 135 FERC ¶ 61,017 (April 8, 2011); 76 Fed. Reg. 20838 (April 14, 2011). The regulations implementing the Standards of Conduct are codified at 18 C.F.R. Part 358 (2010).

policy in these matters should be referred to the FirstEnergy Chief FERC Compliance Officer.

Acronyms

AES	Allegheny Energy Supply Company, LLC
CFCO	Chief FERC Compliance Officer
Com MFE	Competitive Marketing Function Employee
CSA	IT End User Computing (commonly referred to as Central Security Administration)
FERC	Federal Energy Regulatory Commission
FSC	FERC & State Compliance
FGCO	Fuels and Generation Commercial Operations Department
GSE	Generation Support Employee
MFE	Marketing Function Employee
Reg MFE	Regulated Marketing Function Employee
RTO	Regional Transmission Organization
FSI	FERC Sensitive Information (program)
TFE	Transmission Function Employee

The Chief FERC Compliance Officer and FERC & State Compliance Department

All inquiries regarding the FERC Standards of Conduct should be directed to **THE CHIEF FERC COMPLIANCE OFFICER** ("**CFCO**"), or FERC & State Compliance ("FSC").

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The FERC & State Compliance team can be emailed at ferccompliancemanager@firstenergycorp.com.

Public Availability of Standards of Conduct Compliance Information

This FERC Standards of Conduct Compliance Program is available to FirstEnergy employees on the FERC Compliance SharePoint site.

FirstEnergy Today> Ethics and Policies> FERC Policy & Compliance >FERC Compliance Policies > FERC Standards of Conduct Compliance Program

It is also posted publicly, along with other required postings, on the FirstEnergy Standards of Conduct and Affiliate Restrictions Posting Page, which is accessible via a link from the FirstEnergy website at the following URL address:

FIRSTENERGY WEBSITE -
https://www.firstenergycorp.com/about/standards_of_conduct.html

New postings or updates to existing postings can be submitted to the Posting Coordinator, Tina Wiatrowski, at (610) 921-6847 or via e-mail at twiatrowski@firstenergycorp.com, or to the Manager, FERC & State Compliance, Debra Zelasko, at (330) 436-2875 or via e-mail at dzelasko@firstenergycorp.com.

Background

Through their ownership and operation of electric transmission facilities used in wholesale energy transactions, the public utility operating subsidiaries of FirstEnergy identified below are "**Transmission Providers**" required to comply with the regulations promulgated by the FERC in the Standards of Conduct for Transmission Providers under Order No. 717.[1] As members of the PJM Interconnection, LLC ("**PJM**") regional transmission organization ("**RTO**"), many transmission provider functions are handled by the RTO as discussed more fully below.

- American Transmission Systems, Incorporated ("**ATSI**")
- Jersey Central Power & Light Company ("**JCP&L**")
- Keystone Appalachian Transmission Company ("**KATCo**")
- Mid-Atlantic Interstate Transmission, LLC ("**MAIT**")
- Monongahela Power Company ("**Mon Power**")
- The Potomac Edison Company ("**Potomac Edison**")
- Trans-Allegheny Interstate Line Company ("**TrAILCo**")

The above listed transmission providers[1] are collectively referred to herein as the "**FirstEnergy Transmission Owning Companies**." The FirstEnergy Companies operate within the ReliabilityFirst ("**RF**") reliability region of the North American Electric Reliability Corporation ("**NERC**").

The transmission facilities owned by ATSI, JCP&L, KATCo, MAIT, Mon Power, Potomac Edison, and TrAILCo [2] are subject to the operational control of PJM pursuant to the terms of PJM's Open Access Transmission Tariff ("**PJM OATT")**. PJM is the sole "provider" of open access transmission service over the transmission facilities owned by ATSI, JCP&L, KATCo, MAIT, Mon Power, Potomac Edison, and TrAILCo .

FirstEnergy has functionally organized all employees performing transmission system operations and reliability functions (TFEs) for the FirstEnergy Companies within the FirstEnergy Operations business unit.

FERC Requirements

The Standards of Conduct set forth the requirements that govern interactions between a Transmission Provider's TFEs and a Transmission Provider's MFEs. To assist employees in understanding the scope and application of the Standards of Conduct, a summary and overview of FERC Standards of Conduct requirements are provided below. **The Standards of Conduct focus on four general principles:**

1. **NON-DISCRIMINATION -** A Transmission Provider must treat all transmission customers on a non- discriminatory basis.

[1] In addition to the FirstEnergy Companies, FirstEnergy participates in Joint Ventures including Grid Growth Ohio EHV LLC, Grid Growth Ohio LLC, Grid Growth Virginia LLC. Grid Growth West Virginia LLC, Valley Link Transmission Maryland LLC, Valley Link Transmission Virginia LLC, and Valley Link Transmission West Virginia LLC. The Standards of Conduct are applicable to each of these companies.

To comply with the Non-Discrimination requirement, a Transmission Provider must adhere to the following:

a. Strictly enforce all tariff provisions relating to the sale or purchase of open access transmission service if the tariff provisions do not permit the use of discretion.

b. Apply all tariff provisions relating to the sale or purchase of open access transmission service in a fair, impartial, and not unduly discriminatory manner, if the tariff provisions permit the use of discretion.

c. Not, through its tariffs or otherwise, grant an undue preference to any person in matters relating to the sale or purchase of transmission service.

d. Process all similar requests for transmission service in the same manner and within the same period.

2. **INDEPENDENT FUNCTIONING -** TFEs and MFEs must function independently**.**

To comply with the Independent Functioning requirement, a Transmission Provider:

a. Is prohibited from permitting its MFEs to (i) conduct transmission functions or (ii) have access to the system control center or similar facilities used for transmission operations that differs in any way from access available to other transmission customers.

b. Is prohibited from permitting its TFEs to conduct marketing functions.

3. **NO CONDUIT RULE -** A Transmission Provider cannot use anyone as a conduit to transmit non-public transmission function information to an MFE.

To comply with the No Conduit Rule requirement, a Transmission Provider must:

a. Not use anyone as a conduit for the disclosure of non-public transmission function information to its MFEs.

b. Not allow an employee, contractor, consultant, or agent of a Transmission Provider, or of an affiliate of a Transmission Provider that is engaged in marketing functions, to disclose non-public transmission function information to any of the Transmission Provider's MFEs.

4. **TRANSPARENCY RULE -** To comply with the Transparency Rule, a Transmission Provider must adhere to the following:

a. **Contemporaneous disclosure** - If a Transmission Provider discloses non-public transmission function information in a manner contrary to the requirements, the Transmission Provider must immediately post the information that was disclosed on its Internet website. If the Transmission Provider discloses Critical Energy Infrastructure Information ("CEII"), or any other information that the Commission by law has determined is to be subject to limited dissemination, the Transmission Provider must immediately post only a notice on its website that the information was disclosed but will not post the actual information.

b. **Exclusion for specific transaction information** - A Transmission Provider's TFEs may disclose to its MFEs a specific request for transmission service submitted by the MFE. The Transmission Provider is not required to immediately disclose such information.

c. **Voluntary consent provision** - A transmission customer may voluntarily consent, in writing, to allow the Transmission Provider to disclose the transmission customer's non-public information to the Transmission Provider's MFEs. The Transmission Provider must post notice on its Internet website of that consent along with a statement that it did not provide any preference, either operational or rate related, in exchange for the voluntary consent.

d. **Posting written procedures on the public Internet** - A Transmission Provider must post on its Internet website current written procedures implementing the Standards of Conduct.

e. **Identification of affiliate information on the public Internet**

1) A Transmission Provider must post on its Internet website the names and addresses of all its affiliates that employ or retain MFEs.

2) A Transmission Provider must post on its Internet website a complete list of the employee- staffed facilities shared by any of the Transmission Provider's TFEs and MFEs. The list must include the types of facilities shared and the addresses of the facilities.

3) The Transmission Provider must post information concerning potential merger partners as affiliates that may employ or retain MFEs, within seven days after the potential merger is announced.

f. **Identification of employee information on the public Internet**

1) A Transmission Provider must post on its Internet website the job titles and job descriptions of its TFEs.

2) A Transmission Provider must post on its Internet website a notice of any transfer of a TFE to a position as an MFE, or any transfer of an MFE to a position as a TFE. The information posted under this section must remain on its Internet website for 90 days. No such job transfer may be used as a means to circumvent any provision of these regulations. The information to be posted must include:

i. The name of the transferring employee,

ii. The respective titles are held while performing each function (i.e., as a TFE and as an MFE), and

iii. The effective date of the transfer.

g. **Timing and general requirements of postings on the public Internet**

1) A Transmission Provider must update on its Internet website the information required by the regulations within seven business days of any change and post the date on which the information was updated. A public utility also may post the information required to be posted on its OASIS but is not required to do so.

2) In the event of an emergency, such as an earthquake, flood, fire, or hurricane that severely disrupts a Transmission Provider's normal business operations, the posting requirements may be suspended by the Transmission Provider. If the disruption lasts longer than one month, the Transmission Provider must notify the Commission and may seek a further exemption from the posting requirements.

3) All Internet website postings required must be sufficiently prominent as to be readily accessible.

h. Exclusion for and recording of certain information exchanges

1) A Transmission Provider's TFEs and MFEs may exchange certain non-public transmission function information as permitted in the regulations, in which case the Transmission Provider must make and retain an immediate record of all such exchanges except in emergency circumstances. A record must be made and retained of the exchanges as soon as practicable after the fact. The Transmission Provider shall make the record available to the Commission upon request. The record may consist of handwritten or typed notes, electronic records such as emails and text messages, recorded telephone exchanges, and the like and must be retained for a period of five years. [See FCD-AP-16 Non-Public Transmission Information Exchanges Between TFEs and MFEs]

2) The non-public information permitted to be shared is as follows:

i. Information pertaining to compliance with Reliability Standards approved by the Commission, and

ii. Information necessary to maintain or restore operation of the transmission system or generating units, or that may affect the dispatch of generating units.

i. Posting of waivers - A Transmission Provider must post on its Internet website notice of each waiver of tariff provision that it grants in favor of an affiliate unless such waiver has been approved by the Commission. The Transmission Provider also must maintain a log of the acts of waiver and must make it available to the Commission upon request. The records must be kept for a period of five years from the date of each act of waiver.

Definitions

The Standards of Conduct regulations define several key terms (***provided in bold italics* - See Attachment 1: 18 C.F.R. § 358.3)** and concepts that have been fully incorporated herein. To assist employees in understanding the scope and application of the Standards of Conduct, the following definitions (from the Standards of Conduct regulations and FirstEnergy's compliance program) are presented and explained below as they apply to FirstEnergy and its business units.

1. **TRANSMISSION PROVIDER** - ***any: (1) public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce; or (2) interstate natural gas pipeline that transports gas for others pursuant to Commission regulations 18 C.F.R. § 358.3(k)***. A Transmission Provider does not include a natural gas storage provider authorized to charge market-based rates. See page 3 (Background) for a list of FirstEnergy's public utility operating subsidiaries that are Transmission Providers under the Standards of Conduct.

2. **TRANSMISSION** - ***means electric transmission, network or point-to-point service, ancillary services or other methods of electric transmission, or the interconnection with jurisdictional transmission facilities, under part 35 of this chapter; and natural gas transportation, storage, exchange, backhaul, or displacement service provided pursuant to subparts B or G of part 284 of this chapter. 18 C.F.R. § 358.3(f).***

3. **TRANSMISSION CUSTOMER** - ***means any eligible customer, shipper or designated agent that can or does execute a transmission service agreement or can or does receive transmission service, including all persons who have pending requests for transmission service or for***

information regarding transmission. 18 C.F.R. § 358.3(g)

4. **TRANSMISSION FUNCTIONS** - ***means the planning, directing, organizing, or carrying out of day- to-day transmission operations, including the granting and denying of transmission service requests. 18 CFR § 358.3(h)***. Examples of the types of actions included within the scope of day-to-day operations of a Transmission Provider, in addition to granting and denying transmission service requests are coordinating the actual physical flows of power or gas, balancing load with energy or capacity, switching portions of the system for reliability, and imposing transmission loading relief. Rate design is not considered a transmission function. The commission also clarified that integrated resource planning is not a transmission function. In Order 717-B, the FERC further clarified that personnel who balance load with energy or generation capacity are not considered TFEs where the balancing authority and transmission functions are separate, and the employees do not perform duties or tasks of a TFE. [See FCD-R-05 Identifying Transmission Function Information]

5. **TRANSMISSION FUNCTION INFORMATION -** ***information relating to transmission functions 18 C.F.R. § 358.3(j)*** Transmission function information includes, but is not limited to, items related to, day-to-day transmission operations and planning, including the granting, and denying of transmission service requests. Some examples include available transmission capacity, network configuration, transmission outages, reliability conditions and operations. In Order 717-B, FERC declined to create a general rule about when such information becomes so stale it is no longer subject to the rule but will consider waiver requests on the topic. FERC also clarified that information concerning a company's own generation, load and generation dispatch or related to unit commitment is not non- public transmission function information. [See FCD-R-05 Identifying Transmission Function Information]

6. **TRANSMISSION FUNCTION EMPLOYEE (TFE)** - ***an employee, contractor, consultant, or agent of a transmission provider who actively and personally engages on a day-to-day basis in transmission functions. 18 CFR § 358.3(i).*** FirstEnergy has identified TFEs to include employees reporting to the Vice President, Power Delivery, who are in the Transmission Operations Department and the Transmission Planning & Protection Department. TFEs are coded with a FERC-indicator of "**1T - Reg TFE**" and color- coded as "**Yellow**".

7. **CONSTRUCTION & DESIGN SERVICES DEPARTMENT -** are employees that are in the field, maintenance, construction, and engineering areas, along with clerical workers that are not normally considered to be engaged in day-to-day operations of the transmission system, which is why they carry the FERC Indicator of 1-Reg rather than 1T-Reg TFE. Similarly, balancing authority employees not otherwise engaged in transmission functions would not be included.

8. **MARKETING FUNCTIONS** - ***means (1) in the case of public utilities and their affiliates, the sale for resale in interstate commerce, or the submission of offers to sell in interstate commerce, of electric energy or capacity, demand response, virtual transactions, or financial or physical transmission rights, all as subject to an exclusion for bundled retail sales, including sales of electric energy made by providers of last resort (POLRs) acting in their POLR capacity; and (2) in the case of interstate pipelines and their affiliates, the sale for resale in interstate commerce, or the submission of offers to sell in interstate commerce, natural gas, subject to the following exclusions: (i) bundled retail sales, (ii) incidental purchases or sales of natural gas to operate interstate natural gas pipeline transmission facilities, (iii) sales of natural gas solely from a seller's own production, (iv) sales of natural gas solely from a seller's own gathering or processing facilities, and (v) on-system sales by an intrastate natural gas pipeline, by a Hinshaw interstate pipeline exempt from the Natural Gas Act, by a local distribution company, or by a local distribution company operating under section 7(f) of the Natural Gas Act. 18 C.F.R. § 358.3(c)***

9. **MARKETING FUNCTION EMPLOYEE (MFE)** - ***means an employee, contractor, consultant, or agent of a Transmission Provider or of an affiliate of a Transmission Provider who actively and personally engages on a day-to-day basis in marketing functions. 18 C.F.R. § 358.3(d)***

   FirstEnergy has identified Regulated MFEs to include all Regulated Commodity Sourcing ("RCS") employees. Regulated MFEs are located FE Utilities, within the WV & Maryland State Finance and Regulatory organization. Regulated MFEs are coded with a FERC-indicator of "**4M - Reg MFE**" and color-coded as "**Red**".

   Currently, FirstEnergy has no Competitive MFEs. Competitive MFEs, if applicable, are coded with a FERC-indicator of "**5M - Com MFE**" and color-coded as "**Blue.**"

10. All FirstEnergy employees who do not meet the definition of a TFE or an MFE are subject to the Standards of Conduct's No Conduit Rule. **GENERATION SUPPORT EMPLOYEE (GSE)** - refers to employees who are dedicated to supporting FirstEnergy's generation fleet. Generation Support Employees reside in Monongahela Power Company and FirstEnergy Service Co. and belong to a unique category of "shared" employees at FirstEnergy since they provide service to the generation business only. Their specific job functions include generating plant operation, plant maintenance, fossil fleet workforce development, etc. GSEs are coded with a FERC Indicator of "**2 - Gen**" and color coded as "**Purple**".

    Note that although there is no FERC prohibition on GSEs receiving transmission function information, FirstEnergy's FERC Compliance Program generally prohibits GSEs from receiving transmission function information without an exemption from the CFCO or FSC.

11. **Allegheny Energy Supply Company, LLC ("AES")** is a partial owner of the Ohio Valley Electric Corporation (OVEC) facilities, which includes generating stations Clifty Creek, located in Madison, IN, and Kyger Creek, located in Cheshire, OH. AES is a competitive affiliate of FE. The employee(s) who manage OVEC are located in the Regulated Commodity Sourcing Department of FE Operations[2].

12. **OPEN ACCESS SAME TIME INFORMATION SYSTEM OR OASIS** - ***refers to the Internet location where a public utility posts the information required by part 37 of this chapter, and where it may also post the information required to be posted on its Internet website by this part 358. 18 C.F.R. § 358.3(e)***

    NO CONDUIT RULE - ***a) A transmission provider is prohibited from using anyone as a conduit for the disclosure of non-public transmission function information to its marketing function employees. (b) An employee, contractor, consultant or agent of a transmission provider, and an employee, contractor, consultant, or agent of an affiliate of a transmission provider that is engaged in marketing functions, is prohibited from disclosing non-public transmission function information to any of the transmission provider's marketing function employees. 18 C.F.R. § 358.6***

[2] Issued on December 15, 2022, FERC's Order Granting Waiver of Affiliate Restrictions permits trained FirstEnergy Service Company employee(s) to manage tasks related to AE Supply's share of OVEC and are classified as a "Regulated Marketing Function Employee(s)." [See FCD-AP-60 Compliance with FERC Docket ER22-2494-000.]

13. **ITNow** - is a self-service internal website that allows employees and contractors to request certain IT goods and services, manage those requests and approve requests made by others. Designated Approvers of shared folders, applications, SharePoint sites, reports, etc., have full responsibility over granting access rights to these items. For instructions about approving and denying access rights, Approvers should refer to the "IT Hub - Quick Reference Guide," which can be found on the IT Service Hub Resources Section of the IT Service Desk SharePoint site.

    ITNow – is also the application currently being used to house the names of applications, reports, SharePoint sites etc. that contain various types of sensitive information, including but not limited to FERC sensitive information. The application tracks the type of sensitive information and the server where the information resides in case of a cyber-attack or emergency. Functionality has been added to risk rate applications to improve the understanding of the application's criticality to FirstEnergy business operations.

Practices and Controls

The FirstEnergy Companies take their responsibility seriously to promote full compliance with the FERC Standards of Conduct regulations [See FCD-P-01 FERC Compliance Program Practice]. FirstEnergy's Standards of Conduct Compliance Program documents are reviewed periodically and updated as needed. The following are measures taken by FirstEnergy to ensure compliance with the FERC's Standards of Conduct.

A. Measures Implemented to Ensure the Independent Functioning of Transmission Function Employees from Marketing Functioning Employees.

1. Structural Separation

As a result of deregulation (in all states within which FirstEnergy operates except for West Virginia) in the late 1990s and early 2000s, FirstEnergy unbundled and separated its generation, transmission, and distribution functions and put the appropriate firewalls, access controls and behavioral rules governing the conduct of employees in place, including those prescribed by the FERC Standards of Conduct.

The state of West Virginia did not implement deregulation; thus, Mon Power has retained ownership and operational control of its West Virginia jurisdictional generation.

Transmission Function Employees currently reside in a separate department within the Power Delivery organization, and their workspaces are secured with card readers. All No Conduit controls remain in place.

Absent emergency circumstances affecting system reliability, MFEs and GSEs are prohibited from conducting transmission system operations or transmission reliability functions performed by TFEs.

2. Physical Separation

FirstEnergy has implemented the following measures to ensure appropriate physical separation of TFEs from MFEs:

FirstEnergy has two primary transmission control centers. One of the transmission control centers is in Akron, Ohio. The other primary transmission control center is in Fairmont, West Virginia. No MFEs have access to either control center.

Access to both transmission control centers is restricted by key card reader systems and other physical security measures (all visitors are required to register and pass-through security). Entry to these facilities is limited to authorized FirstEnergy TFEs and other employees, such as EMS Support personnel, who have a business reason to access the transmission control centers.

Transmission Planning and Protection ("TPP") TFEs reside at four different locations, including Fairlawn Building #5 in Akron, OH, office areas on the first and second floors of West Penn Power's headquarters ("Greensburg Facility") in Greensburg, PA, an office area on the first floor of Mon Power's headquarters in Fairmont, WV, and the "B" floor of Met-Ed's headquarters ("Reading Facility") in Reading, PA. The security measures to restrict MFEs' and GSEs' access include locked security doors, key card reader systems, and posted signs providing notice that the area is restricted, and registration is required for any employee who has not been granted access.

MFEs and GSEs are not authorized to access any transmission facility identified above in a manner that differs in any material way from the terms and conditions by which all other transmission customers are permitted access to such facilities. Logbooks are maintained for purposes of documenting instances in which a transmission customer, or other visitor, whether affiliated or unaffiliated, is granted access to the transmission facilities identified above. [See FCD-AP-01 Visitor Registration and Access Control for DES and TFE Workspaces]

3. Additional Measures Implemented to Facilitate Compliance with the Independent Functioning Requirement

The FirstEnergy Companies recognize that "cycling" employees between the Transmission Function and the Marketing Function is not permitted per the Standards of Conduct independent functioning requirements. The FSC monitors employee transfers for cycling of employees between transmission and marketing functions.

The FirstEnergy Companies also maintain books of account and records relating to transmission system operations and reliability functions separately from those of its affiliates that employ or retain MFEs. Additionally, FirstEnergy periodically reviews its access controls to ensure prevention of MFEs and GSEs from accessing transmission information.

4. Employee FERC Classifications

All FirstEnergy employees have been assigned a FERC Classification (i.e., "FERC indicator") in FirstEnergy OrgChart Empower or Microsoft Identity Manager to clearly identify their status under FERC regulations. The FERC indicator is used to identify all TFEs, Regulated MFEs and Competitive MFE(s). All other employees have also been classified appropriately as shown in the chart below. FirstEnergy has adopted a color code system to help its employees readily identify the FERC Classifications of their co-workers. An employee's FERC indicator also is used to determine his/her physical and information access rights.

FERC Classifications and colors are available in the FE Employee Directory and visible on FirstEnergy's organization charts.

Chart of Employee FERC Classifications

classification	code	color
Inactive Employee	0	White
Regulated Employee	1 – Reg	Tan
Transmission Function Employee	1T – Reg TFE	Yellow
Generation Support Employee	2 – Gen	Purple
Shared Services Employee	3 – SS	Orange
Shared Senior Officers	3O – SSO	Green
Regulated Marketing Function Employee	4M – Reg MFE	Red
Competitive Marketing Function Employee	5M – Com MFE	Blue

5. Review of Functional Responsibilities and Shared Facilities Use

A review of functional responsibilities is periodically performed to ensure that there is an appropriate level of separation and that employees are properly classified with the correct FERC Indicator. This review is generally conducted annually and in connection with any change affecting organizational structure, functional responsibilities, or use of shared facilities. The review is conducted by FSC with advice and input from the Legal Department. Changes that trigger the need for a review can include creation or dissolution of a business unit, reorganization or restructuring of one or more business units, changes in reporting structure, changes in business unit objectives, changes in facility use, office moves and/or employee relocations.

B. Measures Implemented to Prevent Disclosure of Non-Public Transmission and Customer Specific Information to MFEs and GSEs

1. Shared Computer Systems

FirstEnergy Information Technology ("IT") has established and implemented network access controls designed to prevent and/or restrict shared computer systems and other tools, such as databases, SharePoint sites, reports and applications that contain non-public transmission function information from being accessed by MFEs and GSEs.[4] Firewalls, password protections, logically separated networks and other internal controls have been implemented to restrict access appropriately.

IT, with guidance from the FSC, has identified shared systems, databases, SharePoint sites, reports, and software applications (collectively, "Shared Computer Systems") and maintains a comprehensive list of computer systems within ITNow. ITNow is IT's tracking system for asset management of applications. All existing and any new IT- supported applications and databases must be listed and classified in ITNow. If these Shared Computer Systems contain FERC sensitive non-public transmission or regulated company market information, the Shared Computer system will be added to the ITNow application.

IT is responsible for facilitating processes to review upgrades and new system requests, as well as business supported systems, to prevent improper access to non-public transmission information.

[4] Network access controls have also been designed to prevent and/or restrict shared computer systems and other databases that contain non-public regulated company market information from being accessed by Competitive MFE(s) in order to comply with FERC's Affiliate Restrictions.

a. Shared Network U:\ Drive Access:

Folder access restrictions have been placed on FirstEnergy's shared network U:\ drive to ensure compliance with FERC information sharing restrictions on non-public transmission and non-public regulated company market information. An employee's FERC indicator should be used by the folder owner/approver and IT's Central Security Administration (CSA), along with guidance provided by FSC, to determine information access rights. The owner/approver of the application or shared drive should review the "Shared Folder Network Access" (*FCD-AP*-04) procedure before granting access to an individual. FSC also monitors use of shared drives on a weekly basis. [See FCD-AP-04 for the details regarding monitoring of shared drives.]

b. SharePoint Site Access

Owners and Approvers of SharePoint sites are responsible for maintaining the access rights to their respective sites. Users request access to SharePoint sites through ITNow, and ITNow sends an approval email to the Owners/Approvers of the SharePoint site. Owners/Approver are responsible for reviewing why the user needs access to the site, and if their FERC Indicator allows them to be granted access.

If the SharePoint site contains non-public transmission or non-public regulated company market information, the site will be added to the ITNow application and included in the FSI program which requires the Owner/Approver to participate in a quarterly review of their site to verify the correct people (i.e., proper FERC indicators and valid business need) have access to the site. [See FCD-AP-54 SharePoint Site Access]. FSC periodically monitors a sample of these SharePoint sites and takes appropriate action in order to maintain compliance.

c. Application Access:

SAP is FirstEnergy's Enterprise Resource Planning (ERP) system which could contain non-public transmission function information or non-public regulated company market information. An SAP Application's access restrictions are based on role-based security controls which restrict access to company data based on an employee's FERC classification. Separate security roles have been designed for employees classified as performing Regulated, Generation Support, Shared Services, Regulated Marketing Function, or Competitive Marketing Function duties.

FSI applications are applications (system and associated database), that have a record in the ITNow CMDB which identifies it as containing non-public transmission function information ("FSI-TRANS") and/or non-public regulated company market information ("FSI-MKTG").

Application-level security, along with Standards of Conduct training, are the primary controls for ensuring that access to non-public transmission function information is protected consistently with the applicable Standards of Conduct requirements.

2. Electronic Communications

Absent emergency circumstances affecting system reliability or unless specifically exempted by the Standards of Conduct, TFEs or other employees having access to transmission function information are not to engage in communications, whether in person, via telephone, by Internet/Intranet email, instant messaging ("IM"), text, or facsimile, with MFEs or GSEs regarding non-public transmission function information, if such information is not at the same time publicly available to the general public without restriction.

Email communications by employees in the Transmission business unit and the Construction & Design Service department include a plainly visible Standards of Conduct disclaimer. A sample of such a disclaimer is as follows: *"This communication may contain transmission function information whose disclosure is restricted pursuant to the FERC Standards of Conduct. If you are not authorized under the Standards of Conduct to review this communication, be advised that any reading, dissemination, distribution, copying, or other use of this message or its attachments is prohibited. If you have received this communication in error, immediately notify the sender and Antonio Fernández, Vice President, Chief Ethics & Compliance and Chief FERC Compliance Officer, by email, and forward the communication to Deandra Williams-Lewis at dwilliams-lewis@firstenergycorp.com*

The purpose of this disclaimer is to:

- Identify the communication as possibly containing non-public transmission information.
- Remind the receiving party of the Standards of Conduct requirements and
- Identify the remedial process for unauthorized disclosures.

Both the Transmission business unit and the Construction & Design Services departments have implemented a process designed to ensure that transfers of personnel out of the Transmission Function are accounted for, that such employees no longer have access to non-public transmission function information, and that such employees are deleted from Transmission Function e-mail distribution lists.

a. Communication Exchanges between TFEs and MFEs

Employees are reminded that any form of communication, even outside the workplace (e.g., social gatherings), involving non-public transmission function information not permitted under the Standards of Conduct is strictly prohibited by FirstEnergy. Written guidance is available on the FERC & State Compliance SharePoint page to remind individuals to adhere to the Federal Energy Regulatory Commission's (FERC) Standards of Conduct, which prohibit the disclosure of non-public transmission function information to Marketing Function Employees. Employees must also comply with the No Conduit Rule and recording requirements for non-public transmission information exchanges. The following written guidance is included in the annual FERC Standards of Conduct training:

- FCD-AP-16 – Non-Public Transmission Exchanges Between TFEs and MFEs
- FCD-G-01 – Guidance for Cross-Functional Meetings
- FCD-G-02 – Guidance for Managing Cross-Functional Meetings or Teams

3. Recording of Certain Information Exchanges between TFEs and MFEs

The Standards of Conduct regulations allow TFEs and MFEs to exchange certain non-public transmission function information.

Permitted communication exchanges of transmission information between TFEs and MFEs include:

i. Information pertaining to compliance with Reliability Standards approved by FERC.

ii. Information necessary to maintain or restore operation of the transmission system or generating units, or that may affect the dispatch of generating units.

However, a record of such permitted exchanges must be made and retained for a period of five years. If the exchange takes place during an emergency, the record of the exchanges must be made as soon as practicable after the fact.

These types of communications will be initiated by TFEs and MFEs on a very limited basis and most will likely occur on the transmission dispatch, or trading desks. As such, these communications would be voice recorded. Nonetheless, FirstEnergy has established a process for capturing these types of communications. If ever there is a need for a permitted exchange of non-public transmission function information between TFEs and MFEs, our procedure requires the TFEs involved in the exchange to submit a record via an email to the “FERC Standard of Conduct” mailbox or emailing it to a member of FSC using the ferccompliancemanager@firstenergycorp.com email address. All TFEs and MFEs are provided instructions on these procedures in the FERC Standards of Conduct training.

Employees responsible for recording such events are required to document the transmission function information communication exchange in sufficient detail to provide a reasonable explanation of the communication between the TFEs and MFEs. At a minimum, employees are instructed to record the date, names, purpose, method, (voice, email, etc.) and list what specific transmission function information was exchanged. FSC oversees the collection of the records, periodically reviews them, and ensures that they are retained and available for inspection for five years. [See FCD-AP-16 Non-Public Transmission Information Exchanges Between TFEs and MFEs]

4. Executive Meetings and Conference Calls

Meetings involving TFEs and MFEs are minimized to the extent practical. However, it is necessary for FirstEnergy’s senior management to meet on a regular basis to efficiently coordinate the management of the company’s operations. The following meetings are held on a regular basis: Executive Council, Executive Reliability Steering Committee, and the FERC & State Compliance Executive Committee. The CFCO or his designee may attend and monitor these meetings to ensure compliance with the FERC Standards of Conduct regulations. The meetings begin with a reminder to observe the Standards of Conduct and meeting controls have been implemented to prevent the disclosure of non-public transmission function information to any MFEs or GSEs that may be invited to attend such meetings. [See FCD-G-01 Guidance for Cross Functional Meetings]

5. Other Cross-Functional Meetings

On occasion, FirstEnergy employees may need to participate in cross-functional meetings or conference calls attended by TFEs, MFEs and/or GSEs. Such meetings may need to take place for a variety of business reasons. Although cross-functional meetings are not prohibited, they should be kept to a minimum. Meetings scheduled for general or non-core business purposes such as addressing Human Resources benefits, safety, compliance, charity, diversity & inclusion, community, town hall or other general corporate matters are permissible. Core business cross-functional meetings that are focused on operations, maintenance, planning, financial or other technical matters can create an opportunity for the inadvertent disclosure of restricted information. In such cases, prior notice of cross-functional meetings should be given to the CFCO or FSC so they, with Legal's assistance as necessary, can determine whether the purpose of the meeting is consistent with the Standards of Conduct. If appropriate, the CFCO or FSC may arrange for a monitor to ensure that communications at such meetings do not violate FERC Standards of Conduct regulations. [See FCD-G-01 Guidance for Cross-Functional Meetings]

6. Cross-Functional Teams

On occasion, employees also may need to participate in cross-functional work groups. FirstEnergy may choose to form such work groups to get a better perspective on companywide issues and to better support continuous improvement efforts. Such efforts can result in greater efficiencies, reduced costs, and improved service to our customers. However, formation of such teams should be coordinated through FSC, which will arrange training and compliance controls on a case-by-case basis to ensure that such teams operate in a manner that is consistent with the Standards of Conduct. [See FCD-G-02 Guidance for Managing Cross- Functional Work Groups or Teams]

C. Dissemination of Materials, Training and Affidavits

1. Distribution of Standards of Conduct Policy & Compliance Program

The FERC Compliance Policy and Standards of Conduct Compliance Program documents are available on FSC's SharePoint site:

FirstEnergy Today> Ethics and Policies> FERC Policy & Compliance >FERC Compliance Policies > FERC Standards of Conduct Compliance Program

The Standards of Conduct Compliance Program is also posted publicly on FirstEnergy's external website.

2. Standards of Conduct Training

All TFEs, MFEs, management employees, and other employees likely to have access to transmission function information are provided annual training on the Standards of Conduct to help ensure they maintain full compliance with its requirements. The primary training tool is a computer-based training product developed by FE's Office of Ethics and Compliance (OEC) department. The course is typically delivered to between 7,000 - 8,000 individuals. The course is issued and tracked through FirstEnergy's LMS (Learning Management System), Empower. This training is conducted under the direction of the CFCO and FSC. Employees are required to certify completion of the training, and FSC monitors compliance with the training requirement.[5] In addition to the annual training, targeted Standards of Conduct training is conducted as deemed necessary by FirstEnergy management.[6]

3. **New Employee Training**

FSC manages and monitors compliance with the new employee training requirement to ensure that new employees and contractors who require this training complete it within the first 30 days of their employment. At least weekly, a review of new employees and contractors is performed, and targeted individuals are sent a link to the Standards of Conduct course, along with a set of instructions on how to access and complete it on a timely basis. FSC sends periodic email reminders to ensure timely completion.

D. Internal Compliance Audits and Periodic Program Assessment

FirstEnergy will periodically conduct monitoring to ensure the independent functioning of TFEs from MFEs including: (1) the identification of all facilities shared by TFEs and MFEs; (2) access to physical facilities (office buildings) and electronic facilities and firewalls (computer systems and databases); (3) physical separation requirements; (4) measures taken to ensure the protection and non-disclosure of transmission and customer information; and (5) the recording of certain information exchanges.

FSC will periodically review, as part of its oversight function, all posting requirements, compliance logs, records of information disclosures (if any), and compliance policies and procedures. FirstEnergy's Internal Auditing group, at the request of the CFCO or the Director, Ethics & Compliance, and with the cooperation of FSC, will periodically perform audits of the company's compliance with the Standards of Conduct and report findings to the CFCO and the Director, Ethics & Compliance. Other more focused internal audits or investigations may be scheduled, as needed, including use of an outside consultant.

E. Reporting and Communication

1. **Non-Public Information Disclosures**

If non-public transmission information that is not available to the public, without restriction, on the FirstEnergy website and/or PJM OASIS, has or may have been disclosed in a manner contrary to the requirements of the Standards of Conduct Program, the CFCO or FSC must be contacted immediately. The steps set forth below should be followed:

- Report it to the CFCO or FSC, or
- Report it to the Employee Helpline (Externally/Anonymously) at (1-800-683-3625).

FSC will take the information, maintain a log, and address the issue with the appropriate person(s) to determine if non-public transmission function information was improperly disclosed. If non-public transmission function information was disclosed, FSC will work to resolve the issue, initiate remediation efforts, and arrange for public posting of such information in a manner consistent with this compliance program.

[5] At the end of each Standards of Conduct computer-based training session, employees are required to click on an electronic Certificate of Completion, certifying that they completed the required training, understand, and will abide by the rules.
[6] FirstEnergy provides customized or "function-specific" Standards of Conduct training to employees, on an as-needed basis.

2. **Compliance Reviews**

   Periodic reviews are routinely conducted with the CFCO and the FERC & State Compliance Executive Committee and conducted annually with the Audit Committee of the Board of Directors. Any other pressing matters that may require legal or management attention, review and/or action are handled promptly on a case-by-case basis. [See FCD-AP-13 Management Compliance Reviews]

Posting Requirements

Following are the posting procedures that ensure compliance with the Standards of Conduct regulations as they appear within 18 C.F.R. § 358.7. Electronic copies of the required Standards of Conduct postings are retained in a secured network directory. These information technology directories are backed up daily and the electronic copies of all the Standards of Conduct postings are retained for at least a five-year period.

All of the below listed posting procedures are maintained by FSC. The links to the required postings are accessible on the FirstEnergy website (www.firstenergycorp.com> About Us>Standards of Conduct& Affiliate Restrictions). The FirstEnergy Posting Coordinator is responsible for maintaining the posting page and ensuring the links to the required postings remain operational.

1. **Disclosure of Non-Public Transmission Function Information**

   Every effort shall be taken by all FirstEnergy employees to avoid violations of the Standards of Conduct information access restrictions and to abide by the No Conduit Rule. However, from time to time, events may occur where information not covered under the permitted exclusion provisions may be inadvertently exchanged between TFEs and MFEs.

   If non-public transmission function information has or may have been disclosed in a manner contrary to the Standards of Conduct and/or FirstEnergy's FERC Compliance Program Practice, employees are advised to report it to our CFCO in Akron at 330-592-8398 or by email at dwilliams-lewis@firstenergycorp.com; or to the Manager, FERC & State Compliance at 330-436- 2875 or by email at dzelasko@firstenergycorp.com; or report it to the Employee Helpline (Externally/Anonymously) at (1-800-683-3625).

   If this occurs, FSC and/or the FirstEnergy Legal Department will initiate an investigation of the circumstances and have the Posting Coordinator post any disclosed non-public transmission function information on FirstEnergy's internet website in a manner consistent with this compliance program.

2. **Notice of CEII Disclosure**

   If the disclosure of non-public transmission function information (referenced above) includes Critical Energy Infrastructure Information ("CEII") as determined by FSC and/or the Legal Department, the Posting Coordinator will be instructed to post a notice of the disclosure but will not post the actual information.

3. Notice of Voluntary Consent of Transmission Customer Information

Requests to the FirstEnergy companies for historical usage, billing, and other customer-related information must be managed in accordance with the requirements of the Standards of Conduct. This means that written voluntary consent must be obtained from the customer prior to providing this information to the affiliated or non-affiliated organization making the request. Furthermore, the approval to provide this information must be made by the customer of his or her own free will. The customer may not be coerced or rewarded in any way for this consent. PJM, acting as the FERC-approved RTO and tariff administrator, is the entity primarily responsible for providing customer information.

Whenever transmission customer information is to be provided to an MFE, the CFCO or FSC must be notified in advance and provided the customer's consent statement prior to the release of the customer's information. The CFCO or FSC will then instruct the Posting Coordinator to post the required information on FirstEnergy's internet site.

4. Written Procedures Implementing the Standards of Conduct

This FirstEnergy program for implementing the Standards of Conduct is posted publicly on the FirstEnergy Internet website. In addition, the FirstEnergy Standards of Conduct Compliance Program is reviewed and updated annually, or more frequently as needed, to reflect any changes in FirstEnergy's organization or FERC's regulatory requirements.

5. Names and Address of Affiliates with MFEs

FirstEnergy posts the names and address of its affiliates that employ MFEs on the FirstEnergy Internet website.

6. Type and Address of Facilities Shared by TFEs/MFEs

A listing of the types and addresses of facilities shared by the Transmission Provider's TFEs and MFEs is posted on the FirstEnergy Internet website.

7. Potential Merger Partners with MFEs

Within seven days after any merger is announced, the CFCO, FSC, or the Legal Department will arrange with the Posting Coordinator to have the announcement posted on the FirstEnergy Internet website.

8. Job Titles/Descriptions of TFEs

All TFE job titles and job descriptions are posted on the FirstEnergy Internet website.

9. Position Transfers between TFEs and MFEs

FirstEnergy has a transfer posting process to ensure that any employee transfers between TFE and Regulated or Competitive MFE positions are posted within seven business days of the employee transfer or change. The process generates a weekly report of employee transfers between transmission and marketing functions that is automatically emailed to FSC. If an employee transfer appears on the weekly report, they are posted on the FirstEnergy website for a 90-day period.

10. Posting of Waivers

The FirstEnergy Companies no longer act as "providers" of open access transmission service and have transferred operational control of their respective transmission facilities to PJM. PJM, acting as the FERC-approved RTO and tariff administrator, is the entity responsible for exercising any waiver of a tariff provision.

FirstEnergy's Chief FERC Compliance Officer and Contact Information:

Deandra Williams-Lewis
VP, Chief Ethics & Compliance (CECO) and Chief FERC Compliance Officer (CFCO)
FirstEnergy Service Company
341 White Pond Drive, Akron, Ohio 44320
Phone: 330-592-8398
E-mail address: dwilliams-lewis@firstenergycorp.com

Related Documents

Title	Number
FERC Compliance Policy	FCD-P-01
Visitor Registration and Access Control for DES and TFE Workspaces	FCD-AP-01
Shared Folder Network Access	FCD-AP-04
Administration of the Annual Communication Statement for TFEs and MFEs	FCD-AP-12
Management Compliance Reviews	FCD-AP-13
Non-Public Transmission Information Exchanges Between TFEs and MFEs	FCD-AP-16
Monitoring of Employee and Contractor Transfers with FERC Indicator Changes	FCD-AP-32
SharePoint Site Access	FCD-AP-54
Compliance with FERC Docket ER22-2494-000	FCD-AP-60
Guidance for Cross-Functional Meetings	FCD-G-01
Guidance for Managing Cross-Functional Work Groups or Teams	FCD-G-02

Revision History

Rev.	Date	Name	Comments/Change Description
0	10/15/2008	Alan M. Laurich Cindy E. Stewart	Update version dated 7-05-07 for required changes and implement new compliance manual format
1	01/23/2009	Alan M. Laurich Cindy E. Stewart	Revised to Conform with Order 717
2	03/23/2009	Alan M. Laurich	Revise TFE and MFE Org Charts to reflect Company reorganization
3	09/25/2009	Cindy E. Stewart	Revised TFE and MFE Org Charts to reflect Company reorganizations
4	01/19/2010	Alan M. Laurich Cindy E. Stewart	Revised to refresh and update prior to 2010 annual training
5	01/27/2011	A. Laurich	Revised to reflect change in FE employee FERC Classifications and add merger consolidation statement
6	02/28/2011	A. Laurich	Errata change to update names and address of Affiliates with MFEs and CCO contact information
7	11/20/2012	C. Krysevig	Revised to incorporate organizational impacts arising from the merger with AYE, change in Chief Compliance Officer effective 1/1/13, and other updates as required and inserted cross references to supporting compliance documents.

8	10/28/2013	C. Krysevig S. Dalton	Replaced Stanley F. Szwed with James R. Haney. Updated name of Posting Coordinator (Stephanie Dalton to Karen Polcha). Updated information about transmission control centers. Updated amount of regulated generation and reflected organizational changes in the Regulated Generation & Dispatch department. Edited procedure to improve clarity.
9	10/14/2014	C. Krysevig C. Erickson	Updated name of posting coordinator (Clayton Erickson). Replaced references to “the CCO’s office” with the “CCO and FCD.” Updated to reflect changes within FirstEnergy since last publication.
10	10/12/2015	C. Krysevig C. Erickson	Updated to reflect changes within FirstEnergy since last publication, including incorporation of new FirstEnergy collaboration tool (i.e., SharePoint) and reference to SharePoint compliance document.
11	10/14/2016	T. Genovese C. Krysevig	Annual Review- minor edits, replaced portal references with SharePoint sites. Updated access control sections to reflect addition of IT Hub self-service and the Sensitive Data Tracking application.
12	10/03/2017	C. Erickson T. Genovese	Changed SharePoint URLs to FE Today Portal references. Updates to definitions, SharePoint Site Access, and various minor edits.
13	5/31/2018	T. Genovese	Replaced James R. Haney with Robert R. Mattiuz, Jr. as VP and CCO. Changed title of Director, FERC Compliance to Director, FERC & State Regulatory Compliance. Also changed contact numbers because of move to the West Akron Campus.
14	7/16/2018	T. Genovese	Annual review – edits to reflect recent FirstEnergy organizational changes including change in name of the previously-known “FERC Compliance Department” to “FERC & State Regulatory Compliance Department” to reflect additional state compliance responsibilities.
15	8/22/2019	T. Genovese	Annual review – edits to reflect recent FirstEnergy organizational changes as well as updated links.

16	9/16/2020	C. Krysevig	Annual review – edits reflect recent FirstEnergy organizational changes. Changed abbreviation for Chief FERC Compliance Officer from CCO to CFCO for clarity.
16	2/3/2021	D. Zelasko	Errata change in name of one of the Ohio Valley Electric Corporation (OVEC) facilities named in the Definition of Allegheny Energy Supply Company, LLC
17	9/13/2021	T. Kovach	Annual review with minor changes. Removed reference to Yards Creek. Updated GSE and MFE definitions to reflect recent organizational changes. Replaced reference to HP Service Manager with ITNow
18	2/7/2022	T. Kovach	Replaced Robert R. Mattiuz Jr. with Olenger L. Pannell as the new VP, Compliance & Regulated Services and CFCO.
19	8/9/2022	T. Kovach	Annual review with minor changes.
20	9/11/2023	T. Kovach	Annual review with minor updates and changes. Added footnote to address compliance with FERC Docket ER22-2494-000. Reflect that currently, FirstEnergy has no Competitive MFEs.
21	10/03/2024	T. Kovach	Annual review with minor changes. Removed Laura DiNicola and replaced her with Deandra Williams-Lewis as Director, Ethics & Compliance and Chief Privacy Officer. Replace Ollie Pannell with Antonio Fernández.
22	4/3/2025	T. Kovach	Update Antonio's reporting location from the Akron GO to the new FE HQ and updated his phone numbers.
23	9/22/2025	T. Kovach	Annual review with minor updates and changes; reflecting moving from EEI training to in-house training and replacing Annual TFE/MFE Communication Statements with an email reminder.
24	10/19/2026	D. Zelasko	Updates to reflect Deandra Williams-Lewis as CFCO; updates to reflect the current training portfolio; updates to reflect the current process for managing access to FSI Applications

Review

Role	Name
Legal Review	Anne M. Rericha
Director, Ethics & Compliance	TBD

Sign Off

Role	Name	Signature and Date
Vice President, Chief Ethics & Compliance Officer (CECO) and Chief FERC Compliance Officer (CFCO)	Deandra Williasm-Lewis	Electronic approval signature and date stored in EDMA (Content Navigator)

Attachment 1: CFR Part 358 - Standards of Conduct

SUBCHAPTER S—STANDARDS OF CONDUCT FOR TRANSMISSION PROVIDERS

PART 358—STANDARDS OF CONDUCT

Sec.
358.1 Applicability.
358.2 General principles.
358.3 Definitions.
358.4 Non-discrimination requirements.
358.5 Independent functioning rule.
358.6 No conduit rule.
358.7 Transparency rule.
358.8 Implementation requirements.

AUTHORITY: 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

SOURCE: 73 FR 63829, Oct. 27, 2008, unless otherwise noted.

§ 358.1 Applicability.

(a) This part applies to any interstate natural gas pipeline that transports gas for others pursuant to subparts B or G of part 284 of this chapter and conducts transmission transactions with an affiliate that engages in marketing functions.

(b) This part applies to any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce and conducts transmission transactions with an affiliate that engages in marketing functions.

(c) This part does not apply to a public utility transmission provider that is a Commission-approved Independent System Operator (ISO) or Regional Transmission Organization (RTO). If a public utility transmission owner participates in a Commission-approved ISO or RTO and does not operate or control its transmission system and has no access to transmission function information, it may request a waiver from this part.

(d) A transmission provider may file a request for a waiver from all or some of the requirements of this part for good cause.

§ 358.2 General principles.

(a) As more fully described and implemented in subsequent sections of this part, a transmission provider must treat all transmission customers, affiliated and non-affiliated, on a not unduly discriminatory basis, and must not make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage with respect to any transportation of natural gas or transmission of electric energy in interstate commerce, or with respect to the wholesale sale of natural gas or of electric energy in interstate commerce.

(b) As more fully described and implemented in subsequent sections of this part, a transmission provider's transmission function employees must function independently from its marketing function employees, except as permitted in this part or otherwise permitted by Commission order.

(c) As more fully described and implemented in subsequent sections of this part, a transmission provider and its employees, contractors, consultants and agents are prohibited from disclosing, or using a conduit to disclose, non-public transmission function information to the transmission provider's marketing function employees.

(d) As more fully described and implemented in subsequent sections of this part, a transmission provider must provide equal access to non-public transmission function information disclosed to marketing function employees to all its transmission customers, affiliated and non-affiliated, except as permitted in this part or otherwise permitted by Commission order.

[74 FR 54482, Oct. 22, 2009]

§ 358.3 Definitions.

(a) *Affiliate* of a specified entity means:

(1) Another person that controls, is controlled by or is under common control with, the specified entity. An affiliate includes a division of the specified entity that operates as a functional unit.

(2) For any exempt wholesale generator (as defined under § 366.1 of this

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chapter), affiliate shall have the meaning set forth in § 366.1 of this chapter, or any successor provision.

(3) "Control" as used in this definition means the direct or indirect authority, whether acting alone or in conjunction with others, to direct or cause to direct the management policies of an entity. A voting interest of 10 percent or more creates a rebuttable presumption of control.

(b) *Internet Web site* refers to the Internet location where an interstate natural gas pipeline or a public utility posts the information, by electronic means, required under this part 358.

(c) *Marketing functions means:*

(1) in the case of public utilities and their affiliates, the sale for resale in interstate commerce, or the submission of offers to sell in interstate commerce, of electric energy or capacity, demand response, virtual transactions, or financial or physical transmission rights, all as subject to an exclusion for bundled retail sales, including sales of electric energy made by providers of last resort (POLRs) acting in their POLR capacity; and

(2) in the case of interstate pipelines and their affiliates, the sale for resale in interstate commerce, or the submission of offers to sell in interstate commerce, natural gas, subject to the following exclusions:

(i) Bundled retail sales,

(ii) Incidental purchases or sales of natural gas to operate interstate natural gas pipeline transmission facilities,

(iii) Sales of natural gas solely from a seller's own production,

(iv) Sales of natural gas solely from a seller's own gathering or processing facilities, and

(v) On-system sales by an intrastate natural gas pipeline, by a Hinshaw interstate pipeline exempt from the Natural Gas Act, by a local distribution company, or by a local distribution company operating under section 7(f) of the Natural Gas Act.

(d) *Marketing function employee* means an employee, contractor, consultant or agent of a transmission provider or of an affiliate of a transmission provider who actively and personally engages on a day-to-day basis in marketing functions.

(e) *Open Access Same Time Information System* or *OASIS* refers to the Internet location where a public utility posts the information required by part 37 of this chapter, and where it may also post the information required to be posted on its Internet Web site by this part 358.

(f) *Transmission* means electric transmission, network or point-to-point service, ancillary services or other methods of electric transmission, or the interconnection with jurisdictional transmission facilities, under part 35 of this chapter; and natural gas transportation, storage, exchange, backhaul, or displacement service provided pursuant to subparts B or G of part 284 of this chapter.

(g) *Transmission customer* means any eligible customer, shipper or designated agent that can or does execute a transmission service agreement or can or does receive transmission service, including all persons who have pending requests for transmission service or for information regarding transmission.

(h) *Transmission functions* means the planning, directing, organizing or carrying out of day-to-day transmission operations, including the granting and denying of transmission service requests.

(i) *Transmission function employee* means an employee, contractor, consultant or agent of a transmission provider who actively and personally engages on a day-to-day basis in transmission functions.

(j) *Transmission function information* means information relating to transmission functions.

(k) *Transmission provider* means:

(1) Any public utility that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce; or

(2) Any interstate natural gas pipeline that transports gas for others pursuant to subparts B or G of part 284 of this chapter.

(3) A transmission provider does not include a natural gas storage provider authorized to charge market-based rates.

(l) *Transmission service* means the provision of any transmission as defined in § 358.3(f).

(m) *Waiver* means the determination by a transmission provider, if authorized by its tariff, to waive any provisions of its tariff for a given entity.

[73 FR 63829, Oct. 27, 2008, as amended at 74 FR 54482, Oct. 22, 2009]

§358.4 Non-discrimination requirements.

(a) A transmission provider must strictly enforce all tariff provisions relating to the sale or purchase of open access transmission service, if the tariff provisions do not permit the use of discretion.

(b) A transmission provider must apply all tariff provisions relating to the sale or purchase of open access transmission service in a fair and impartial manner that treats all transmission customers in a not unduly discriminatory manner, if the tariff provisions permit the use of discretion.

(c) A transmission provider may not, through its tariffs or otherwise, give undue preference to any person in matters relating to the sale or purchase of transmission service (including, but not limited to, issues of price, curtailments, scheduling, priority, ancillary services, or balancing).

(d) A transmission provider must process all similar requests for transmission in the same manner and within the same period of time.

§358.5 Independent functioning rule.

(a) *General rule.* Except as permitted in this part or otherwise permitted by Commission order, a transmission provider's transmission function employees must function independently of its marketing function employees.

(b) *Separation of functions.* (1) A transmission provider is prohibited from permitting its marketing function employees to:

(i) Conduct transmission functions; or

(ii) Have access to the system control center or similar facilities used for transmission operations that differs in any way from the access available to other transmission customers.

(2) A transmission provider is prohibited from permitting its transmission function employees to conduct marketing functions.

§358.6 No conduit rule.

(a) A transmission provider is prohibited from using anyone as a conduit for the disclosure of non-public transmission function information to its marketing function employees.

(b) An employee, contractor, consultant or agent of a transmission provider, and an employee, contractor, consultant or agent of an affiliate of a transmission provider that is engaged in marketing functions, is prohibited from disclosing non-public transmission function information to any of the transmission provider's marketing function employees.

§358.7 Transparency rule.

(a) *Contemporaneous disclosure.* (1) If a transmission provider discloses non-public transmission function information, other than information identified in paragraph (a)(2) of this section, in a manner contrary to the requirements of §358.6, the transmission provider must immediately post the information that was disclosed on its Internet Web site.

(2) If a transmission provider discloses, in a manner contrary to the requirements of §358.6, non-public transmission customer information, critical energy infrastructure information (CEII) as defined in §388.113(c)(1) of this chapter or any successor provision, or any other information that the Commission by law has determined is to be subject to limited dissemination, the transmission provider must immediately post notice on its Web site that the information was disclosed.

(b) *Exclusion for specific transaction information.* A transmission provider's transmission function employee may discuss with its marketing function employee a specific request for transmission service submitted by the marketing function employee. The transmission provider is not required to contemporaneously disclose information otherwise covered by §358.6 if the information relates solely to a marketing function employee's specific request for transmission service.

(c) *Voluntary consent provision.* A transmission customer may voluntarily consent, in writing, to allow the transmission provider to disclose the

transmission customer's non-public information to the transmission provider's marketing function employees. If the transmission customer authorizes the transmission provider to disclose its information to marketing function employees, the transmission provider must post notice on its Internet Web site of that consent along with a statement that it did not provide any preferences, either operational or rate-related, in exchange for that voluntary consent.

(d) *Posting written procedures on the public Internet.* A transmission provider must post on its Internet Web site current written procedures implementing the standards of conduct.

(e) *Identification of affiliate information on the public Internet.* (1) A transmission provider must post on its Internet Web site the names and addresses of all its affiliates that employ or retain marketing function employees.

(2) A transmission provider must post on its Internet Web site a complete list of the employee-staffed facilities shared by any of the transmission provider's transmission function employees and marketing function employees. The list must include the types of facilities shared and the addresses of the facilities.

(3) The transmission provider must post information concerning potential merger partners as affiliates that may employ or retain marketing function employees, within seven days after the potential merger is announced.

(f) *Identification of employee information on the public Internet.* (1) A transmission provider must post on its Internet Web site the job titles and job descriptions of its transmission function employees.

(2) A transmission provider must post a notice on its Internet Web site of any transfer of a transmission function employee to a position as a marketing function employee, or any transfer of a marketing function employee to a position as a transmission function employee. The information posted under this section must remain on its Internet Web site for 90 days. No such job transfer may be used as a means to circumvent any provision of this part. The information to be posted must include:

(i) The name of the transferring employee,

(ii) The respective titles held while performing each function (*i.e.*, as a transmission function employee and as a marketing function employee), and

(iii) The effective date of the transfer.

(g) *Timing and general requirements of postings on the public Internet.* (1) A transmission provider must update on its Internet Web site the information required by this part 358 within seven business days of any change, and post the date on which the information was updated. A public utility may also post the information required to be posted under part 358 on its OASIS, but is not required to do so.

(2) In the event an emergency, such as an earthquake, flood, fire or hurricane, severely disrupts a transmission provider's normal business operations, the posting requirements in this part may be suspended by the transmission provider. If the disruption lasts longer than one month, the transmission provider must so notify the Commission and may seek a further exemption from the posting requirements.

(3) All Internet Web site postings required by this part must be sufficiently prominent as to be readily accessible.

(h) *Exclusion for and recordation of certain information exchanges.* (1) Notwithstanding the requirements of §§358.5(a) and 358.6, a transmission provider's transmission function employees and marketing function employees may exchange certain non-public transmission function information, as delineated in §358.7(h)(2), in which case the transmission provider must make and retain a contemporaneous record of all such exchanges except in emergency circumstances, in which case a record must be made of the exchange as soon as practicable after the fact. The transmission provider shall make the record available to the Commission upon request. The record may consist of handwritten or typed notes, electronic records such as e-mails and text messages, recorded telephone exchanges, and the like, and must be retained for a period of five years.

(2) The non-public information subject to the exclusion in §358.7(h)(1) is as follows:

(i) Information pertaining to compliance with Reliability Standards approved by the Commission, and

(ii) Information necessary to maintain or restore operation of the transmission system or generating units, or that may affect the dispatch of generating units.

(i) *Posting of waivers.* A transmission provider must post on its Internet Web site notice of each waiver of a tariff provision that it grants in favor of an affiliate, unless such waiver has been approved by the Commission. The posting must be made within one business day of the act of a waiver. The transmission provider must also maintain a log of the acts of waiver, and must make it available to the Commission upon request. The records must be kept for a period of five years from the date of each act of waiver.

§358.8 Implementation requirements.

(a) *Effective date.* A transmission provider must be in full compliance with the standards of conduct on the date it commences transmission transactions with an affiliate that engages in marketing functions.

(b) *Compliance measures and written procedures.* (1) A transmission provider must implement measures to ensure that the requirements of §§358.5 and 358.6 are observed by its employees and by the employees of its affiliates.

(2) A transmission provider must distribute the written procedures referred to in §358.7(d) to all its transmission function employees, marketing function employees, officers, directors, supervisory employees, and any other employees likely to become privy to transmission function information.

(c) *Training and compliance personnel.* (1) A transmission provider must provide annual training on the standards of conduct to all the employees listed in paragraph (b)(2) of this section. The transmission provider must provide training on the standards of conduct to new employees in the categories listed in paragraph (b)(2) of this section, within the first 30 days of their employment. The transmission provider must require each employee who has taken the training to certify electronically or in writing that s/he has completed the training.

(2) A transmission provider must designate a chief compliance officer who will be responsible for standards of conduct compliance. The transmission provider must post the name of the chief compliance officer and provide his or her contact information on its Internet Web site.

(d) *Books and records.* A transmission provider must maintain its books of account and records (as prescribed under parts 101, 125, 201 and 225 of this chapter) separately from those of its affiliates that employ or retain marketing function employees, and these must be available for Commission inspections.

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