

 El Paso Electric	SOC IMPLEMENTATION PROCEDURES	Version No.	[2.0]
		Effective Date	11/10/2025
FERC Standards of Conduct Implementation Procedures			

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Purpose

On October 16, 2008, the Federal Energy Regulatory Commission (“FERC” or “Commission”) issued Order No. 717, a final rule revising the Standards of Conduct for Transmission Providers (“Standards of Conduct”). The rule is applicable to public utilities regulated under the Federal Power Act and interstate natural gas pipelines regulated under the Natural Gas Act. El Paso Electric Company (“EPE”) is a Transmission Provider subject to the Standards of Conduct. The three key parts comprising the Standards of Conduct, as applicable to EPE, are: the independent functioning rule, the transparency rule, and the no-conduit rule. This document provides EPE personnel guidance and instruction on how to comply with the requirements of the Standards of Conduct.

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Scope

Personnel

This plan generally applies to all EPE employees, who are subject to the No Conduit Rule (explained below) and annual training requirements. Additional specific requirements apply to all Transmission Function Employees (“TFE”) and Marketing Function Employees (“MFE”). Finally, personnel in the legal and human resources departments have compliance obligations under this plan to ensure and facilitate compliance with the Standards of Conduct.

Reference to FERC requirements

The FERC Standards of Conduct requirements are found in 18 Code of Federal Regulations (C.F.R.) Part 358 and the subsections below. The full text is found as Attachment A to this document:

- §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.

Background

The Standards of Conduct are designed to prevent a Transmission Provider from giving its MFEs (whether housed in a separate affiliated company or located within the same company as the transmission provider) preferential access to transmission service or non-public transmission function information. EPE’s wholesale marketing and sales are performed by EPE’s Energy Resources department. In general, EPE buys power on the wholesale market when it has insufficient power to meet its retail customers’ needs and sells power on the wholesale market when it has excess power. Under the Standards of Conduct, EPE’s TFEs are to function independently of EPE’s MFEs and without exchanging transmission information. This Plan provides the necessary guidance and instruction to accomplish this goal.

Roles & Responsibilities

EPE has designated Cynthia Henry, Vice President and General Counsel, as its Chief FERC Compliance Officer responsible for Standards of Conduct compliance. If any EPE employee, customer or potential customer has any comments, questions, or concerns related to the Standards of Conduct or these procedures, Cynthia Henry may be reached as follows:

Cynthia Henry
Vice President- General Counsel
Office: 915-351-4201

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Cell: 915-487-1360

Email: cynthia.henry@epelectric.com

Address: P.O. Box 982, El Paso, TX 79960

This contact information may also be found at www.epelectric.com on the “Standards of Conduct” page located under the “Transmission” tab.

The Chief FERC Compliance Officer may make changes to the FERC compliance program over time, as appropriate, to reflect changes in FERC’s rules and regulations or otherwise to aid in the program’s effectiveness and efficiency in meeting the company’s compliance goals. If an event of noncompliance is reported or discovered, the Chief FERC Compliance Officer will investigate and determine the appropriate resolution to the matter.



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Standards of Conduct Requirements

Non-Discrimination Requirements

Section 358.4 of the Standards of Conduct Regulations sets forth the following non-discrimination requirements:

1. 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.
2. 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;
3. 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); and
4. a transmission provider must process all similar requests for transmission in the same manner and within the same period of time.

EPE's TFEs have been trained in these non-discrimination standards. These standards are part of EPE's own internal employee training, as well as the Edison Electric Institute Standards of Conduct training module, as discussed in greater detail in the section on Training, below.

Independent Functioning and the No-Conduit Rule

Section 358.5 requires that EPE's TFEs must function independently of EPE's MFEs, except as otherwise permitted. EPE's TFEs are located in separate buildings from all of the MFEs of EPE and its affiliates. As part of its new employee and annual trainings, EPE instructs its employees that a transmission provider is prohibited from (a) permitting its TFEs to conduct marketing functions and (b) permitting its MFEs to conduct transmission functions or have access to the EPE building that houses EPE's TFEs, *i.e.*, the EPE System Operations Center or similar facilities used for transmission operations that differs in any way from the access available to other transmission customers. The Chief FERC Compliance Officer verifies that all EPE employees required to operate independently of EPE's TFEs are in fact doing so.

At present, EPE does not have any facilities that regularly house both transmission function and marketing function employees. (EPE's headquarters does house both MFEs and the Transmission Operations department's Backup Control Center (BUCC) that is used on limited occasions by TFEs for training or emergency purposes. MFEs are restricted from access to the BUCC.) To further satisfy the independent functioning requirement, EPE's MFEs are prohibited from freely accessing the EPE System Operations Center by the use of security guards (who control drive-in access) and keycards (that control building access). Generally, visits by MFEs to the building that houses EPE's TFEs are not permitted except to the extent that a non-affiliated transmission customer would be allowed the same access. Employees located in areas with keycard or passcoded entry systems are instructed not to provide access to other employees or visitors unless those employees or visitors are escorted at all times and are instructed to report promptly any malfunction of the entry security system. In addition,

Internal Use

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EPE uses computer login procedures and passwords to prohibit MFEs of EPE or its affiliates from having access to transmission-related information located on EPE's computer system. EPE's IT department has implemented access and password controls on servers, applications and databases to ensure that non-public transmission information and third-party customer information that is stored electronically is not accessible to persons that are not entitled to see it. MFEs have their email display names flagged as "(MFE)" to ensure employees know their categorization for Standards of Conduct purposes when discussing or transmitting relevant information.

Under 18 CFR Section 358.7(h)(2) non-public transmission information pertaining to compliance with approved Reliability Standards and necessary to maintain or restore operation of the transmission system or generating units, or that may affect the dispatch of generating units may be exchanged between EPE's TFEs and MFEs, subject to the recording requirements of 18 CFR Section 358.7(h)(1). The Chief FERC Compliance Officer is to be notified by EPE's TFEs in a timely manner to ensure compliance with these requirements. In general, special care should be taken by EPE employees when convening internal meetings that involve both transmission and marketing function employees. It is permissible for TFEs and MFEs to both attend internal company meetings under the Standards of Conduct if: (a) neither non-public transmission information nor non-public third-party customer information is disclosed to MFEs during or in connection with such meetings, (b) any non-public transmission function information disclosed is specifically of the type permitted in the exception granted by FERC in Section 358.7(h)(2) (in which case, any such disclosure must be recorded), or (c) the meeting is to discuss a specific request for transmission service submitted by the marketing function employee.

Employees of EPE are strongly encouraged to minimize the number of meetings attended by both TFEs and MFEs in order to reduce the possibility of inadvertent disclosure of prohibited information. In the event a person convening a meeting to which TFEs and MFEs are to be invited to attend has questions whether the meeting is permissible under the Standards of Conduct, he or she should consult the Chief FERC Compliance Officer.

As permitted by the Standards of Conduct, EPE employees engaged in field, maintenance and construction activities and certain support functions (for example, legal, accounting and budget, tax, human resources, information technology, corporate communications, insurance procurement, investor relations, real estate services, non-energy procurement, etc.) do not function independently from EPE's transmission function or marketing function, but are subject to the Standards of Conduct no-conduit rule in Section 358.6. The rule prohibits all EPE employees, as well as EPE's or its marketing affiliates' contractors, consultants or agents, from disclosing non-public transmission function information to any MFE. Similarly, EPE's senior officers and directors, who are neither TFEs nor MFEs, are subject to the no-conduit rule. Some EPE employees are not engaged in transmission functions or marketing functions, and do not directly support either of those functions (for example, employees that provide meter reading, fleet management, etc.) are not shared employees and are not likely to be in a position of passing on non-public transmission information but must also be mindful of, and are also subject to, the no-conduit rule.



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Transparency and Identifying Employee, Affiliate, and Other Information on the Public Internet

Each EPE employee who has access to transmission information or third-party customer information is responsible for maintaining the confidentiality of that information and ensuring that it is not disseminated orally or in written or electronic form, whether intentionally or inadvertently. The responsibility rests most heavily on TFEs, since they are the employees most likely to possess such information, but every other employee has a responsibility to safeguard that information as well. **If EPE discloses non-public transmission function information, unless otherwise permitted, EPE must immediately post the information on its Internet website, as required by Section 358.7(a).** (<https://www.epelectric.com/company/transmission/standards-of-conduct/contemporaneous-disclosures>) In addition, EPE must maintain a log of acts of waiver of its tariff provisions (and post on its Internet website notice of certain waivers of tariff provisions), as required by Section 358.7(i). The Chief FERC Compliance Officer will ensure that these standards are satisfied.

EPE posts on its Internet website (<https://www.epelectric.com/company/transmission/standards-of-conduct/affiliate-information>) the name and address of EPE's affiliates that employ or retain wholesale marketing/sales function employees, and the job titles and job descriptions of its TFEs, on its Internet website, as required by Sections 358.7(e)(1) and 358.7(f)(1). This information is updated as necessary.

EPE 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, including the types of facilities shared and their addresses, as required by Section 358.7(e)(2), if any, on the affiliates page mentioned above. **Currently EPE lacks any such facilities.** The Chief FERC Compliance Officer will ensure the Internet website is updated if this changes.

EPE must update the information on its Internet website within seven business days of any change and post the date on which the information was updated, as required by Section 358.7(g). The Chief FERC Compliance Officer, or her designee, will be notified by Human Resources of any pending new hires or transfer employees prior to their report date and will make sure any necessary updates to the Internet website are completed within seven business days. In addition, when the Chief FERC Compliance Officer is notified of the creation of any new affiliate(s), the new affiliate's existence will be disclosed on the Internet website, in the manner required by the Standards of Conduct.

EPE must post information concerning potential merger partners as affiliates that may employ or retain MFEs, within seven business days after the potential merger is announced, as required by Section 358.7(e)(3). The Chief FERC Compliance Officer will be notified of any potential merger partners as affiliates and will ensure the Internet website contains potential merger information within seven business days of the announcement of the merger.

EPE's transmission function and marketing function employees are not precluded from transferring between such functions as long as such transfer is not used as a means to circumvent the Standards of Conduct. Notice of any employee transfers between the transmission function, on the one hand, and the marketing function, on the other, must be posted on the Internet website, as required by Section



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358.7(f)(2). The information to be posted must include: the name of the transferring employee, the respective titles held while performing each function and the effective date of the transfer. The information posted under this section must remain on the Internet website for 90 days. The Human Resources department will notify the Chief FERC Compliance Officer, or her designee of all pending transfer employees prior to their report date. Working with the Chief FERC Compliance Officer, the Senior Director of Human Resources will notify EPE's IT department of any appropriate changes to electronic passes, passwords, application access, etc. to reflect the employee's changed status. In addition, the Chief FERC Compliance Officer, or her designee, will communicate with members of company management and information technology employees to determine whether a transferred employee's access to any EPE data or computer systems needs to be restricted or terminated, and will also ensure that all necessary updates to the Internet website are completed and remain on the Internet website for 90 days.

Distribution of Written Implementation Procedures

Under the Standards of Conduct, EPE must distribute its written procedures for the implementation of the Standards of Conduct to all its TFEs, MFEs, officers, directors, supervisory employees, and any other employees likely to become privy to transmission function information, as required by Section 358.8(b)(2) and must post the current written procedures on the internet, as required by Section 358.7(d). EPE distributed its written Standards of Conduct implementation procedures to all EPE employees via e-mail as part of its initial implementation efforts after the rule was issued, maintains a copy of these procedures on both the company Internet website and internal Intranet site for employees. (<https://www.epelectric.com/company/transmission/standards-of-conduct>) The Chief FERC Compliance Officer, or her designee, also notifies employees when the procedures are updated via a notification in the employee newsletter. In addition, all new employees must complete the FERC Standards of Conduct training during new employee orientation, generally held on the day that new employees report for duty, but not later than 30 days from such date.

Books and Records

Under the Standards of Conduct, EPE must maintain its books of account and records separately from those of its affiliates that employ or retain MFEs and these must be available for Commission inspections, as required by Section 358.8(d). EPE does maintain its books of account and records separately from those of all such affiliates.

Standards of Conduct Training Requirement

Under the Standards of Conduct, EPE is required to provide annual training on the Standards of Conduct to all its TFEs MFEs, officers, directors, supervisory employees, and any other employees likely to become privy to transmission function information, as required by Section 358.8(c)(1). In addition, EPE must provide training on the Standards of Conduct to new employees falling within any of the categories set forth in the preceding sentence within the first 30 days of their employment. Finally, EPE must require each employee who has taken the training to certify electronically or in writing that s/he has completed the training.



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Training Current Employees

EPE uses a web-based computer training program developed and updated as necessary to reflect changes in the standards, by Edison Electric Institute (“EEI”) to provide annual refresher training on the Standards of Conduct. It is generally provided in the first quarter of each calendar year and all employees must complete it.

Training New Employees

New employees subject to the training requirement normally receive Standards of Conduct training on their first day of employment as a part of the company’s new employee orientation process, as required by Section 358.8(c)(1). Each employee is required to certify the completion of the training electronically by clicking the appropriate box following completion of the training. EPE will continue this procedure for new employees using the same updated training used to train current EPE employees about the Standards of Conduct. In the event that training does not occur on an employee’s start date, EPE will ensure that such training takes place within the Standards of Conduct 30-day deadline.

Confidential Reporting of Potential Violations of Standards of Conduct

Anyone who believes that there may have been a violation of the Standards of Conduct should report that potential violation to the Chief FERC Compliance Officer as soon as possible. This can be accomplished via telephone at (915) 351-4201, via e-mail at cynthia.henry@epelectric.com, via interoffice mail at Location 16, or in person on the 16th floor of the Stanton Tower. In an effort to provide an avenue for employees and others to anonymously and confidentially report actual or suspected activities that may involve violations of the Standards of Conduct, or other unlawful or inappropriate conduct, EPE has selected [EthicsPoint](http://www.EthicsPoint.com) as its hotline administrator. Anyone may file an anonymous report via the internet at www.EthicsPoint.com or by dialing toll free at (866) 384-4277.

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Documenting Results

Annual training records are provided by the Human Capital Management (HCM) System Admin at the request of the FERC Compliance Specialist in the Legal department. Individual records of all past training are also retained in the HCM database as part of each individual employee's transcript.

Business Unit	Role	Task	Evidence
HR	Provider	Generates and provides training data	Email containing request and attached training data
Legal	Requestor	Requests and archives training data	Training data saved on Teams

New employee initial training records are maintained by Human Resources as part of each employee training transcript and may be queried as needed by the HCM System Admin

Violations of the Standards of Conduct are recorded on EPE's public OASIS website when and as required at: <https://www.oasis.oati.com/epe/index.html>

Detective Control

The FERC Compliance Specialist conducts annual reviews of the Plan based on the results of the annual training program, any known violations of the Standards of Conduct, and any changes to the FERC regulations to incorporate any necessary changes or improvements to the Plan.

Annual training is verified by the FERC Compliance Specialist pulling and reviewing training records from the HCM System Admin.

Training / Awareness

As stated within the Plan above, all EPE employees receive training on the Standards of Conduct requirements within 30 days of reporting for duty and annually thereafter in the first business quarter, and the Plan is posted on the EPE intranet for ongoing awareness.

Annual training is planned by the FERC Compliance Specialist, who in January of each year requests an updated Shareable Content Object Reference Model (SCORM) file package from EPE's vendor (training@thebrickfactory.com) and supplies it to the HCM System Admin to generate and assign Cornerstone training to all EPE employees. The FERC Compliance Specialist will also coordinate with Corporate Communications, HR, or both, to email all employees about the upcoming training and remind them of the location of the Plan and related compliance resources.

The FERC Compliance Specialist generally allows 6-8 weeks between assignment and completion of the training to accommodate unique schedules of some departments, lack of easy access to computer resources to complete the training for some employees (e.g. linemen), PTO, and other potential disruptions. After the deadline has passed, the FERC Compliance Specialist will request updated completion reports every 1-2 weeks from the HCM Admin to track and ensure compliance. At the end of this process, the final record will be saved in the FERC Legal Teams files.

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Acronyms

EPE: El Paso Electric
 FERC: Federal Regulatory Energy Commission
 HCM: Human Capital Management
 MFE: Marketing Function Employee
 SOC: Standards of Conduct
 TFE: Transmission Function Employee

Attachments

Attachment A: Regulatory Text of 18 C.F.R. Part 358

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Document Management

Review Cycle and Update Responsibility

Storage location: FERC Legal Teams files on Microsoft Teams at Legal Team > Documents > FERC > 5_Policies and Procedures > [2_Standards of Conduct Plan](#)

Review Responsibility: FERC Compliance Specialist, Senior Attorney – Federal Regulation

Review Cycle: Annually

Review Procedure: Document shall be cross referenced to FERC regulations, evaluated for any required changes given most recent annual training and any Standards of Conduct violations or lessons learned.

Approvals

Date	Name	Title
11/10/2025	Milena Yordanova	Senior Attorney – Federal Regulation
11/10/2025	Cynthia Henry	VP, General Counsel

Revision History

Date	Version	Revised By	Revision History
11/26/2008	1.0	Cynthia Henry	Initial version
3/15/2022	1.1	Dylan Alexander	Removed retired personnel from plan
10/10/2025	2.0	Dylan Alexander	Converted plan to new format, added procedural language on how to conduct annual training, review and store plan

Distribution

Date	Name	Department
11/10/2025	Victor Martinez	Energy Resources
11/10/2025	Jaime Reyes	Energy Resources
11/10/2025	Abel Bustillos	System Operations
11/10/2025	Roberto Favela	System Planning & Interconnection
11/10/2025	Robert Almanzan	Human Resources
11/10/2025	Ana Chavez	HCM System Admin

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ATTACHMENT A

Standards of Conduct

REGULATORY TEXT OF 18 C.F.R. PART 358

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PART 358—Standards of Conduct

Contents

- §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.

§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

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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.

§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 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.

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(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.

§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.

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(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

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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.

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(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 hand-written 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.

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(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 FERC Compliance Officer who will be responsible for standards of conduct compliance. The transmission provider must post the name of the Chief FERC 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.