

LES Standards of Conduct Implementation and Compliance Procedures



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Lincoln Electric System

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LINCOLN ELECTRIC SYSTEM

STANDARDS OF CONDUCT

(ORDER NO. 717)

IMPLEMENTATION AND COMPLIANCE PROCEDURES

OVERVIEW

The Lincoln Electric System (LES) is a municipal electric utility owning and operating generation, transmission and distribution facilities. LES serves retail customers in the City of Lincoln, Nebraska and the surrounding environs.

A NON JURISDICTIONAL TRANSMISSION PROVIDER

The Lincoln Electric System owns and operates certain electric transmission facilities, which it has placed under the functional control of the Southwest Power Pool (SPP), a Regional Transmission Organization (RTO) approved by the Federal Energy Regulatory Commission (FERC or Commission). LES continues to maintain a voluntary, non-jurisdictional Open Access Transmission Tariff (OATT) based upon the FERC pro forma tariff, but only for limited purposes. As stated on the LES node of SPP Open Access Same-Time Information System (OASIS), “Transmission Service requested on LES facilities after April 1, 2009 will be processed on the SPP OASIS under the SPP Regional Tariff” LES maintains its OATT for limited purposes such as the provision of ancillary services pursuant to Schedules 1 through 6 of that tariff.

Although SPP functionally operates LES’s transmission facilities and provides service under its regional tariff, LES remains a Transmission Provider (TP) for standards of conduct regulations purposes, pursuant to 18 C.F.R. § 358.3(k), by virtue of LES’s continued ownership of the facilities.

PARTIAL EXEMPTION FROM STANDARDS OF CONDUCT REGULATIONS

In FERC Docket No. OA04-1-000, LES applied for and was granted a waiver of certain sections of the Standards of Conduct regulations promulgated by the Federal Energy Regulatory Commission (“FERC”) in Order No. 2004. *See Alcoa Power Generating Inc.*, 108 F.E.R.C. ¶ 61,243 at PP 94-99 (2004). Specifically FERC granted LES a partial exemption from the Standards of Conduct and waived the independent functioning requirements then codified at 18 C.F.R. §§ 358.2(a) and 358.4(a). FERC amended its Standards of Conduct regulations in Order No. 717, but clarified (at P 31) that “existing waivers relating to the Standards shall continue in full force and effect.” Order No. 717 amended and reorganized the waived independent-functioning requirements, which are now codified at 18 C.F.R. §§ 358.2(b) and 358.5(a).

As a result of this waiver, LES is not required to separate its transmission and marketing functions. Stated differently, LES employees may perform both transmission and marketing functions.

In addition to the foregoing, the Commission granted LES a waiver of the information sharing restrictions originally codified at 18 C.F.R. §§ 358.5(a)(1) and (2) and 358.5(b)(1), (2) and (3) to the extent that such a waiver is necessary due to the lack of independent functioning. Following Order No. 717, the waived provisions are now codified at 18 C.F.R. §§ 358.2(c) and (d), 358.6(a) and (b), and 358.7(a)(1) and (2).

LES has implemented the balance of the Standards of Conduct regulations for which it does not have a waiver, to the extent applicable. Those regulations include (among others) the requirement to post on its internet website certain information regarding its organizational structure (now codified at 18 C.F.R. §§ 358.7(e), (f)); the requirements to post these implementation procedures on its website, distribute them to all employees, designate a Chief Compliance Officer, and conduct training with respect to the Standards of Conduct (*id.* §§ 358.7(d), 358.8(b) and (c)); and the requirements to treat all transmission customers in a non-discriminatory manner and to refrain from giving any person (including its wholesale marketing function) an undue preference or disadvantage with respect to any transportation of natural gas or transmission of electric energy, or wholesale sale of natural gas or electric energy, in interstate commerce, *id.* §§ 358.2(a), 358.4.

POSTING OF “IMPLEMENTATION AND COMPLIANCE PROCEDURES” (18 C.F.R. § 358.7(d))

LES has posted these “Standards of Conduct” and “Implementation and Compliance Procedures” on its Internet website in compliance with 18 C.F.R. § 358.7(d).

IDENTIFICATION OF AFFILIATES THAT EMPLOY OR RETAIN MARKETING FUNCTION EMPLOYEES, SHARED FACILITIES, AND POTENTIAL MERGER PARTNERS (18 C.F.R. § 358.7(e)(1)-(3))

LES has no affiliates that are organized as separately incorporated affiliates or units of the Lincoln Electric System. LES’ wholesale and energy marketing functions are performed by an LES business unit titled System Energy Management (SEM). SEM is part of LES’s Power Supply Division. While SEM is not separately incorporated, it is “a division ... that operates as a functional unit” and is thus an affiliate for purposes of 18 C.F.R. § 358.3(a)(1). Consistent with FERC’s waiver of the independent functioning requirements, SEM employees perform both transmission functions (18 C.F.R. § 358.3(h)) and marketing functions (*id.* § 358.3(c)). The name and address of the LES wholesale marketing and energy sales unit is:

System Energy Management
Lincoln Electric System
Lincoln Control Center, P.O. 80869
Lincoln, Nebraska 68521

Consistent with FERC’s waiver of the independent-functioning requirements now codified at 18 C.F.R. §§ 358.2(b) and 358.5(a), SEM employees have access to the LES Control Centers. LES

maintains two Control Centers: the Lincoln Control Center, P.O. Box 80869, Lincoln Nebraska 68521 and the Rokeby Control Center, P.O. 80869, Lincoln NE 68523. As LES has not separated its transmission and marketing functions, both Control Centers are “shared” facilities (*i.e.*, facilities accessible to both transmission function and marketing function personnel). As required by 18 C.F.R. § 358.7(g)(1), LES will update affiliate information within seven days of any change and will post the date on which the information was updated.

As required by 18 C.F.R. § 358.7(e)(3), LES will post information concerning any potential merger partners as affiliates within seven days after any potential merger is announced.

POSTING OF TRANSMISSION FUNCTION JOB TITLES AND JOB DESCRIPTIONS (18 C.F.R. § 358.7(f)(1))

18 C.F.R. § 358.4(f)(1) requires entities that are Transmission Providers for standards of conduct regulation purposes under 18 C.F.R. § 358.3(k) to post the job titles and job descriptions of its transmission function employees. LES has posted the required information on the LES OASIS website.

As required by 18 C.F.R. § 358.7(g)(1), LES will update the job title/job description information within seven days of any change and will post the date on which the information was updated.

POSTING OF INFORMATION ABOUT EMPLOYEE TRANSFERS (18 C.F.R. § 358.7(f)(2))

As permitted by the waiver described above, LES has not separated its marketing function from its transmission function, so there can be no transfers between the two functions. If that situation changes and if an employee does transfer between the transmission function, on the one hand, and the marketing function on the other hand, LES will post its OASIS node website the name of the transferring employee, the respective titles held while performing each function, and the effective date of the transfer. This information will remain on the website for a minimum of 90 days.

“NO-CONDUIT RULE” (18 C.F.R. §§ 385.2(c), 358.6)

The Commission’s regulations prohibit transmission providers from using any person as a conduit for the disclosure of non-public transmission information to their marketing function employees. 18 C.F.R. §§ 385.2(c) and 358.6. As noted above, the Commission granted LES a waiver of the independent functioning requirements, and LES has not separated its transmission and marketing functions. The Commission also waived the information sharing restrictions [now codified at 18 C.F.R. §§ 358.2(c), (d), 358.6(a), (b), and 358.7(a)(1), (2)] as necessary to allow LES transmission and marketing functions to remain un-separated. Beyond the information sharing permitted by its waiver, LES employees shall not act as conduits for the provision of non-public transmission information to marketing function personnel of any other company. In performing transmission-function activities or related duties for LES, employees may share non-public transmission information with persons performing similar duties for other companies, even though the recipient also performs marketing functions, *if* (and only if) the recipient provides documentation that he or she is permitted to perform both transmission and marketing functions under an applicable waiver of independent-functioning requirements.

LES'S BOOKS AND RECORDS (18 C.F.R. § 358.8(d))

Transmission Providers must maintain their books of account and records (as prescribed under 18 C.F.R. Parts 101, 125, 201 and 225) separately from those of its affiliates that employ or retain marketing function employees. LES has no affiliates that are organized as separately incorporated affiliates or units of the Lincoln Electric System. LES will maintain its books and records available for Commission inspection.

NON-DISCRIMINATION (18 C.F.R. § 358.4)

As noted above, LES has placed its transmission facilities under the functional control of SPP, and SPP provides interconnection and transmission service with respect to those facilities pursuant to its tariff.

To the extent that LES continues to administer and implement its OATT for example in providing ancillary services, LES employees will:

- strictly enforce all tariff provisions that do not permit the use of discretion;
- apply all tariff provisions that do permit the use of discretion in a fair and impartial manner that treats all customers in a non-discriminatory manner; and
- not give preference to any person, through the application of tariff provisions or otherwise.

POSTING OF WAIVERS OF LES OATT PROVISIONS (18 C.F.R. § 358.7(i))

18 C.F.R. § 358.7(i) requires transmission providers to post on their internet websites a notice of each waiver of a tariff provision granted in favor of an affiliate, unless such waiver has been approved by the Commission. LES has no affiliates that are organized as separately incorporated affiliates or units of the Lincoln Electric System. LES will post, within one business day of each occurrence, a notice of each waiver of any LES OATT provision that it grants in favor of its marketing function, unless such waiver has been approved by the Commission. LES will post the information on its OASIS website. LES will maintain a log of such waivers, will make the log available to the Commission upon request, and will retain records for a period of five years from the date of each act of waiver.

POSTING, DISTRIBUTION AND TRAINING REGARDING PROCEDURES FOR IMPLEMENTING STANDARDS OF CONDUCT (18 C.F.R. §§ 358.7(d), 358.8)

As noted above, LES has posted these "Implementation and Compliance Procedures" on the LES OASIS website.

In addition, LES has distributed these procedures 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.

LES has trained and will provide additional training annually 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. LES will train any new employees in those roles within 30 days after hiring. LES requires each employee who has been trained to sign a document signifying that s/he has participated in the training.

CHIEF COMPLIANCE OFFICER (18 C.F.R. § 358.8(c)(2))

LES's Chief Compliance Officer shall be responsible for ensuring LES's compliance with these standards of conduct and procedures for implementing standards of conduct. LES's Chief Compliance Officer is: Douglas Bantam, Chief Operating Officer, P.O. Box 80869, Lincoln, Nebraska, 68501, 402-473-3396 and email address dbantam@les.com