

sales unit or Energy Affiliates are not precluded from transferring among such functions as long as such transfer is not used as a means to circumvent the standards of conduct. Notices of any employee transfers must be posted on the OASIS or Internet website, as applicable. The information to be posted must include: the name of the transferring employee, the respective titles held while performing each function (*i.e.*, on behalf of the Transmission Provider, Marketing Function or Energy Affiliate), and the effective date of the transfer. The information posted under this section must remain on the OASIS or Internet website, as applicable, for 90 days.

(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 Energy Affiliates and these must be available for Commission inspections.

(e) *Written procedures.*

(1) By February 9, 2004, each Transmission Provider is required to file with the Commission and post on the OASIS or Internet website a plan and schedule for implementing the standards of conduct.

(2) Each Transmission Provider must be in full compliance with the standards of conduct by June 1, 2004.

(3) The Transmission Provider must post on the OASIS or Internet website, current written procedures implementing the standards of conduct in such detail as will enable customers and the Commission to determine that the Transmission Provider is in compliance with the requirements of this section by June 1, 2004 or within 30 days of becoming subject to the requirements of part 358.

(4) Transmission Providers will distribute the written procedures to all Transmission Provider employees and employees of the Marketing and Energy Affiliates.

(5) Transmission Providers shall require all of their employees to attend training and sign an affidavit certifying that they have been trained regarding the standards of conduct requirements.

(6) Transmission Providers are required to designate a Chief Compliance Officer who will be responsible for standards of conduct compliance.

#### **§ 358.5 Non-discrimination requirements.**

(a) *Information access.*

(1) The Transmission Provider must ensure that any employee of the Transmission Provider engaged in marketing or sales or any employee of

any Energy Affiliate may only have access to that information available to the Transmission Provider's transmission customers (*i.e.*, the information posted on the OASIS or Internet website, as applicable), and must not have access to any information about the Transmission Provider's transmission system that is not available to all users of an OASIS or Internet website, as applicable.

(2) The Transmission Provider must ensure that any employee of the Transmission Provider engaged in marketing or sales or any employee of any Energy Affiliate is prohibited from obtaining information about the Transmission Provider's transmission system (including, but not limited to, information about available transmission capability, price, curtailments, storage, ancillary services, balancing, maintenance activity, capacity expansion plans or similar information) through access to information not posted on the OASIS or Internet website or that is not otherwise also available to the general public without restriction.

(b) *Prohibited disclosure.*

(1) An employee of the Transmission Provider may not disclose to its marketing or sales employees, or to employees of the Transmission Provider's Energy Affiliates any information concerning the transmission system of the Transmission Provider or the transmission system of another (including, but not limited to, information received from non-affiliates or information about available transmission capability, price, curtailments, storage, ancillary services, balancing, maintenance activity, capacity expansion plans, or similar information) through non-public communications conducted off the OASIS or Internet Web site, through access to information not posted on the OASIS or Internet Web site that is not contemporaneously available to the public, or through information on the OASIS or Internet Web site that is not at the same time publicly available.

(2) A Transmission Provider may not share any information, acquired from nonaffiliated transmission customers or potential nonaffiliated transmission customers, or developed in the course of responding to requests for transmission or ancillary service on the OASIS or Internet website, with employees of its marketing or Energy Affiliates, except to the limited extent information is required to be posted on the OASIS or Internet website in response to a request for transmission service or ancillary services.

(3) If an employee of the Transmission Provider discloses information in a manner contrary to the requirements of § 358.5(b)(1) and (2), the Transmission Provider must immediately post such information on the OASIS or Internet Web site.

(4) A non-affiliated transmission customer may voluntarily consent, in writing, to allow the Transmission Provider to share the non-affiliated customer's information with a marketing or Energy Affiliate.

(5) A Transmission Provider is not required to contemporaneously disclose to all transmission customers or potential transmission customers information covered by § 358.5(b)(1) if it relates solely to a Marketing or Energy Affiliate's specific request for transmission service.

(6) A Transmission Provider may share generation information necessary to perform generation dispatch with its Marketing and Energy Affiliate that does not include specific information about individual third party transmission transactions or potential transmission arrangements.

(7) Neither a Transmission Provider nor an employee of a Transmission Provider is permitted to use anyone as a conduit for sharing information covered by the prohibitions of § 358.5(b)(1) and (2) with a marketing or Energy Affiliate.

(8) A Transmission Provider is permitted to share crucial operating information with its Energy Affiliate to maintain the reliability of the transmission system.

(c) *Implementing tariffs.*

(1) A Transmission Provider must strictly enforce all tariff provisions relating to the sale or purchase of open access transmission service, if these 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 non-discriminatory manner, if these tariff provisions permit the use of discretion.

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

(4) The Transmission Provider must maintain a written log, available for Commission audit, detailing the circumstances and manner in which it exercised its discretion under any terms of the tariff. The information contained in this log is to be posted on the OASIS or Internet Web site within 24 hours of when a Transmission Provider exercises