

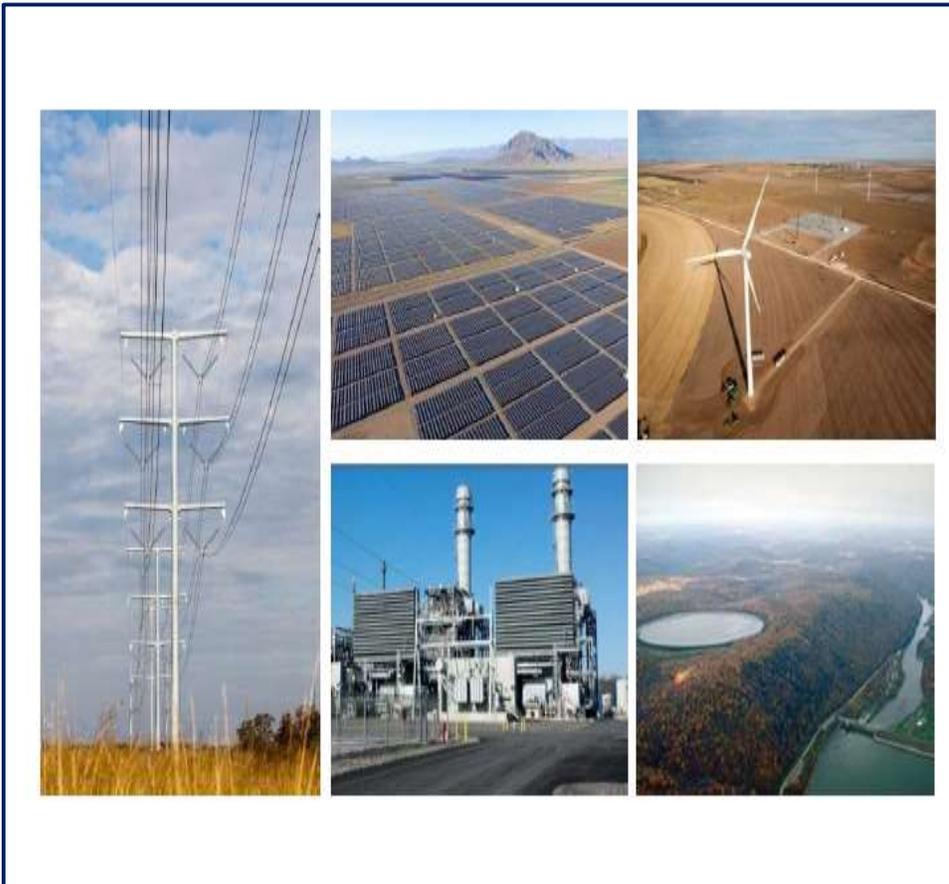


LS Power Development, LLC

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Affiliate Regulation & FERC Standards of Conduct Implementation Procedures



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Statement of Commitment

LS Power Development, LLC (LS Power or LSP) strives to achieve a high level of business and ethical standards and cultivate a Culture of Compliance throughout the organization. This policy and leadership commitment is set forth in LS Power's Regulatory Compliance Manual (the RCM), and every member of the LS Power organization plays an important role in ensuring we meet our goals of strong compliance and continuous improvement.

LSP Senior Management is committed to creating an environment that encourages LS Power employees to report any behavior, actions, or inactions, which are not in accordance with LS Power's values and/or conflict with applicable regulations. This will enable LSP to develop and preserve an organizational culture that achieves compliance through education, training, ethical conduct, and decision making that reflects a culture of transparency.

If you have any concerns about LS Power's compliance with FERC regulations or LSP processes implementing such, you are *encouraged to report* the identified issue. There are several options available including an anonymous reporting platform.¹

1.0 Introduction

1.1 Purpose and Scope

This Affiliate Regulation & FERC Standards of Conduct Implementation Procedures (the Procedure) sets forth the framework and guidance established by LS Power and its affiliates to implement the Standards of Conduct for Transmission Providers (Standards of Conduct) established by the Federal Energy Regulatory Commission (FERC) to ensure that LS Power Transmission Providers do not grant any undue preference to their own marketing affiliates or wholesale merchant functions. It is LS Power's policy that all LSP employees, including employees of LSP subsidiaries and affiliates who are engaged in Marketing Functions,² understand the Standards of Conduct, their role in complying with this Procedure, and to act in accordance with the LS Power Regulatory Compliance Manual. LS Power will provide training, at least annually, with respect to the meaning and application of the Standards of Conduct.

1.2 Applicability

This Procedure applies to all LSP employees, including certain employees of LSP Marketing Affiliates likely to become privy to Non-Public Transmission Function Information. This Procedure will be made readily available to all employees and will be distributed to targeted teams using a variety of communication methods based on job responsibilities.

¹ While you are encouraged to report your concerns to your supervisor, Compliance or a member of Senior Management, you may also call (844) 989-2953 (toll-free) or visit www.lspower.ethicspoint.com to make an anonymous report. Please refer to Section 3.10 and the Complaints section of the LS Power Regulatory Compliance Manual for additional guidance.

² References to LSP employees includes LS Power employees and LS Power's contractors, consultants, agents and other individuals who are performing and supporting activities, specifically those who have entered into agreements where the third-party is delegated and has agreed to perform certain compliance-related activities..

2.0 General Information

2.1 Terms, Definitions and Key Concepts

Defined terms within this document provide key concepts that may or may not be used within this Procedure but are frequently referenced in implementation of Standards of Conduct and Affiliate Regulation compliance more generally.

2.1.1 **Affiliate.**

(A) An 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) "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) An Affiliate of an exempt wholesale generator means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly.

2.1.2 **FERC Employee Classifications.** All LSP employees are classified as either Transmission Function, Marketing Function or No Conduit as defined herein. Certain employees of LSP Marketing Affiliates may be classified as Marketing Function Employees depending on their job responsibilities. FERC regulation references to employee included within this Procedure are defined in the same way as LSP employees to include contractors, consultants, and agents (refer to footnote 3 above).

2.1.3 **Generation Station Personnel.** LSP contractor staff who perform generation plant operations at LSP Generation plants or assets but who are separate from LS Power employees engaged in the Wholesale Merchant Function.

2.1.4 **Internet Website.** Refers to the Internet location where LS Power posts the information, by electronic means, required by the Standards of Conduct.

2.1.5 **Independent System Operator (ISO)/Regional Transmission Organization (RTO).** RTOs and ISOs coordinate, control, monitor and operate regional electric transmission grids, administer wholesale electric markets, and provide reliability planning for the region's bulk electric system.

2.1.6 **Marketing Affiliate.** An affiliate of any LSP Transmission Provider that sells power or energy for resale in interstate commerce and employs Marketing Function employees. LS Power maintains a list of current Marketing Affiliates on its Internet Website (<https://www.lspower.com/ferc-conduct-standards/>).

2.1.7 **Marketing Functions.** Sale for resale or submission of offers to sell 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 as a POLR.

- 2.1.8 **Marketing Function Employee (MFE).** An LS Power or LS Power Marketing Affiliate employee who actively and personally engages on a day-to-day basis in Marketing Functions. See Section 3.3 for additional guidance.
- 2.1.9 **No Conduit Employee. (NCE)** An LS Power employee who is neither a Marketing Function Employee nor a Transmission Function Employee. See Section 3.3 for additional guidance.
- 2.1.10 **Non-Public Transmission Function Information.** Transmission Function Information that has not been broadly disseminated to the public (may include information not yet been posted to OASIS). See Section 3.7 for additional guidance.
- 2.1.11 **OASIS.** The Open Access Same-Time Information System. An Internet-based tool for sharing information on transmission prices and product availability, including the information required to be posted by the FERC Standards of Conduct.³
- 2.1.12 **Transmission Customer.** 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.
- 2.1.13 **Transmission Functions.** Planning, directing, organizing, or carrying out of day-to-day transmission operations, including the granting, and denying of transmission service requests.
- 2.1.14 **Transmission Function Employee (TFE).** An LSP employee who actively and personally engages on a day-to-day basis in transmission functions. See Section 3.3 for additional guidance.
- 2.1.15 **Transmission Function Information.** All information relating to Transmission Functions, including information about available transmission capability, price, curtailments, outages, ancillary services, and the like regarding any transmission system.
- 2.1.16 **Transmission Provider.** The LSP organizations engaged in Transmission Function activities.
- 2.1.17 **Wholesale Merchant Function.** The purchase and sale of electric energy or gas for resale in interstate commerce
- 2.1.18 **Waiver.** The determination by LS Power Transmission Providers, if authorized by its tariff, to waive any provisions of its tariff for a given entity.

³ FERC Order No. 889 restricts communication between power marketing and transmission operation employees within any one organization. Transmission Providers can obtain information about their own transmission system for their own wholesale power transactions only through OASIS. Customers can view Available Transmission Capability; submit transmission service requests, etc. on the applicable region's OASIS site(s).

2.2 Roles and Responsibilities

- 2.2.1 **Chief Compliance Officer or CCO.** The CCO is responsible for compliance with FERC Standards of Conduct. The name of the CCO and his contact information is posted on LS Power's Internet Website in accordance with the SOC's implementation requirements.
- 2.2.2 **Transmission Compliance Team.** The Transmission Compliance Management Team is responsible for the management, monitoring and oversight of Standards of Conduct procedures and controls to ensure compliance with Standards of Conduct regulations.

3.0 LSP Affiliate Regulation and FERC Standards of Conduct Compliance

3.1 Affiliate Restriction and Cross-Subsidy Implementation

Affiliate Regulation of power and utility operations refers to the rules and requirements that restrict certain activities that may provide an unfair advantage to affiliated entities within a company. These are typically thought of in three primary components: (1) Affiliate Restrictions (federal and state); (2) Cross-Subsidy requirements (federal and state); and (3) the Standards of Conduct. The first two focus on ensuring entities that recover through market-based rates and/or provide cost-based services to captive customers do not pay more than market value for any products or services provided to affiliates and do not otherwise provide unfair advantages and access to products and services to affiliates. LS Power has relatively few applicable requirements under these first two components. Compliance is managed through internal allocation requirements and monitoring to prevent any unfair advantage even within the spirit of requirements that may not fully apply. For additional information on the implementation of any compliance with Affiliate Restrictions and Cross-Subsidy rules, please contact the Transmission Compliance Management Team.

3.2 FERC Standards of Conduct Compliance Implementation

LS Power has developed this Procedure to ensure compliance with the Standards of Conduct. Employees are responsible for understanding this Procedure and complying with the same. While our employees are our first line of defense, LS Power also maintains other compliance controls, including but not limited to the FERC ICP, the Regulatory Compliance Manual, and the LS Power Governance Model, to ensure compliance with the Standards of Conduct. This Procedure is in addition to, and does not replace, these other compliance controls. For information on the posting and distribution of this Procedure, please refer to Section 3.5 below

3.3 Separation of Functions

- 3.3.1 **General Principles.** LSP Transmission Providers must treat all transmission customers, affiliated and non-affiliated, on a not unduly discriminatory basis and must not grant any undue preference

or advantage to any person or subject any person to any undue prejudice or disadvantage with respect to transmission of electric energy in interstate commerce, or with respect to the wholesale sale of electric energy in interstate commerce.

3.3.2 **Non-Discrimination Requirements.** LSP Transmission Providers 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. If the tariff provisions permit the use of discretion, LSP Transmission Providers must apply all tariff provisions in a fair and impartial manner that treats all transmission customers in a not unduly discriminatory manner. Additionally, LSP Transmission Providers may not, through its tariffs or otherwise, give undue preference to any person in matters relating to the sale or purchase of transmission service.

3.3.3 **Independent Functioning Rule.** The Standards of Conduct require that a Transmission Provider's Transmission Function Employees function independently from its Marketing Function Employees. Specifically, the rule states that a transmission provider is prohibited from permitting MFEs to conduct Transmission Functions or have access to the system control center that differs in any way from the access available to other transmission customers. TFEs are also prohibited from conducting Marketing Functions. LS Power's Transmission Function Employees function independently of its Marketing Function Employees. TFEs are physically separated from MFEs and MFEs do not have access to the system control center or to areas occupied by TFEs. Additionally, TFEs and NCEs are prohibited from performing Marketing Functions and MFEs and NCEs are prohibited from performing Transmission Functions.

3.3.4 **FERC Employee Classifications.** To support the ability to implement the independent functioning requirement, the LSP Transmission Providers established rules to classify different types of employees. The three classifications to understand are:

3.3.4.1 **Transmission Function Employee.** An LS Power employee who actively and personally engages in Transmission Functions on a day-to-day basis. Transmission Functions include:

- Granting or denying requests for transmission⁴
- Coordinating actual flows of power
- Isolating portions of the system to prevent cascades
- Imposing transmission loading relief
- Other similar activities

3.3.4.2 **Marketing Function Employee.** An LS Power or LS Power Marketing Affiliate employee who actively and personally engages in Marketing Functions on a day-to-day basis. Marketing Functions include:

⁴ This includes granting or denying requests for ancillary services under the OATT and requests for interconnection, and it includes studying requests for transmission service. However, the receipt, study, and evaluation of requests for interconnection are not considered Transmission Functions so long as these activities do not implicate the day-to-day operation of a transmission system. Information related to interconnection requests, however, may still be considered Non-Public Transmission Function Information.

- Selling power at wholesale
- Selling ancillary services at market-based rates
- Reselling physical or financial transmission rights
- Making offers of energy, capacity, demand response, virtuals, or other products in a Regional Transmission Organization (RTO) or Independent System Operator (ISO)
- Competitive retail sales

3.3.4.3 **No-Conduit Employee.** An LS Power employee who does not engage in Transmission Functions or Marketing Functions on a day-to-day basis (basically everyone else).

3.3.5 **No Conduit Rule.** LSP Transmission Providers are prohibited from using anyone as a conduit for the disclosure of Non-Public Transmission Function Information to its Marketing Function Employees. LSP employees, regardless of classification, are strictly prohibited from disclosing Non-Public Transmission Function Information to any MFEs (Refer to Section 3.7 for additional information). All LSP employees and certain employees likely to become privy to Non-Public Transmission Function Information are trained on the No-Conduit requirements.

3.3.6 **Non-Public Transmission Function Information.** Non-Public Transmission Function Information cannot be provided, or made available, directly or indirectly, to Marketing Function Employees. Transmission Function and No-Conduit Employees must be vigilant to ensure this information is not shared with Marketing Function Employees, even inadvertently. LSP has processes and controls to restrict access to this information (Refer to Section 3.7) and strict compliance is required. Non-Public Transmission Function Information includes information related to transmission functions, such as:

- Available transmission capacity (or similar measurements).
- Outages (including generation outages, which impact transmission availability).
- The price of transmission.
- Curtailments and balancing.
- The grant or denial of transmission service requests.
- Service provided to specific Transmission Customers.
- Status of transmission development projects.
- Non-public Transmission Information of other Transmission Providers obtained from those Transmission Providers by Transmission Function or No-Conduit Employees.

3.3.7 **Books and Records.** LSP Transmission Providers must also maintain separate books and records from LSP Marketing Affiliates and any other LSP competitive energy and power generation affiliates.

3.4 FERC Standards of Conduct Training

3.4.1 Compliance training, communications and awareness programs are an important component of all LS Power's internal compliance programs and critical to ensuring LSP employees have an

adequate understanding of the expectations set forth within applicable regulations as well as the implementing controls to support compliance with these rules.

- 3.4.2 **Annual Compliance Program Training.** LSP employees, including certain employees likely to become privy to Non-Public Transmission Function Information, will be trained at least annually on this Procedure and the Standards of Conduct. New hires, including certain employees likely to become privy to Non-Public Transmission Function Information, will be trained on this Procedure and the Standards of Conduct within the first 30 days of employment. The Transmission Compliance Team will coordinate with the Corporate Compliance Management Team to prepare Standards of Conduct compliance training, communications, and awareness materials to be implemented and distributed on an annual basis in support of this objective. In addition to annual planning activities, materials may be developed throughout the year to address emergent and/or targeted issues, to support specific implementation objectives and to drive continuous improvement.

Additional guidance on how the Standards of Conduct apply and how to ensure your ability to comply is provided in the LSP FERC Standards of Conduct Implementation Procedures – Desktop Compliance Guide, which is posted on the LSP intranet and distributed with the Procedure and available to all LSP employees. Please contact the LSP Transmission Compliance Team for additional support or information.

3.5 Posting of Information

- 3.5.1 The transparency rule of the Standards of Conduct (18 C.F.R. § 358.7) requires LS Power Transmission Providers to post certain information on its Internet Website. This section provides a summary of the posting requirements and compliance implementation activities.

3.5.2 Posting Requirements.

- 3.5.2.1 **FERC Standards of Conduct Procedure.** A copy of this Procedure (see also Section 3.6 below).
- 3.5.2.2 **Marketing Affiliates.** The names and addresses of all Affiliates that employ or retain Marketing Function Employees.⁵
- 3.5.2.3 **Shared Facilities.** A list of LSP staffed facilities where both Marketing Function and Transmission Function Employees work.
- 3.5.2.4 **Transmission Function Employees Job Descriptions.** Job titles and descriptions of all Transmission Function Employees.

⁵ The following explanatory statement should also be posted: “This Procedure and Standards of Conduct apply to all employees of LS Power. Certain employees of LS Power provide services to and/or are officers of competitive energy affiliates, though such affiliates do not have any of their own employees.”

- 3.5.2.5 **Potential Mergers.** Information about potential merger partners that may employ or retain Marketing Function Employees within seven days after the potential merger is announced.
- 3.5.2.6 **Employee Transfers.** Notice of transfers of Marketing Function Employees to Transmission Function Employees or vice versa. The notice must include the name of the transferring employee, the respective titles held while performing each function (as a TFE and as an MFE) along with the effective date of the transfer. This information must remain on the Internet Website for ninety (90) days.
- 3.5.2.7 **Inadvertent Disclosures.** In the event it is determined that there has been an inadvertent disclosure of Non-Public Transmission Information or any other information in violation of the Standards of Conduct, the information shall be immediately reported to the OASIS Operator for posting on the OASIS. Additionally, LS Power Transmission Providers will immediately post on their Internet Website the information, or notice thereof, disclosed improperly by LS Power Transmission Providers.
- 3.5.2.8 **Other Postings.** In addition to the above items, LS Power Transmission Providers may also post information about voluntary consents, discretionary actions, discounts, and deviations for system emergencies.
- 3.5.3 **Posting Location.** The information above, as related to each of the LS Power Transmission Providers, will be posted at <https://www.lspower.com/ferc-conduct-standards/>.
- 3.5.4 **Management and Update.** Consistent with the requirements of the SOC regulations, LS Power Transmission Providers must update the information required by the transparency rule on its Internet Website within seven (7) business days of any change, and post the date on which the information was updated.

3.6 Posting and Distribution of FERC Standards of Conduct Procedures

LSP shall post on the relevant OASIS and/or its Internet Website a summary of the procedures/processes for implementing the Standards of Conduct, which enables the Commission to determine that they are in compliance with the requirements of 18 C.F.R. Part 358. See <https://www.lspower.com/ferc-conduct-standards/>.

The CCO or Transmission Compliance Team shall ensure this Procedure is distributed to Senior Management, all Transmission and Marketing Function Employees and any other employees likely to become privy to Non-Public Transmission Function Information.

3.7 Restrictions on Access to Information and Transmission Provider Physical Facilities

- 3.7.1 The Standards of Conduct set forth specific prohibitions on the sharing of Non-Public Transmission Function Information, including restrictions on the use of any employees as a conduit for the sharing of this information. In addition to active prevention measures, restrictions on access to information are important to implement for effective compliance. LSP has a series of processes and controls to manage access to Transmission Function Information and facilities.
- 3.7.2 **Information Access Restrictions.** LS Power uses password protection and/or independent servers, files, or folders with limited access rights, to wall off the most likely sources of Non-Public Transmission Function Information. Marketing Function Employees do not have access to LS Power Transmission Providers' network drives and files. Additionally, network drives used for storage by Transmission Function Employees are only accessible by the LSP Transmission Providers group. Such safeguards are used to protect confidential and proprietary information, including Non-Public Transmission Function Information.
- 3.7.2.1 **Senior Management.** LSP may share Non-Public Transmission Function Information with its Marketing Affiliates' senior officers, directors, and risk management employees, none of whom is engaged in day-to-day activity associated with Marketing Functions and are therefore No-Conduit Employees under the Standards of Conduct.
- 3.7.2.2 **Off-OASIS/On-OASIS Communications.** LSP employees engaged in transmission system operations and reliability functions are prohibited from disclosing to Marketing Function Employees any Non-Public Transmission Function Information, including through communications off the OASIS, through access to information not posted on the OASIS that is not at the same time available to the general public without restriction, or through information on the OASIS that is not at the same time publicly available to all OASIS users.
- 3.7.2.3 **Committees.** LSP has established a Management Committee consisting of senior executives, whose role is to facilitate coordination and integration on operational issues and improve efficiency and effectiveness across the corporation. While there are currently no Marketing Function Employees on the Management Committee, members of the Management Committee are prohibited to discuss Non-Public Transmission Function Information derived from the LSP Transmission Provider business if any Marketing Function Employees are present. To ensure that the Management Committee does not become a conduit for such information, the following steps have been implemented: (1) ensure that every member of the Committee and regular participants have completed Standards of Conduct training; and (2) have in-house counsel present at the meetings.

3.7.2.4 **Customer Consent to Disclose.** LSP Transmission Providers may disclose Non-Public Transmission Information to a Marketing Affiliate when the non-affiliated Transmission Customer from whom the information is obtained has voluntarily consented in writing to such disclosure. In the event such information is shared, LSP must post notice of such authorization on the OASIS or its Internet website along with a statement that it did not provide any preference, either operational or rate related, in exchange for the voluntary consent.

3.7.2.5 **Energy Affiliate Transmission Requests.** LSP may disclose Non-Public Transmission Information to a Marketing Affiliate if it relates to the Marketing Affiliate's specific request for transmission service.

3.7.3 **Physical Access Restrictions.** LS Power has no facilities that are shared by Marketing Function and Transmission Function Employees. MFEs do not occupy or have automatic access to offices utilized by TFEs. When MFEs visit a LSP Transmission Provider facility, LS Power restricts access to the facility, any transmission control rooms or similar transmission-related facilities to the extent required by using cardkey access or other restrictions to ensure that Marketing Function Employees do not access areas where Non-Public Transmission Function Information is stored.

3.7.4 **Escorted Access.** LSP will permit Transmission Customers, including LSP Marketing Function Employees, on a non-discriminatory basis, to visit their Transmission Provider facilities for general orientation purposes by prior arrangement so long as the Transmission Customers are escorted by authorized LSP employees at all times and all Non-Public Transmission Information is adequately secured so as not to be viewed.

3.7.5 **No Preferential Physical Access.** LSP Marketing Function Employees will not have preferential access over that of other Transmission Customers to LSP Transmission Provider facilities used for transmission operations or reliability functions.

3.8 **Strict Enforcement of LS Power Transmission Provider Tariffs**

The sale and purchase of open access transmission service on the transmission facilities owned by LS Power's Transmission Providers are managed under RTO/ISO tariffs or other non-LS Power Transmission Providers' tariffs. Those entities receive, process, study, and respond to requests for transmission service. However, the LS Power Transmission Providers are obligated to provide fair and impartial treatment to all Transmission Customers, including prospective Transmission Customers, in conducting any Transmission Functions. To the extent any LS Power Transmission Provider manages its own tariff, it will strictly enforce all non-discretionary tariff provisions relating to the sale or purchase of transmission service, and where the tariff permits use of discretion, it will apply the provision in a fair and impartial manner.

3.9 System Emergencies

- 3.9.1 **Suspension of Requirements in Emergencies.** During system emergencies and/or any condition that could, in the sole discretion of the system operator, endanger and/or adversely affect system reliability, the Standards of Conduct shall be deemed suspended to the extent necessary to address the emergency and/or condition. During these circumstances, employees engaged in transmission system operations or reliability functions shall take whatever steps are necessary to maintain system reliability during an emergency, notwithstanding that this could otherwise constitute a violation of the Standards of Conduct and/or these implementation procedures.
- 3.9.2 **Posting of Deviations.** LS Power will report on the OASIS and/or the Internet Website any emergency resulting in a deviation from the Standards of Conduct within 24 hours of the deviation. Refer to Section 3.6.

3.10 Compliance Enforcement

- 3.10.1 **Reporting Compliance Concerns.** In the event that LSP employees identify a compliance concern or any issue of possible or Potential Non-Compliance with FERC regulation, LSP employees should immediately raise the issue to their supervisor and/or the FERC Generation CMT or report the concern anonymously. LSP employees raising concerns must maintain all documents and information related to the PNC until the Legal Department or CCO has determined if a Legal Hold Notice is required. In the event a Legal Hold Notice is issued, all documentation related to the PNC will be kept until such time a notice is sent stating the Legal Hold has been released. The Legal Department or CCO will determine when to terminate a Legal Hold.
- 3.10.1.1 **Anonymous Reporting.** LSP employees, vendors, agents, and external parties have the option of reporting FERC compliance concerns anonymously. LSP employees can visit www.lspower.ethicspoint.com or dial (844) 989-2953 to report their concerns. Refer to Complaints section of the Regulatory Compliance Manual for additional information.
- 3.10.1.2 **No Retaliation.** No employee will be discharged, threatened, or otherwise discriminated or retaliated against, because the employee, or a person acting on behalf of the employee, makes a good-faith disclosure concerning any Potential Non-Compliance.

4.0 Document Administration

4.1 Ownership, Review and Approval

The LS Power Sr. Director, Transmission Compliance is responsible for ensuring the oversight, review, and maintenance of this Procedure. At a minimum, this Procedure will be reviewed at

least every three years and modified if needed. The LS Power Sr. Director, Transmission Compliance will coordinate with any relevant key stakeholders to ensure a collaborative approach to review and update.

4.2 Document Maintenance

Any changes to this Procedure will be reflected in the Revision Table. Updates and any revisions to this Procedure shall be approved by the CCO.

5.0 References

- 5.1** LS Power FERC Standards of Conduct Implementation Procedures - Desktop Compliance Guide
- 5.2** LS Power Regulatory Compliance Manual
- 5.3** LS Power Records Management Policy and Process
- 5.4** LS Power Compliance Enforcement Process