

**§ 37.2 Purpose.**

(a) The purpose of this part is to ensure that potential customers of open access transmission service receive access to information that will enable them to obtain transmission service on a non-discriminatory basis from any Transmission Provider. These rules provide standards of conduct and require the Transmission Provider (or its agent) to create and operate an Open Access Same-time Information System (OASIS) that gives all users of the open access transmission system access to the same information.

(b) The OASIS will provide information by electronic means about available transmission capability for point-to-point service and will provide a process for requesting transmission service. OASIS will enable Transmission Providers and Transmission Customers to communicate promptly requests and responses to buy and sell available transmission capacity offered under the Transmission Provider's tariff.

**§ 37.3 Definitions.**

(a) *Transmission Provider* means any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce.

(b) *Transmission Customer* means any eligible customer (or its designated agent) that can or does execute a transmission service agreement or can or does receive transmission service.

(c) *Responsible party* means the Transmission Provider or an agent to whom the Transmission Provider has delegated the responsibility of meeting any of the requirements of this part.

(d) *Reseller* means any Transmission Customer who offers to sell transmission capacity it has purchased.

(e) *Wholesale merchant function* means the sale for resale of electric energy in interstate commerce.

(f) *Affiliate* means:

(1) For any exempt wholesale generator, as defined under section 32(a) of the Public Utility Holding Company Act of 1935, as amended, the same as provided in section 214 of the Federal Power Act; and

(2) For any other entity, the term *affiliate* has the same meaning as given in § 161.2(a) of this chapter.

[Order 889, 61 FR 21764, May 10, 1996, as amended by Order 889-A, 62 FR 12503, Mar. 14, 1997]

**§ 37.4 Standards of conduct.**

A Transmission Provider must conduct its business to conform with the following standards:

(a) *General rules.* (1) Except as provided in paragraph (a)(2) of this section, the employees of the Transmission Provider engaged in transmission system operations must function independently of its employees, or the employees of any of its affiliates, who engage in Wholesale Merchant Functions.

(2) Notwithstanding any other provisions in this section, in emergency circumstances affecting system reliability, Transmission Providers may take whatever steps are necessary to keep the system in operation. Transmission Providers must report to the Commission and on the OASIS each emergency that resulted in any deviation from the standards of conduct, within 24 hours of such deviation.

(b) *Rules governing employee conduct.*

(1) *Prohibitions.* Any employee of the Transmission Provider, or any employee of an affiliate, engaged in wholesale merchant functions is prohibited from:

(i) Conducting transmission system operations or reliability functions; and

(ii) Having access to the system control center or similar facilities used for transmission operations or reliability functions that differs in any way from the access available to other open access Transmission Customers.

(2) *Transfers.* Employees engaged in either wholesale merchant functions or transmission system operations or reliability functions 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 of this section. Notices of any employee transfer to or from transmission system operations or reliability functions must be posted on the OASIS as provided in § 37.6(g)(3).

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 and wholesale merchant or affiliate), and the effective date of the transfer. The information posted under this section must remain on the OASIS for 90 days.

(3) *Information access.* Any employee of the Transmission Provider, or of any of its affiliates, engaged in wholesale merchant functions:

(i) Shall have access to only that information available to the Transmission Provider's open access transmission customers (*i.e.*, the information posted on an OASIS), and must not have preferential access to any information about the Transmission Provider's transmission system that is not available to all users of an OASIS; and

(ii) Is prohibited from obtaining information about the Transmission Provider's transmission system (including information about available transmission capability, price, curtailments, ancillary services, and the like) through access to information not posted on the OASIS that is not otherwise also available to the general public without restriction, or through information through the OASIS that is not also publicly available to all OASIS users.

(4) *Disclosure.* A Transmission Provider is responsible for ensuring compliance with the following provisions:

(i) Any employee of the Transmission Provider, or any employee of an affiliate, engaged in transmission system operations or reliability functions may not disclose to employees of the Transmission Provider, or any of its affiliates, engaged in wholesale merchant functions any information concerning the transmission system of the Transmission Provider or the transmission system of another (including information received from non-affiliates or information about available transmission capability, price, curtailments, ancillary services, etc.) through non-public communications conducted 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 (such as E-mail).

(ii) If an employee of the Transmission Provider engaged in transmission system operations or reliability functions discloses information not posted on the OASIS in a manner contrary to the requirements of the standards of conduct, the Transmission Provider must immediately post such information on the OASIS.

(iii) A Transmission Provider may not share any market 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, with its own employees (or those of an affiliate) engaged in merchant functions, except to the limited extent information is required to be posted on the OASIS in response to a request for transmission service or ancillary services.

(5) *Implementing tariffs.* (i) Employees of the Transmission Provider engaged in transmission system operations or reliability functions must strictly enforce all tariff provisions relating to the sale or purchase of open access transmission service, if these provisions do not provide for the use of discretion.

(ii) Employees of the Transmission Provider engaged in transmission system operations 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 customers (including the public utility and any affiliate) in a non-discriminatory manner, if these provisions involve discretion.

(iii) The Transmission Provider must keep a 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 as provided in § 37.6(g)(4).

(iv) The Transmission Provider may not, through its tariffs or otherwise, give preference to sales for resale by the wholesale merchant function or by any affiliate, over the interests of any other wholesale customer in matters

relating to the sale or purchase of transmission service (including issues of price, curtailments, scheduling, priority, ancillary services, etc.).

(6) *Books and records.* A Transmission Provider must maintain its books of account and records (as prescribed under parts 101 and 125 of this chapter) separately from those of its affiliates and these must be available for Commission inspection.

(c) *Maintenance of written procedures.* The Transmission Provider must maintain in a public place, and file with the Commission, 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.

[Order 889, 61 FR 21764, May 10, 1996, as amended by Order 889-A, 62 FR 12503, Mar. 14, 1997]

### § 37.5 Obligations of Transmission Providers and Responsible Parties.

(a) Each Transmission Provider is required to provide for the operation of an OASIS, either individually or jointly with other Transmission Providers, in accordance with the requirements of this Part. The Transmission Provider may delegate this responsibility to a Responsible Party such as another Transmission Provider, an Independent System Operator, a Regional Transmission Group, or a Regional Reliability Council.

(b) A Responsible Party must:

(1) Provide access to an OASIS providing standardized information relevant to the availability of transmission capacity, prices, and other information (as described in this Part) pertaining to the transmission system for which it is responsible;

(2) Operate the OASIS in compliance with the standardized procedures and protocols found in *OASIS Standards and Communication Protocols*, which can be obtained from the Public Reference and Files Maintenance Branch, Room 2A, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426; and

(3) Operate the OASIS in compliance with the *Business Practice Standards for Open Access Same-time Information Sys-*

*tem (OASIS) Transactions*, which can be obtained at the same address as provided in paragraph (b)(2) of this section.

(c) A Responsible Party may not deny or restrict access to an OASIS user merely because that user makes automated computer-to-computer file transfers or queries, or extensive requests for data.

(d) In the event that an OASIS user's grossly inefficient method of accessing an OASIS node or obtaining information from the node seriously degrades the performance of the node, a Responsible Party may limit a user's access to the OASIS node without prior Commission approval. The Responsible Party must immediately contact the OASIS user to resolve the problem. Notification of the restriction must be made to the Commission within two business days of the incident and include a description of the problem. A closure report describing how the problem was resolved must be filed with the Commission within one week of the incident.

(e) In the event that an OASIS user makes an error in a query, the Responsible Party can block the affected query and notify the user of the nature of the error. The OASIS user must correct the error before making any additional queries. If there is a dispute over whether an error has occurred, the procedures in paragraph (d) of this section apply.

(f) Transmission Providers must provide "read only" access to the OASIS to Commission staff and the staffs of State regulatory authorities, at no cost, after such staff members have complied with the requisite registration procedures.

[Order 889, 61 FR 21764, May 10, 1996, as amended by Order 605, 64 FR 34124, June 25, 1999; Order 638, 65 FR 17400, Mar. 31, 2000]

### § 37.6 Information to be posted on the OASIS.

(a) The information posted on the OASIS must be in such detail and the OASIS must have such capabilities as to allow Transmission Customers to:

(1) Make requests for transmission services offered by Transmission Providers, Resellers and other providers of ancillary services;