



**CONFIDENTIALITY AGREEMENT
FOR NON-COMPETITIVE DUTY PERSONNEL
FOR DISCLOSURE OF
CONFIDENTIAL AND PROTECTED MATERIAL AND CEII**

This Confidentiality Agreement (“Agreement”) governs the disclosure by Southwest Power Pool, Inc. (“SPP”) and use by the undersigned Reviewing Representative, who is not Competitive Duty Personnel, of Confidential and Protected Material and CEII provided to the undersigned by SPP.

Definitions

“CEII” means material defined as Critical Energy Infrastructure Information (“CEII”) by the regulations of the Federal Energy Regulatory Commission (“FERC”) 18 C.F.R. § 388.113.

“Competitive Duty Personnel” means any individual(s) directly engaged in Competitive Duties.

“Competitive Duties” include: (1) the marketing, purchase, or sale of electric power at wholesale, or (2) the direct supervision of any employee with responsibilities for the marketing, purchase, or sale of electric power at wholesale.

“Confidential and Protected Material” means any material designated by SPP, its member(s), vendor(s), customer(s), or SPP market participant(s) as “confidential”, “protected”, “proprietary”, or other such designation as indicates protection of the material, and includes any material so designated by SPP, its member(s), vendor(s), customer(s), or SPP market participant(s) that was provided to SPP by another party where the other party claims such material to be competitively sensitive, commercial or financial information, or trade secret information.

“Equivalent Standards of Conduct” means standards of conduct to which the Reviewing Representative and/or Reviewing Representative’s employer is subject, which provide protections substantially equivalent to those set forth in FERC’s Standards of Conduct.

“FERC’s Standards of Conduct” means the Standards of Conduct set forth in 18 C.F.R. Part 358.

“Notes of Confidential and Protected Material and CEII” means memoranda, handwritten notes, or any other form of information (including electronic form) that copies or discloses Confidential and Protected Material and/or CEII.



“Resource-specific Data” means any Confidential and Protected Material provided to SPP by any party that may provide another person or entity with a competitive advantage (including, but not limited to, certain resource technology parameters, resource dispatch order, generator heat rates, fuel forecasts, planned generation outages, and non-public specific retirement dates).

“Reviewing Representative” means a person who has executed this Agreement or any other person that has executed a Confidentiality Agreement for the purpose of receiving Confidential and Protected Material and/or CEII provided by SPP.

Provision of Resource-specific Data

To the extent Resource-specific Data is provided in the SPP Transmission Expansion Plan process and is needed to participate in the transmission planning process pursuant to Attachment O of the SPP Open Access Transmission Tariff (“Tariff”) and/or to replicate the results of specified transmission planning studies, it will be made available to individuals that are not Competitive Duty Personnel pursuant to this Agreement; provided, that the Resource-specific Data shall not be used for any purpose(s) other than those specified in this paragraph, shall not be used to give any person or entity a competitive advantage, and shall not be disclosed in any manner other than as specified in this Agreement.

Protection and Handling of Confidential and Protected Material and CEII

Confidential and Protected Material and/or CEII shall be made available by SPP via a secure website, with password protected access. If SPP cannot feasibly provide the Confidential and Protected Material and/or CEII via a secure website, SPP shall provide such material either in a non-electronic format or on a CD, DVD, or other kind of removable media.

All Confidential and Protected Material and/or CEII shall be marked in a manner appropriate to its format to indicate that it “CONTAINS CONFIDENTIAL AND PROTECTED MATERIAL AND/OR CEII – DO NOT RELEASE”. If Confidential and Protected Material contains information not available to Competitive Duty Personnel it shall be marked in a manner appropriate to its format to indicate that it “CONTAINS CONFIDENTIAL AND PROTECTED MATERIAL NOT AVAILABLE TO COMPETITIVE DUTY PERSONNEL – DO NOT RELEASE”.

By executing this Agreement, Reviewing Representative is affirming that all information designated by SPP, its member(s), vendor(s), customer(s), or SPP market participant(s) as Confidential and Protected Material, CEII, or Notes of Confidential and Protected Material and CEII will be maintained in the strictest confidence and will not be disclosed to any person or entity who has not executed a Confidentiality Agreement or who is ineligible to receive the Confidential and Protected Material because he or she is Competitive Duty Personnel. Competitive Duty Personnel are prohibited from receiving any Confidential and Protected



Material or Notes of Confidential and Protected Material that include Resource-specific Data. In no event shall Reviewing Representative disclose Confidential and Protected Material or Notes of Confidential and Protected Material and CEII that includes Resource-specific Data to any Competitive Duty Personnel or otherwise permit Competitive Duty Personnel to gain access to any Confidential and Protected Material or Notes of Confidential and Protected Material that include Resource-specific Data.

When Confidential and Protected Material is not available to Competitive Duty Personnel, such material and information derived therefrom may not be reviewed by, or disclosed to, Competitive Duty Personnel. If the Reviewing Representative subsequently is assigned to perform any Competitive Duties, that person thereafter shall: (a) have no access to material that is designated as not available to Competitive Duty Personnel, (b) either destroy all such material and any Notes of Confidential and Protected Material related to such material, including deleting from all computers and electronic devices all electronic files containing such material and any Notes of Confidential and Protected Material related to such material, or, when feasible, return such material to SPP and any Notes of Confidential and Protected Material and (c) continue to comply with the requirements set forth in this Agreement with respect to any Confidential and Protected Material that is not available to Competitive Duty Personnel and Notes of Confidential and Protected Material, related to such material to which the Reviewing Representative previously had access.

If the designation of Confidential and Protected Material is changed from Confidential and Protected Material that is available to Competitive Duty Personnel to Confidential and Protected Material that is not available to Competitive Duty Personnel a Reviewing Representative, who is Competitive Duty Personnel, thereafter shall: (a) have no access to such redesignated Confidential and Protected Material and any Notes of Confidential and Protected Material related to such material, (b) either destroy such redesignated material and any Notes of Confidential and Protected Material related to such redesignated material, including deleting from all computers and electronic devices all electronic files containing such redesignated material and any Notes of Confidential and Protected Material related to such material, or, when feasible, return such redesignated material and any Notes of Confidential and Protected Material to SPP and (c) shall continue to comply with the requirements set forth in this Agreement with respect to any redesignated Confidential and Protected Material or Notes of Confidential and Protected Material to which the Reviewing Representative previously had access.

Reviewing Representative shall take all necessary precautions to prevent disclosure of the Confidential and Protected Material, CEII, and Notes of Confidential and Protected Material and CEII to the public or any third party. Reviewing Representative shall keep Confidential and Protected Material, CEII, and Notes of Confidential and Protected Material and CEII in a secure place and safeguard the Confidential and Protected Material, CEII, and Notes of Confidential and Protected Material and CEII with the same degree of care to avoid unauthorized disclosure



as Reviewing Representative uses to protect his/her own or his/her employer's confidential and private information and CEII.

Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Confidential and Protected Material, CEII or Notes of Confidential and Protected Material and CEII unless Reviewing Representative has first executed this Agreement.

Confidential and Protected Material or CEII disclosed by SPP and Notes of Confidential and Protected Material and CEII shall not be used for any purposes or disclosed in any manner other than as specified herein:

- (a) To perform transmission planning and/or transmission operations activities;
- (b) To participate in the transmission planning process pursuant to Attachment O of the Tariff and/or to replicate the results of specified transmission planning studies;
- (c) To validate generation interconnection study results or aggregate study results; or
- (d) For any other use which has been approved in writing by SPP in advance and with such prior written approval attached to this Agreement by Reviewing Representative.

Confidential and Protected Material and/or CEII disclosed by SPP and Notes of Confidential and Protected Material and CEII shall not be disclosed in any manner except to a Reviewing Representative engaged in one of the purposes listed in (a) through (d) above who requires such materials in order to carry out that person's responsibilities related to such purpose.

Reviewing Representatives may make copies of Confidential and Protected Material or CEII, but such copies become Confidential and Protected Material or CEII, as applicable. Reviewing Representatives may make notes of Confidential and Protected Material or CEII, which shall be treated as Notes of Confidential and Protected Material and CEII, if they copy or disclose the contents of Confidential and Protected Material or CEII.

The obligation with respect to handling and using Confidential and Protected Material, CEII, and Notes of Confidential and Protected Material and CEII set forth in this Agreement is not applicable to information that:

- (a) Is in the public domain at the time of its disclosure to Reviewing Representative, or thereafter enters the public domain through no breach of this Agreement by Reviewing Representative;



- (b) Is known by Reviewing Representative at the time of disclosure by SPP;
- (c) Is independently developed by Reviewing Representative or by a person or persons who have not had access to the Confidential and Protected Material or CEII received by Reviewing Representative from SPP;
- (d) Is available to Reviewing Representative or others by inspection or analysis or related products available in the open market place;
- (e) Is made available by SPP to anyone without similar restrictions by disclosing of such Confidential and Protected Material;
- (f) Is lawfully obtained by Reviewing Representative from a source other than SPP;
- (g) Is approved for release in writing by a representative of SPP authorized to issue such a release;
- (h) Is required by law or regulation to be disclosed, but only to the extent and for the purposes of such required disclosure; provided, that Reviewing Representative will first notify SPP of such requirement and permit SPP to seek an appropriate protective order; or
- (i) Is disclosed in response to a valid order of a court or other governmental body of a state or of the United States or any political subdivisions thereof, but only to the extent of and for the purposes of such order; provided, that Reviewing Representative will first notify SPP of the order and permit SPP to seek an appropriate protective order.

Confidential and Protected Material and CEII will be deemed the property of SPP, its member(s), vendor(s), customer(s), or SPP market participant(s). Reviewing Representative will, within ten (10) days of a written request by SPP return all Confidential and Protected Material, CEII, and any Notes of Confidential and Protected Material and CEII related to such materials to SPP or, if so directed, destroy all such Confidential and Protected Material, CEII, and any Notes of Confidential and Protected Material and CEII related to such materials, including deleting from all computers and electronic devices all electronic files containing such materials and any Notes of Confidential and Protected Material and CEII related to such materials. Reviewing Representative also will, within ten (10) days of a written request by SPP, certify in writing that it has satisfied the obligations of such a request.

Representations and Warranties

Reviewing Representative represents and warrants that:



- (a) He/she has the authority to enter into this Agreement and to lawfully receive the disclosures contemplated hereunder;
- (b) He/she shall handle the Confidential and Protected Material, CEII, or Notes of Confidential and Protected Material and CEII in accordance with this Agreement;
- (c) He/she shall not use the Confidential and Protected Material, CEII, or Notes of Confidential and Protected Material and CEII, except as permitted under this Agreement; and
- (d) In the event that the Reviewing Representative is (i) an employee of a transmission owner in the SPP Region or (ii) otherwise engages in the performance of transmission planning and/or transmission operations activities, he/she shall comply at all times with FERC's Standards of Conduct or Equivalent Standards of Conduct, unless the appropriate waiver from such standards has been obtained from FERC.

If Reviewing Representative represents and warrants that he/she will comply with Equivalent Standards of Conduct, SPP shall review the Equivalent Standards of Conduct to determine whether such standards provide protections substantially equivalent to those set forth in FERC's Standards of Conduct. A copy of such Equivalent Standards of Conduct shall be attached to this Agreement.

Miscellaneous Provisions

No manufacturing or software license under any patents or copyrights of any party is granted by this Agreement or by any disclosure of Confidential and Protected Material or CEII.

Reviewing Representative agrees that an impending or existing violation of any provision of this Agreement would cause SPP, its member(s), vendor(s), customer(s), or SPP market participant(s) irreparable injury for which there would be no adequate remedy at law, and that SPP, its member(s), vendor(s), customer(s), or SPP market participant(s) will be entitled to seek immediate injunctive relief prohibiting such violation without the posting of bond or other security, in addition to any other rights and remedies available.

No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement or any disclosure hereunder, except for the right to use such information in accordance with this Agreement. No warranties of any kind are given for the Confidential and Protected Material or CEII disclosed under this Agreement.



This Agreement may not be assigned by Reviewing Representative. Any assignment in violation of this provision will be void.

This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, by and under the laws of the State of Arkansas (without giving effect to principles of conflicts of laws). Jurisdiction and venue with respect to any dispute arising under this Agreement shall lie in any appropriate state or federal court situated in the State of Arkansas.

If any provision of this Agreement is held invalid or unenforceable, such provision will be deemed deleted from this Agreement and replaced by a valid and enforceable provision that so far as possible achieves the intent of SPP and Reviewing Representative in agreeing to the original provision. The remaining provisions of this Agreement will continue in full force and effect.

ACKNOWLEDGED AND AGREED:

By Reviewing Representative (Signature)

Date: _____

Printed Name

Title

Company

Email: _____