

Montana-Dakota Utilities Co.

FERC Standards of Conduct Implementation Plan

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FERC Standards of Conduct
Implementation Plan

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Revision History

Revision Number	Reason for/Description of Revision	Effective Date of Revision
Rev. 1.0	Original Document	November 1, 2023
Rev. 2.0	Documented change in Compliance Team	June 4, 2024
Rev 3.0	Update to CIP Senior Manager reference and removed Supervisor, Generation Accounting from Market Function definition.	June 1, 2025

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Introduction:

This document (“FERC Standards of Conduct Implementation Plan” or “Implementation Plan”) summarizes Montana-Dakota Utilities Co.’s (“Montana-Dakota”) compliance with the Federal Energy Regulatory Commission’s (“FERC”) Standards of Conduct for Transmission Providers under FERC Order No. 717 and found in the Code of Federal Regulations at 18 C.F.R. Part 358 (“FERC Standards of Conduct”). This Implementation Plan functions as an employee reference guide and reflects Montana-Dakota’s commitment to compliance with the FERC Standards of Conduct.

The plan outlined in this document is applicable to all Montana-Dakota employees and contractors subject to the FERC Standards of Conduct, including those employees classified as Transmission Function Employees and Marketing Function Employees. Additionally, employees and contractors that are not classified as a Marketing Function Employee or Transmission Function Employee are subject to the No Conduit Rule outlined in the FERCs Standards of Conduct found at 18 C.F.R. § 358.6, which prohibits all employees from transmitting non-public transmission information to a Marketing Function Employee. Finally, all employees and contractors are subject to the Non-Discrimination requirements of the FERC Standards of Conduct found at 18 C.F.R. § 358.4.

Reading this Implementation Plan is not a substitute for training of designated employees who are required to complete the FERC Standards of Conduct training.

Background:

In 1996, FERC issued an order, commonly known as Order No. 888¹, which required that all investor-owned utilities in the United States allow third parties to use their transmission systems to buy and sell energy pursuant to a form of agreement called an open access transmission tariff. FERC’s objective was to eliminate existing anti-competitive practices by establishing a non-discriminatory system in which all participants would be required to utilize a standardized agreement.

A companion order, known as Order No. 889², required public utilities adopt a set of rules, called standards of conduct, separating transmission and merchant functions. These rules are intended to foster competition in electricity and gas markets by restricting the ability of electric transmission or a gas transportation company to grant undue preferences to its own marketing and sales functions, or to those of its affiliates.

¹ Order No. 888 is entitled *Promoting Wholesale Competition through Open Access Non-discriminatory Transmission Services by Public Utilities*.

² Order No. 889 is entitled *Open Access Same-time Information System and Standards of Conduct*.

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On December 19, 1996, Montana-Dakota filed with FERC an application for full waiver of the Open Access Same Time Information System (“OASIS”) and standards of conduct requirements of Order No. 889. Montana--Dakota stated in its application that it qualified for a waiver because it met the Small Business Administration’s definition of a small electric utility. The Commission granted Montana-Dakota’s request for waiver on May 29, 1997.

In 2008, FERC issued Order No. 717³ making substantial amendments to the FERC Standards of Conduct. The order clarified and simplified standards of conduct compliance. Order No. 717 prohibits the passing of non-public transmission information from a power company’s transmission business unit to those who sell or support the sale of wholesale energy in the same company.

On February 8, 2023, Montana-Dakota received approval to serve a large new customer load and determined that it no longer qualified for a waiver of the FERC Standards of Conduct under FERC’s rules by the middle of November 2023.

While Montana-Dakota has transferred functional control of its transmission to Midcontinent Independent System Operator, Inc. (“MISO”), Montana-Dakota operates and controls its transmission system and has access to Transmission Function information. Therefore, Montana-Dakota must comply with the FERC Standards of Conduct.

Statement of Policy:

The policy of Montana-Dakota is to fully comply with the FERC Standards of Conduct for Transmission Providers.⁴ Montana-Dakota’s Standards of Conduct (“Standards of Conduct”) include the following four fundamental principles:

- **Non-discrimination.** Montana-Dakota shall treat all affiliated and non-affiliated transmission customers on a not-unduly discriminatory basis and shall not make or grant any undue preference or advantage to any person or subject any person to undue prejudice or disadvantage with respect to the transmission of electric energy or the wholesale sale of electric energy.
- **Independent Functioning.** Transmission Function Employees and Marketing Function Employees are required to function separately.

³ Order No.717 is entitled *Standards of Conduct for Transmission Providers*.

⁴ The FERC Standards of Conduct are contained in 18 C.F.R. Part 358.

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- **No Conduit of transmission information.** Montana-Dakota’s employees, contractors, consultants, and agents are prohibited from disclosing, or using a conduit to disclose, non-public Transmission Function Information to Montana-Dakota Marketing Function Employees.
- **Equal access to non-public transmission information.** Montana-Dakota employees shall provide equal access to non-public Transmission Function Information that is disclosed to Marketing Function Employees to all customers.

In furtherance of these objectives, FERC has promulgated rules that govern the interaction and communication between certain employees, contractors, consultants and agents (collectively referred to in these procedures as “employees”) of Montana-Dakota and with regard to certain information.

Chief Compliance Officer and Compliance Team:

Darcy Neigum, Vice President Electric Supply is Montana-Dakota’s Chief Compliance Officer for the Standards of Conduct. Allison Waldon, Attorney and Courtney Vetter, Manager Electric Systems Compliance assist the Chief Compliance Officer with implementing and enforcing the Standards of Conduct. Collectively, these individuals are referred to as the Standards of Conduct Compliance Team. Policies, procedures, and training materials cannot cover all situations that may occur. Questions and concerns about interpretations or application of the Standards of Conduct policy and procedure should be directed to a member of the Compliance Team.

COMPLIANCE TEAM		
<u>Chief Compliance Officer:</u> Darcy Neigum VP Energy Supply Montana-Dakota Utilities Co. 400 North 4 th Street Bismarck, ND 58501 701-222-7757 Darcy.Neigum@MDU.com	<u>Compliance Manager:</u> Courtney Vetter Manager Electric System Compliance Montana-Dakota Utilities 400 North 4 th Street Bismarck, ND 58501 701-221-4383 Courtney.Vetter@mdu.com	<u>Legal Counsel:</u> Allison Waldon Sr. Counsel MDU Resource Group, Inc. 1200 W Century Ave Bismarck, ND 58503 701-530-1089 Allison.Waldon@MDUResources.com

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Definitions:

a) **“Affiliate”** of a specified entity means 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. “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) **“Internet Website”** refers to the Internet location where Montana-Dakota posts, by electronic means, among other things, the information required to be posted under these Standards of Conduct, [FERC Standards of Conduct | Montana-Dakota Power Company \(montana-dakota.com\)](https://www.montana-dakota.com/ferc-standards-of-conduct).

c) **“Marketing Function”** means the sale for resale, or the submission of offers to sell, of 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 in their POLR capacity.

d) **“Marketing Function Employee”** means an employee, contractor, consultant, or agent of Montana-Dakota or of an Affiliate of Montana-Dakota who actively and personally engages on a day-to-day basis in the Marketing Function, including the submission of pricing offers, associated with Montana-Dakota’s generation fleet. Montana-Dakota’s electric Marketing Function is comprised of the Power Production Financial Analyst positions.

e) **“Open Access Same-time Information System” (OASIS)** refers to a computerized information system, developed as an Internet application, that allows Montana-Dakota to post, by electronic means, information relating to its Standards of Conduct. That website is <http://www.oasis.oati.com/MDU/index.html>.

f) **“Transmission”** means electric transmission, network or point-to-point service, ancillary services or other methods of electric transmission, or the interconnection with transmission facilities. Montana-Dakota has transferred functional control of its transmission system to MISO. MISO, as Montana-Dakota’s Transmission Provider, administers all transmission services under the MISO Open Access Transmission, Energy, and Operating Reserves Markets Tariff (“Tariff”), including the interconnection of facilities and granting and denying transmission service on Montana-Dakota’s transmission system. Montana-Dakota does not own, operate, or control an interstate natural gas pipeline.

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g) **“Transmission Customer”** means 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.

h) **“Transmission Function”** means the planning, directing, organizing, or carrying out of day-to-day transmission operations, including the granting, and denying of Transmission Service requests. Montana-Dakota’s day-to-day transmission functions are carried out by employees of Montana-Dakota’s System Operations and Planning Department. For Standards of Conduct purposes, Transmission Functions do not include performing system impact studies, facilities studies, and long-term transmission planning, with the exception that Transmission Functions do include system impact studies to determine whether a transmission system can support a Transmission Service request, regardless of the duration of the Transmission Service that has been requested.

i) **“Transmission Function Employee”** means an employee, contractor, consultant or agent of Montana-Dakota who actively and personally engages on a day-to-day basis in the Transmission Function, including Manager, Control Room; Outage Coordinator; Senior System Operator; System Operator; Supervisor, Engineering Services; Planning Engineer; and Electric Systems Operator Trainer.

j) **“Transmission Function Information”** means information relating to the Transmission Function, including non-public information such as:

- i) Transmission system information, including historic data;
- ii) System status, including line loading, equipment status, scheduled outages, curtailments, schedules and loading alarms, including historic data; and
- iii) Transmission management and operating procedures.

Transmission Function Information does not include information that does not pertain to day-to-day transmissions, such as:

- i) Information about transmission construction; and
- ii) Information about long-term transmission planning.

k) **“Transmission Provider”** means the any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce. Montana-Dakota is a public utility under the terms of the Federal Power Act (16 U.S.C. Section 824, *et seq.*) and is subject to the jurisdiction of FERC.

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l) **“Transmission Service”** means the provision of any transmission as defined in 18 C.F.R. Section 358.3(f).

m) **“Waiver”** means the determination by a Transmission Provider, if authorized by its tariff, to waive any provisions of its tariff for a given entity.

Non-discrimination requirements:

It is the responsibility of all Montana-Dakota employees and Montana-Dakota’s contractors, consultants, and agents to comply with the Standards of Conduct. Montana-Dakota shall treat all affiliated and non-affiliated Transmission Customers on a not-unduly discriminatory basis and shall not make or grant any undue preference or advantage to any person or subject any person to undue prejudice or disadvantage with respect to the transmission of electric energy or the wholesale sale of electric energy.

No Montana-Dakota employee may provide any undue preference to any person in matters relating to the sale or purchase of Transmission Service. This requirement applies to all matters relating to Transmission Service, including but not limited to the provision of non-public Transmission Function Information to any person, regardless of whether that person is a Marketing Function Employee to whom the No Conduit Rule applies.

Implementation of the Independent Functioning Rule:

Shared Facilities. As required by Section 358.7(e)(2),⁵ Montana-Dakota’s General Office at 400 North 4th Street, Bismarck, North Dakota, constitutes the only “shared facility” between the Transmission Provider and the Marketing Function Employees. The Transmission Provider and Marketing Function Employees are located in separate buildings at Montana-Dakota’s General Office which are located adjacent to each other. Montana-Dakota’s transmission control room is physically separated from its Marketing Function Employees by locked doors with card key access.

No Marketing Function Employees may have access to the transmission control room. All transmission control centers are secure and accessible by cardkeys issued only to authorized personnel. Marketing Function Employees shall not have access to the transmission control centers or similar facilities used for transmission operation or reliability functions that differ in any way from the access available to other transmission customers.

Access to the transmission control center is secured by an electronic lock and authentication device.

⁵ 18 C.F.R. § 358.7(e)(2).

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Authorization requests for access must be approved by Montana-Dakota's NERC CIP Senior Manager or designated alternate(s). Employees granted unescorted access must also meet the appropriate personnel risk assessment, training, and security awareness requirements. Such access shall be ended as appropriate and access credentials shall be assigned and issued as needed. On occasion, personnel or third parties that are not authorized for unescorted access may need temporary access. These personnel or third parties are to be accompanied by a person with authorization. Computerized logging of physical access records information that identifies all individuals entering the control center twenty-four hours a day, seven days a week. A login book or sign in sheet may be used as an alternate to the computerized log.

Montana-Dakota's Communication Engineering Department erected and maintains appropriate password requirements, firewalls, and other security measures for all Transmission Provider's information systems and conducts periodic reviews to ensure the integrity of such systems.

Information Access and No Conduit Rule:

Except as provided in Section 358.7(b), (c) and (h),⁶ Montana-Dakota employees, contractors, consultants, and agents may not disclose non-public Transmission Function Information to any of Montana-Dakota's Marketing Function Employees and may not use any person as a conduit for disclosing such information to Montana-Dakota's Marketing Function Employees.

The No Conduit Rule⁷ applies to all employees of Montana-Dakota, whether or not they engage in Transmission Functions or Marketing Functions. Non-Marketing Function employees of Montana-Dakota who may become privy to non-public Transmission Function information are prohibited from directly or indirectly disclosing such information to a Marketing Function Employee. This applies to all forms of communication, i.e., phone, emails, fax, in-person, etc., whether during business or non-business hours.

Montana-Dakota's Marketing Function Employees shall rely on MISO, public internet, OASIS, or other means available to the general public to obtain information regarding non-public Transmission Function Information unless otherwise authorized by the Standards of Conduct rules.

If an employee with the Transmission Function Information is unsure whether the information is in fact Transmission Function Information or whether the requestor is entitled to receive such information, the employee will consult with his or her supervisor or the Compliance Team.

⁶ 18 C.F.R. § 358.7(b), (c), (h).

⁷ 18 C.F.R. § 358.6.

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If a Transmission Function Employee, either *intentionally* or *unintentionally*, discloses Transmission Function Information to a Marketing Function Employee, the Transmission Function Employee must immediately contact his or her supervisor or the Compliance Team and state what Transmission Function Information was disclosed.

If a Transmission Function Employee *intentionally* discloses Transmission Function Information to a Marketing Function Employee, the Transmission Function Employee may be subject to disciplinary action (see *Violations & Reporting* below).

Exceptions for system operations. In the event of emergency operating conditions potentially affecting the transmission system, the Chief Compliance Officer will be consulted and may authorize Transmission Function Employees and Marketing Function Employees to exchange non-public transmission information that: (1) is related to compliance with reliability standards, (2) is necessary to maintain or restore operation of the transmission system or generating units, or (3) may affect generating dispatch.

The Chief Compliance Officer or member of the Compliance Team must be notified of such exchange, in advance, if possible and within twenty-four hours if contemporaneous. The exchange must be recorded by contemporaneous hand-written notes, e-mails, recorded telephone lines, or similar means and retained for five years. The Manager, Electric System Compliance has been designated as the Montana-Dakota individual responsible for administering the recording policy, ensuring the recordings or log, and retaining the record for five years as specified in section 358.7(h).⁸

Transparency Rule:

Contemporaneous disclosure. If any information must be posted under Section 358.7,⁹ once notified, the Manager Electric Systems Compliance shall ensure that the information is posted on Montana-Dakota's internet website at [FERC Standards of Conduct | Montana-Dakota Utilities Co. \(montana-dakota.com\)](https://www.montana-dakota.com/ferc-standards-of-conduct) and shall notify the rest of the Compliance Team of the posting as soon as practicable. If a Montana-Dakota employee, contractor, consultant, or agent discloses or obtains knowledge of a disclosure or alleged disclosure of non-public Transmission Function Information contrary to the Standards of Conduct rules and Montana-Dakota's policy and procedures, that person shall immediately notify a member of the Compliance Team. The Chief Compliance Officer shall conduct, or cause the conduct of, an investigation regarding the alleged disclosure and take the appropriate actions in response to his or her findings, including posting disclosed information on

⁸ 18 C.F.R. § 358.7(h).

⁹ 18 C.F.R. § 358.7.

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Montana-Dakota's Internet Website if appropriate.

Exclusion for specific transaction information. Montana-Dakota's Transmission Function Employees may discuss with its Marketing Function Employees a specific request for Transmission Service submitted by the Marketing Function Employee. Any non-public Transmission Function Information that is disclosed to the Marketing Function Employee pursuant to this exception need not be posted on Montana-Dakota's Internet website.

Voluntary consent provision. Montana-Dakota is a transmission-owning member of MISO and has transferred functional control of its transmission system to MISO. MISO, as Montana-Dakota's Transmission Provider, offers Transmission Service, including interconnection of facilities and granting and denying of Transmission Service over Montana-Dakota's transmission system, under the terms of the MISO Tariff. Montana-Dakota cannot provide any operational or rate-related preferences with respect to Transmission Service provided by the MISO under its Tariff. A Transmission Customer may authorize disclosure of non-public customer-specific information to a Montana-Dakota Marketing Function Employee. Such authorization, together with a statement by Montana-Dakota that it did not provide any operational or rate-related preference in exchange for that authorization, shall be posted on Montana-Dakota's internet website at [FERC Standards of Conduct | Montana-Dakota Utilities Co. \(montana-dakota.com\)](https://www.montana-dakota.com/ferc-standards-of-conduct).

Posting written procedures on the public internet. A copy of this Standards of Conduct Implementation Plan is posted on the Montana-Dakota Internet web site at [FERC Standards of Conduct | Montana-Dakota Utilities Co. \(montana-dakota.com\)](https://www.montana-dakota.com/ferc-standards-of-conduct).

Affiliate Information. Montana-Dakota's Manager, Electric System Compliance posts and maintains information on the Montana-Dakota website, <https://www.montana-dakota.com/wp-content/uploads/PDFs/Rates-Services/FERC/MDUaffiliateinformation.pdf>.

Employee information. To enhance compliance, the Director, Power Production shall notify the Compliance Team of any change in the Marketing Function Employees within three business days of any such change. The Manager, Electric System Compliance, shall update the required Standards of Conduct information on the Montana-Dakota website and OASIS. The Manager, Electric System Compliance, and the Compliance Team shall review the list not less than annually and shall consult with each other concerning required changes to the list.

Information regarding Transmission Function Employee job titles and job descriptions is posted on Montana-Dakota's website under the Standards of Conduct link. When employees of Montana-Dakota transfer from a Montana-Dakota Marketing Function to a Montana-Dakota Transmission

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Function position or vice versa, the following information shall be posted on Montana-Dakota's website within seven days of the effective date of the transfer:

- The name of the transferring employee.
- The respective titles held while performing each function.
- The effective date of the transfer.

No such employee transfer will be used as a means to circumvent any provision of the Standards of Conduct.

Internet website posting requirements:

All information required by FERC's Standards of Conduct can be found on Montana-Dakota's website [FERC Standards of Conduct | Montana-Dakota Utilities Co. \(montana-dakota.com\)](https://montana-dakota.com/ferc-standards-of-conduct). All Standards of Conduct postings will be maintained (i.e., posted) for a minimum of ninety days. Emergency suspension of the posting requirements must be approved by the Chief Compliance Officer. The Chief Compliance Officer is responsible for notifying FERC if it is anticipated that the suspension will exceed one month.

Waivers. As a transmission-owning member of MISO, Montana-Dakota does not anticipate a posting related to a waiver of the Transmission Service tariff. Any waiver that Montana-Dakota grants will be posted on its website [FERC Standards of Conduct | Montana-Dakota Utilities Co. \(montana-dakota.com\)](https://montana-dakota.com/ferc-standards-of-conduct) and will be made within one business day of the act of a waiver; and a log of the acts of waiver will be maintained and made available to the Commission upon request. The records will be kept for a period of five years from the date of each act of waiver.

Implementation requirements. Montana-Dakota will implement these policies and procedures as of November 1, 2023.

Montana-Dakota has implemented measures to ensure the requirements of Sections 358.5 (the "Independent Functioning Rule")¹⁰ and 358.6 (the "No Conduit Rule")¹¹ are observed by the employees, contractors, consultants, and agents of Montana-Dakota and any affiliates. The Manager, Electric System Compliance shall distribute a copy of the current version of this Implementation Plan to each person specified in Section 358.8(b)(2)¹² not less than once each year. Such distribution may occur in person or by e-mail.

¹⁰ 18 C.F.R. § 358.5.

¹¹ 18 C.F.R. § 358.6.

¹² 18 C.F.R. § 358.8(b)(2).

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Training. Montana-Dakota shall conduct training on the Standards of Conduct for all its Transmission Function Employees, Marketing Function Employees, officers, directors, supervisory employees, and any other employee likely to become privy to Transmission Function Information not less than once each calendar year.

Montana-Dakota contractors, agents, and consultants that may be privy to Transmission Function Information are also required to complete the training.

The Manager, Electric System Compliance, shall review the information about the new and transferred employees and determine which employees must receive Standards of Conduct training which must be completed within the first 30 days from commencement of employment or the effective date of the transfer.

After someone receives training, that person must certify their completion of the training. The Manager, Electric System Compliance shall maintain a list of all persons who have received training and shall review the list periodically to ensure that all required training has been completed.

The substance of the Standards of Conduct shall be communicated annually to all Montana-Dakota employees through a company-wide publication.

Books and records. Montana-Dakota maintains its books and records as required by FERC rules and regulations and will make them available for Commission inspections.

Violations & Reporting:

Any suspected violation of the Standards of Conduct will be fully investigated. If you violate the Standards of Conduct you may be subject to disciplinary action, up to and including termination, depending upon the circumstances of the violation. You are expected to report suspected or potential violations of the Standards of Conduct. Prompt action by you will allow us to take any and all necessary corrective actions. If you are aware of a suspected or potential violation of the Standards of Conduct, you can confidentially report it to any member of the Compliance Team. Alternatively, you can report it to your supervisor or a company officer. If you are uncomfortable contacting a Compliance Team member, your supervisor, or a company officer you may call the Ethics Point hotline at 1-866-294-4676 or submit a concern online at <https://secure.ethicspoint.com/domain/media/en/gui/7389/index.html>. You may call this toll-free service 24 hours a day, 7 days a week, to report information about a possible violation of the Standards of Conduct. A trained specialist who is employed outside Montana-Dakota answers the Ethics Point and callers may remain anonymous if they wish. Information reported to the Ethics Point will be fully

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investigated and corrective action will be taken as necessary.

No employee will be discharged, threatened, or otherwise discriminated against, or retaliated against, because the employee, or a person acting on behalf of the employee, makes a good-faith disclosure concerning any actual or potential violation of the FERC Standards of Conduct.

Any employee who is found to have willfully violated a Standard of Conduct and/or knowingly failed to report a violation will be subject to discipline, which could include discharge from employment for serious or repeated violations.

Questions or concerns. Employees should direct any questions and report any concerns to their supervisor or Montana-Dakota's Manager Electric Systems Compliance, Courtney Vetter at 701-221-4383 or courtney.vetter@mdu.com