

CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT (this "Agreement"), dated as of the ____ day _____, 200__, is entered into by and between the SERC Reliability Corporation ("SERC") and _____ ("Non-Member Party"), hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, SERC is an organization formed to augment further the reliability and adequacy of bulk power supply in the areas served by its Member Systems;

WHEREAS, SERC comprises a region that includes 16 states in the southeastern central United States, and has more than 50 Members comprising and engaged in all segments of the electric power industry, to include both private and public electric utilities, government-owned utilities, power marketers, and merchant electricity generators and all the utility activities associated therewith;

WHEREAS, Non-Member Party is a member of a separate and distinct organization, to include both private and public electric utilities, government-owned utility power marketers, and independent power generators and all the utility activities connected therewith;

WHEREAS, SERC and its Members engage in activities and studies that include, among other things, establishing, monitoring, assessing, and enforcing NERC Reliability Standards and developing and exchanging information with respect to operating, planning and cyber security matters that relate to adequacy and reliability, all as such relate to bulk power supply (collectively, the "Bulk Power Activities");

WHEREAS, SERC and its Members desire that the Bulk Power Activities be carried out in an atmosphere of full and complete disclosure, but one which also protects the confidential and proprietary nature of information made available to SERC by its Members or otherwise, and made available to employees of Members ("Member Employees"), Non-Member Party, and employees of Non-Member Party ("Non-Member Employees") performing Bulk Power Activities, by putting into place a process that requires the Member Employees, Non-Member Party and Non-Member Employees to use Confidential Information (as such term shall be defined in this Agreement) only to perform Bulk Power Activities and otherwise prohibits disclosure of any such Confidential Information to any other person for any other purpose;

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WHEREAS, Non-Member Party is in need of access to certain Confidential Information, and SERC and its Members recognize and acknowledge such need; and

WHEREAS, SERC and its Members will allow the disclosure of such Confidential Information to Non-Member Party upon the terms and conditions of this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. Confidential Information. For purposes of this Agreement, the term "Confidential Information" means any and all proprietary and confidential information in the possession of SERC, whether printed, written, oral, electronic or on software, including but not limited to information (a) developed or produced by SERC itself, or (b) obtained from one or more of SERC's Members, and in each case made available to Non-Member Party or Non-Member Employees to perform Bulk Power Activities. Such Confidential Information includes, but is not limited to, non-price information involving power and transmission systems planning and operation, power sales and transfers, transmission transactions, and such other information as SERC or its Members in their sole discretion determine is proprietary and/or confidential; provided, however, that such proprietary and/or confidential information whether in written or electronic form, is marked as confidential or, if disclosed orally, is identified as confidential at the time of disclosure and then is promptly confirmed in writing or electronically to the recipient as confidential. The term "Confidential Information" shall not include any information that Non-Member Party can demonstrate (a) is or has been independently developed by the Non-Member Party or Non-Member Employee, or is lawfully received by the Non-Member Party or Non-Member Employee from another source having the right to furnish such information to either; (b) has become generally available to the public without breach of this Agreement by the Non-Member Party or Non-Member Employee engaged in Bulk Power Activities; or (c) which prior to the time of a Non-Member Party or Non-Member Employee performing Bulk Power Activities, the Non-Member Party or Non-Member Employee can demonstrate, as evidenced by documentation in the possession of either, was rightfully in possession of either for some other lawful purpose and without restrictions on its use.

2. Written Consent Required. If a SERC Member submits Confidential Information to SERC, SERC must obtain written consent from the submitting SERC Member prior to releasing such Confidential Information to Non-Member Party. The submitting Member's consent shall be in the sole discretion of such Member.

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3. Obligation of Confidentiality. The Non-Member Party shall assure that all Confidential Information to which it has access shall be kept confidential by the Non-Member Party. Among other things, the Non-Member Party shall ensure that, without the prior written consent of SERC or the appropriate Member, whichever owns such Confidential Information, which consent shall be in the sole discretion of SERC or the appropriate Member, the Non-Member Party shall not: (a) use or cause to be used the Confidential Information for any purpose whatsoever other than performing any or all of the Bulk Power Activities; (b) distribute or disclose in any manner whatsoever any Confidential Information; or (c) permit any third party to have access to any Confidential Information. However, Non-Member Party may transmit Confidential Information to, if applicable, its Non-Member Employees, attorneys, accountants and financial advisors (collectively, the "Representatives") who need to know the Confidential Information for the purposes of the Non-Member Party performing Bulk Power Activities, as set forth in this Agreement, provided that such Representatives be informed of the terms of this Agreement by the Non-Member Party, instructed by the Non-Member Party that they are to comply with those terms and shall acknowledge in writing that they have read the Agreement and understand its terms.

4. Obligations of Non-Member Party. To meet its obligations under this Agreement, particularly those set out in Section 3 above, the Non-Member Party shall maintain a list of each Representative who received access to such Confidential Information. Each such Representative on the list shall be informed of and instructed in the terms of this Agreement by the Non-Member Party, instructed by the Non-Member Party that they are to comply with those terms and shall acknowledge in writing that they have read this Agreement and understand its terms prior to receiving access to any Confidential Information. The Non-Member Party commits that if one of its employees acts in a manner that results in the Non-Member Party and/or its employee(s) breaching or otherwise violating the terms of this Agreement, Non-Member Party will (a) immediately upon learning of such breach or violation notify SERC and any Member whose Confidential Information has been wrongfully disclosed, and (b) take such disciplinary action against such employee as it in its sole discretion deems appropriate.

5. Ownership of Confidential Information. All Confidential Information submitted to SERC by a Member, and then furnished to the Non-Member Party by SERC, shall be and will remain the property of the submitting Member. All Confidential Information developed or produced by SERC, and furnished to Non-Member Party by SERC, shall be and will remain the property of SERC.

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6. Disclosures Required by Court Order or Law. In the event that the Non-Member Party and/or any Non-Member Employee receives a request to disclose any or all of the Confidential Information under the terms of (a) a state freedom or information act, public records act or similar statute, (b) the Federal Freedom of Information Act, (c) a valid and effective subpoena or order issued by a court of competent jurisdiction or by a governmental body or agency, or (d) pursuant to an appropriate request for production of documents in any proceeding before an administrative agency or court of competent jurisdiction, the Non-Member Party agrees to notify SERC, or, if the Confidential Information at issue was submitted by a Member, the submitting Member as well as SERC, immediately of the existence, terms and circumstances surrounding such a request so that SERC and/or the submitting Member may seek an appropriate protective order, take such other action as it deems appropriate to protect against the release of Confidential Information or waive compliance by the Non-Member Party with the appropriate provisions of this Agreement. If the Non-Member Party is compelled to disclose any of the Confidential Information, only that portion thereof compelled to be disclosed will be disclosed, and the Non-Member Party shall use reasonable best efforts to obtain an order and other reliable assurance that confidential treatment shall be accorded to the Confidential Information so disclosed.

7. Remedies. Each Party agrees that any threatened or existing violation of this Agreement would cause SERC or the Member submitting Confidential Information to SERC irreparable harm for which it would not have an adequate remedy at law, and that SERC or such Member shall be entitled to seek immediate injunctive relief prohibiting such violation. In the event that Confidential Information is disclosed in violation of this Agreement, nothing contained herein shall preclude SERC or any Member from pursuing an action for damages or for enforcement of any other rights or remedies they shall have at law or in equity.

8. No Licenses Implied. Nothing contained in this Agreement shall be construed as granting or conferring upon either Party any rights by license or otherwise, express or implied, to the Confidential Information.

9. Return of Confidential Information. Upon the request of SERC, either written or electronically transmitted, all documents, records, materials and similar repositories of Confidential Information, including any and all copies thereof in possession of Non-Member Party or Non-Member Employee obtained by such Non-Member Party or Non-Member Employee in the course of performing any or all of the Bulk Power Activities, whether prepared by or obtained from SERC, shall be promptly surrendered and delivered to SERC, and such Non-Member Party shall certify in writing that all Confidential Information has been returned to SERC. Likewise, upon request of SERC, Non-Member Party or Non-

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Member Employee shall ensure the destruction of all notes, analyses and other information prepared or extracted by Non-Member Party or Non-Member Employee and/or other Representatives from Confidential Information, and shall certify such destruction to SERC in writing.

10. Entire Agreement. This Agreement sets forth the entire agreement and understanding of the Parties concerning the subject matter hereof, and no representations, promise, inducement or statement of intention not set forth in this Agreement has been made by or on behalf of any Party hereto.

11. Prior Agreements. This Agreement shall supersede any and all Confidentiality Agreements previously entered into between SERC and Non-Member Party and all terms and conditions of this Agreement will apply to any Confidential Information (as defined in any previous Confidentiality Agreements) obtained under any such previous Confidentiality Agreements.

12. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, such provisions shall be fully severable and this Agreement shall be construed as if the illegal, invalid and unenforceable provision had never been a part of this Agreement and the remaining provisions of this Agreement shall be given full force and effect.

13. Survival. The restrictions and obligations of this Agreement shall survive any expiration, termination or cancellation of this Agreement and shall continue to bind the Parties and their successors and permitted assigns.

14. Assignment. Non-Member Party shall not assign any of its rights or delegate any of its duties hereunder to a third party without the required written consent of SERC, which consent shall be at the sole discretion of SERC.

15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama without giving effect to its principles of conflicts of laws.

16. Consent to Jurisdiction. The Parties consent to the nonexclusive jurisdiction of the state and federal courts located in the State of Alabama in any action brought under this Agreement or to enforce its terms. The Parties waive any rights to object to the venue of such courts or to assert that such courts are an inconvenient form.

17. Termination. Either Party may terminate this Agreement by providing sixty (60) days written notice to the other. Notwithstanding any

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such termination, all rights and obligations in this Agreement shall survive with respect to any Confidential Information disclosed prior to the effective date of such termination.

18. Variation of Pronouns. All pronouns and any variations thereof shall be deemed to refer to masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

IN WITNESS WHEREOF, each of the Parties, intending to be legally bound by the provisions of this Confidentiality Agreement, has caused its duly authorized representatives to execute this Confidentiality Agreement as of the date set forth above.

SERC RELIABILITY CORPORATION

By: _____

By: _____

Its: _____

Its: _____