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## Policy and Procedure 10: Conflicts of Interest

### 1. Objective

The objective of this Conflict of Interest Policy (Policy) is as follows:

- To protect the reputation and integrity of MRO's business and the exercise of its delegated responsibilities from the North American Electric Reliability Corporation from real or perceived Conflicts of Interest.
- To protect MRO's tax-exempt interest when MRO is contemplating entering into a transaction or arrangement that might benefit the private interest of a MRO director might result in a possible excess benefit transaction.<sup>1</sup>
- To provide for a procedure to identify, disclose, and resolve Conflicts of Interest.

This policy is intended to supplement, but not replace, any applicable state and federal laws governing Conflict of Interest applicable to nonprofit corporations.

### 2. Policy Application

This policy and procedure is applicable to Midwest Reliability Organization's (MRO) directors.

### 3. Definitions

#### A. Conflict of Interest:

A "Conflict of Interest" is:

- A director or a Family Member is a party to a contract with MRO;
- A director or a Family Member is a party to a contract with MRO and an entity in which the director or Family Member is also a director, officer or other legal representative;
- A director is involved or participating in a Particular Matter directly or indirectly involving MRO; or
- A director or a Family Member has a Material Financial Interest in a transaction or a Particular Matter between MRO and an entity in which the director or Family Member is also a director, officer, or other legal representative.

In situations where you are uncertain, err on the side of caution and disclose the potential conflict as set forth in the Policy. A potential conflict is not necessarily a Conflict of Interest.

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<sup>1</sup> An "excess benefit transaction" is defined by the I.R.S. as "the amount by which the value of the economic benefit provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person exceeds the value of the consideration (including the performance of services) received for providing such benefit." 26 C.F.R. § 53.4958-1(b) (2013) <http://www.law.cornell.edu/cfr/text/26/53.4958-1>



**B. Family Member:**

A “Family Member” is a spouse, parent, child, or spouse of a child of a director, and includes other members of the household of a director whereby the director’s impartiality may be influenced by the interests of Family Members and thus be imputed to the director for Conflict of Interest purposes.

**C. Material Financial Interest:**

A “Material Financial Interest” is a financial interest of any kind, which in view of a reasonable person, there is a predictable (real, as opposed to speculative possibility) that the matter will affect the financial interests of the director or Family Member to a level greater than a Di Minimis Interest.

**D. Particular Matter:**

A “Particular Matter” is a matter where MRO is directly or indirectly involved where in the view of a reasonable person the participation or involvement of the director may cause concerns a director is not acting in good faith and in the best interest of MRO.

**E. Disclosure:**

A “Disclosure” is the Conflict of Interest Disclosure Questionnaire in the form attached to this Policy.

**F. Gift:**

A “Gift” is anything of a value, which includes cash, loans, personal favors, discounts, contributions or goods or services from an industry stakeholder or any other person or entity doing business with MRO except to the extent such Gift is offered to the general public on the same terms and conditions.

**G. Independent Director:**

An “Independent Director” is a director who meets the criteria provided in Section 1.13 of the MRO Bylaws and any other requirements as approved by the board.

**H. Di Minimis Interest:**

A “Di Minimis Interest” means: (a) it is not more than .0005 of that equity’s outstanding equity interests; (b) no more than 5% of the equity’s consolidated gross revenues come from activities related to the work that requires the entity to be on the NERC Compliance Registry; or (c) the investment is held in a (i) diversified fund; (ii) a blind trust; or (iii) unified investment trust.

**4. Disclosure Process - Disclosing Potential Conflicts of Interest**

**A.** If a director believes he or she may have a potential Conflict of Interest, the director shall first bring the matter to the Governance and Personnel Committee (GPC) Chair and the Vice President General Counsel to discuss the potential Conflict of Interest.<sup>i</sup> The director shall provide an updated Disclosure and a written statement describing the potential Conflict of Interest and detailing all material facts. If as a result of the review of the written statement and resulting discussion, all the parties involved agree there is a real Conflict of Interest, the director shall recuse him or herself from voting on the matter giving rise to the Conflict of Interest. If the director does not agree with the recusal decision, the matter will proceed to the Governance Process.



- B. Annually all directors shall review this Policy and sign the Disclosure in the form attached to this Policy. New directors must submit the Disclosure prior to first board meeting. The Disclosure shall be submitted to the Assistant Corporate Secretary.
- C. If the director or an MRO employee, has reasonable cause to believe that a director has failed to disclose a Conflict of Interest as required by this Policy, that individual shall inform the GPC Chair and the Vice President General Counsel of the basis for such belief in a written statement and these individuals will investigate the matter.

## **5. Governance Process - Determining Whether a Conflict of Interest Exists**

- A. In the event there is a potential Conflict of Interest and the director disputes the recusal decision in the Disclosure Process, such director may bring the matter forward to the GPC.
- B. The GPC will ensure that the director has an opportunity to disclose all material facts and make a presentation related to the potential Conflict of Interest. After disclosure and an opportunity for the governing body to discuss the issue with the director, he or she will leave the meeting. The GPC will deliberate and determine if a Conflict of Interest exists.
- C. In determining whether a Conflict of Interest exists, the GPC shall consider whether the potential Conflict of Interest would cause the transaction entered into by MRO to raise questions concerning good faith, fair dealing, or acting in the best interest of MRO or any other impropriety. The person asserting the validity of contract or transaction has the burden of proof establishing the contract or transaction is fair and reasonable to MRO.
- D. After the material facts of the contract or transaction are fully disclosed and made known to the GPC, the GPC may determine by a majority vote of disinterested GPC members, that there is or is not a Conflict of Interest. If the GPC determines there is a Conflict of Interest, the director shall recuse him or herself from voting on the matter giving rise to the Conflict of Interest, or proceed to bring the matter before the MRO board.
- E. The MRO board may accept the GPC's decision or allow the director to fully disclose to the board the material facts of the potential Conflict of Interest and the director's interest. After such disclosure, the board will determine if it believes a real Conflict of Interest exists by a majority of the directors entitled to vote. If the board vote finds a Conflict of Interest, the director must recuse him or herself from voting on the matter giving rise to the Conflict of Interest.

## **6. Record of Procedures**

The minutes of the governing body addressing the Conflict of Interests or any other matter under this Policy and Procedure shall be specific and where applicable contain:

- A. The names of the person(s) who disclosed or was otherwise found to have actual or possible Conflict of Interest, the nature of the Conflict of Interest, any action taken to determine whether a Conflict of Interest was present, and the governing body's decision as to whether a Conflict of Interest in fact existed.



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- B.** The names of the persons who were present for discussions and votes relating to the contract or transaction, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

## **7. Prohibitions Regarding Gifts**

- A.** Directors shall not accept any Gifts except to the extent such Gift is offered to the general public on the same terms and conditions or is a gift given by MRO. Gifts should be returned or offers declined with an explanation of these Policy requirements. If the Gift is perishable, it should be donated.
- B.** The acceptance of payment of a vested benefit by an Independent Director who has retired from an entity (including predecessor or successor entities) on the NERC Compliance Registry is not prohibited provided the benefit does not result in more than a Di Minimis equity interest.

## **8. Prohibitions for Directors Regarding MRO's Compliance Monitoring and Enforcement Program (CMEP)**

- A.** No director may participate in any manner in MRO's investigations related to a potential violation, compliance audits, reports, sanction determinations, or other matters within the CMEP.
- B.** MRO Industry Sector and Regional Directors may engage in actions on behalf of their employer regarding a compliance monitoring, mitigation and/or enforcement matter where MRO is involved. Concerns about the participation of any MRO Industry Sector or Regional Director may be raised by any director or MRO employee and should be brought to the attention of the MRO President and CEO who will seek an appropriate resolution of the matter with the advice and counsel of the Independent Directors.

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<sup>i</sup> If the matter involves the GPC Chair making such disclosure, the Disclosure and written statement shall be submitted to the MRO Board Chair and the Vice President, General Counsel.



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## Midwest Reliability Organization (MRO)

### Conflict of Interest Disclosure Questionnaire

If a section does not apply, please use "None" or "N/A"

A. Please list any Registered Entities in North America in which are you a director, officer, or employee:

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B. Please list any businesses from the electricity sector in which you or a Family Member have a Material Financial interest, including, but not limited to, stocks or options, pension, savings, or 401(k) plans. You need not list diversified mutual funds that may have electricity sector holdings. **Please indicate the type of items in this section, such as stocks, pension, savings, or 401(k).**

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C. Please describe any business arrangements that you or a Family Member has with an electricity sector business. Please include consulting or other professional service relationships, vendor relationships, banking relationships, or other relationships that could provide financial remuneration or gain. **Please describe the nature of the business arrangement.**

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D. Do you have any other business or personal relationships, not covered in your answers to Questions A through C that could appear to be a Conflict of Interest?

Yes  No

If yes, please explain.

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I hereby certify that my responses to the above questions are accurate and complete. I also acknowledge my ongoing responsibility to disclose to Midwest Reliability Organization, Inc. any Conflict of Interest that may arise during the course of my service.

Name (Please Print): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_