

**Compliance and Certification Committee
Survey Regarding Information Confidentiality Issues**

This survey is designed to identify the “barriers” to openly reporting compliance and non-compliance to NERC standards and templates. Each NERC region and industry sector representative is asked to list the compliance items it deems confidential and the reasons for that confidentiality.

The goal is to identify common ground the CCC can propose to allow for improved reporting of compliance to the public that is acceptable to both the electric industry and the FERC.

- 1.) Please list the compliance-based information and results in your region or industry sector that is currently protected by confidentiality agreements and cannot be released. Please explain the reason(s) for protecting this information.

- Market participants and the IMO compliance related information and assessments* associated with the NERC/NPCC standards and templates until a breach of the market rules is confirmed
- All information that is considered confidential under the applicable market rules of chapter 3 and market manual 2.14: Information Confidentiality Catalogue. This is essentially preliminary information and allegations before a finding of a market rule breach is made.

Reasons for protecting the information:

- Until there is a finding of a market rule breach all matters under investigation are only allegations. It would be unfair to market participants to publish allegations that may be disproven during the course of an investigation. Section 6.2.3 – 6.2.7 of Chapter 3 of the market rules set out the steps in an investigation that provide an opportunity for the respondent to bring forward exculpatory evidence.

* The compliance related information can be submitted to the standard authorities (upon request) provided it is kept confidential or there is an agreement among all standard authorities members on keeping information confidential.

- 2.) Please list the compliance reports or results that your region or industry segment currently allows to be released that is free from confidentiality restrictions. Please explain why this information can be viewed by everyone.

1). Currently the IMO publishes summary information on all market rule breaches. This information is updated monthly. The latest report, December 2003, is found at <http://www.theimo.com/imoweb/marketComp/sanctions.asp>. The authority to publish this information is found in ID 310 of market manual 2.14: Information Confidentiality Catalogue, that states: “Where the *IMO* determines that a *MP* has breached the *market rules*, the *IMO* may issue a public statement without identifying the breaching party by stripping the report of all *MP* identifying details or may elect to publish the report in full including details of the identity of the breaching party”.

2). IMO comments & position papers on NERC SARS and upcoming new standards that are

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considered allowable for posting on public web.

Why it can be viewed:

- With regard to item 1) above, such publication provides both a specific and general deterrence in preventing future breaches. Market participants who are named wish to minimize further adverse publicity by taking steps to avoid future occurrences. Other participants take notice that an active enforcement program is underway and can also take steps to avoid breaching the rules and pay particular attention to those provisions that have been subject to sanction.
- With regards to item 2) above, these are meant for purposes of soliciting public comments.

3.) In summary, what are the critical issues for your region or industry sector that dictate the need for confidentiality agreements?

- The IMO can publish the information once a breach is confirmed and it will be kept confidential until that point because until then it is a mere allegation and it would be unfair to make the participant the subject of adverse reaction based on untested information.

4.) What change(s) needs to occur to allow your region or sector to allow compliance reports and results to be viewed openly?

None. The present procedure provides an effective deterrent and is consistent with the principles of natural justice.

5.) What compliance results would your region or sector never release publicly? Why?

Preliminary information indicating an alleged breach would not be released for the reasons stated above.

Submitted by:

Khaqan Khan, Independent Electricity Market Operator (IMO)