

Informal Comments

Quadrant: Wholesale Electric Quadrant (WEQ)
Subcommittee: Joint Electric Scheduling Subcommittee (JESS)
Subject: Non-disclosure Agreement for Electronic Tagging Data
Submitted By: Ed Skiba
Date: August 14, 2009

The Midwest ISO has reviewed the draft North American Energy Standards Board Non-disclosure Agreement for Electronic Tagging Data which was posted for informal comments on July 20, 2009. We are submitting the following comment for the JESS to consider as they revise the non-disclosure agreement (NDA).

As written, entities like the Midwest ISO are responsible if another party violates the NDA.

Recipient is **responsible for ensuring that any third party** granted access to the Electronic Tagging System data under the conditions of this agreement is aware of the confidentiality obligations surrounding the Electronic Tagging System data and that the data **will not be disseminated** beyond the third party

With the language currently in the NDA, Midwest ISO is placed in a position of policing the distribution of data contained within the Electronic Tagging System. For example, if a third party disclosed the data, NAESB would consider Midwest ISO to be in violation of the NDA. If action was then taken against Midwest ISO, Midwest ISO would also have take action against the third-party who disclosed the data. Perhaps the JESS can come up with a "third-party NDA" that each "Recipient" must have its third-parties such as consultants execute prior to distributing the information. The duty should be NAESB's to enforce, and the liability for disclosure should be on the end disclosing party, not Midwest ISO.