



Protective Order is, to the maximum extent practicable, patterned after the Commission’s Model Protective Order. The Protective Order also provides for additional protection for documents marked as “Critical Energy Infrastructure Information” and as “Highly Sensitive Protected Materials,”<sup>1</sup> as discussed in more detail below.

### **DESCRIPTION OF THE PROTECTIVE ORDER**

The Protective Order is based on the Model Protective Order, with the following changes:

(1) Critical Energy Infrastructure Information (“CEII”). Paragraph 5(a) of the Protective Order specifies a sub-set of protected materials for information containing CEII pursuant to 18 C.F.R. § 388.113(c)(1). Order No. 630,<sup>2</sup> which established a procedure for gaining access to CEII, was necessitated by the terrorist acts committed on September 11, 2001, and the ongoing terrorism threat. Since the adoption of Order No. 630, protective orders routinely have incorporated provisions addressing CEII. The Protective Order requires participants to mark each page containing CEII and provides that such materials shall remain protected unless the Commission’s CEII Coordinator makes a determination that the materials need not remain protected.<sup>3</sup> The list of persons

---

<sup>1</sup> Protective orders containing a classification for “Highly Sensitive Protected Materials” or similar designation have been adopted in a number of previous Commission proceedings. *See, e.g., Hudson Transmission Partners, LLC v. N.Y. Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,022 (2014); *Astoria Generating Co. v. N.Y. Indep. Sys. Operator, Inc.*, 136 FERC ¶ 61,155 (2011); *La. Pub. Serv. Comm’n v. Entergy Corp.*, Order Granting Motion for Adoption of Protective Order, Docket No. EL09-61-001 (Feb. 12, 2010).

<sup>2</sup> *Critical Energy Infrastructure Information*, Order No. 630, 102 FERC ¶ 61,190, *order on reh’g*, Order No. 630-A, 104 FERC ¶ 61,106 (2003).

<sup>3</sup> Protective Order ¶ 20.

who qualify as Reviewing Representatives for CEII is the same as for Protected Materials.

(2) Highly Sensitive Protected Materials (“HSPM”). Paragraph 5(b) of the Protective Order specifies a second sub-set of protected materials—HSPM—for which there is a more limited list of persons who qualify as Reviewing Representatives. The HSPM designation is reserved for those materials the disclosure of which the disclosing Participant believes in good faith would competitively harm the Participant.<sup>4</sup> HSPM materials are subject to the same provisions in the Protective Order as Protected Materials, except that the list of persons who qualify as Reviewing Representatives for HSPM is limited to: (i) Commission Litigation Staff; (ii) members or staff of any state or local utilities commission which is a Participant; and (iii) for all other Participants, all outside and in-house counsel, as well as outside experts and company personnel who are not directly involved in, and do not have supervisory responsibilities over, the purchase, sale, or marketing of energy, capacity, or ancillary services at retail or wholesale; transacting in PJM transmission rights (e.g., products known as FTRs, ARRs, IARRs, or CTRs); the development of transmission projects (if done on a merchant basis, to obtain financial transmission rights, or in response to competitive solicitations made by PJM); the creation or maintenance of models or software that analyze or relate to such purchase, sale, or marketing of energy, capacity, or ancillary services, transacting in PJM transmission rights, or development of such transmission projects; or other activities or transactions of a type with respect to which the disclosure of HSPM would pose a foreseeable risk of competitive or commercial injury or disadvantage to the disclosing

---

<sup>4</sup> Protective Order ¶ 5(b).

Participant or to other Participant(s), customers, or market participants in any of the aforementioned markets or the PJM market more generally.<sup>5</sup>

PJM expects that certain confidential materials requested in this proceeding will require the HPSM designation. However, the Model Protective Order does not provide sufficient protection to guard against production of information to third party competitive market participants. The HSPM designation solves this problem while still providing access to data by non-competitive consultants and personnel. Thus, the HSPM designation strikes a fair balance under these circumstances, and hence it should be adopted in this case.<sup>6</sup>

---

<sup>5</sup> Protective Order ¶ 9(b).

<sup>6</sup> The order of the Chief Administrative Law Judge issuing the Model Protective Order provides that it “may be changed for good cause shown to meet specific requirements in an individual case.” *Model Protective Order*, Notice to the Public (June 9, 1998) (Curtis L. Wagner, Jr., Chief Administrative Law Judge). Good cause exists for modifying the Model Protective Order in this case. Given the highly sensitive information that may be requested, the Model Protective Order will not be sufficient to protect PJM’s retail customers or the competitive marketplace. *See PG&E Tex. Pipeline, L.P.*, 92 FERC ¶ 61,111, at 61,427-28 (2000) (“A determination of whether data that is claimed to be proprietary should be made available to parties in a proceeding, and if so, under what conditions, involves a balancing of the competitive harm of releasing the information against the need of the opposing party for the information in preparing its case.”).

WHEREFORE, for the reasons stated above, PJM requests that the Presiding Judges adopt the attached proposed Protective Order at the earliest possible date, preferably before close of business on July 25, 2019.

Respectfully submitted,

/s/ Victoria M. Lauterbach

Paul M. Flynn

Victoria M. Lauterbach

WRIGHT & TALISMAN, P.C.

1200 G Street, N.W., Suite 600

Washington, DC 20005-3898

(202) 393-1200 (phone)

(202) 393-1240 (fax)

flynn@wrightlaw.com

lauterbach@wrightlaw.com

*Attorneys for*

*PJM Interconnection, L.L.C.*

July 25, 2019

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

PJM Interconnection, L.L.C.                    )           Docket Nos.   ER18-2068-000  
  )                                   ER18-2068-001

**PROTECTIVE ORDER**

1. This Protective Order shall govern the use of all Protected Materials produced by, or on behalf of, any Participant. Notwithstanding any order terminating this proceeding, this Protective Order shall remain in effect until specifically modified or terminated by the Federal Energy Regulatory Commission (the “Commission”) or a Presiding Administrative Law Judge (“Presiding Judge”).
2. This Protective Order applies to the following two categories of materials: (A) materials designated by a Participant as protected that are customarily treated by that Participant as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Participant or its customers, or other Participants, to risk of competitive disadvantage or other business injury; and (B) materials designated by a Participant as protected, which contain critical energy infrastructure information, as defined in 18 C.F.R. § 388.113(c)(1) (“Critical Energy Infrastructure Information”).
3. Definitions – For purposes of this Protective Order:
4. The term “Participant” shall mean a Participant as defined in 18 C.F.R. § 385.102(b) in the above dockets.
5. The term “Protected Materials” means (A) materials (including depositions) provided by a Participant in response to discovery requests and designated by such Participant as protected consistent with Paragraph 2; (B) any information contained in or obtained from such designated materials; (C) any other materials which are made subject to this Protective Order by the Commission or a Presiding Judge, by any court or other body having appropriate authority, or by agreement of the Participants; (D) notes of Protected Materials; and (E) copies of Protected Materials. The Participant producing the Protected Materials shall physically mark them on each page as “**PROTECTED MATERIALS PROVIDED PURSUANT TO PROTECTIVE ORDER IN FERC DOCKET NO. ER18-2068**” and “**DO NOT RELEASE,**” or with words of similar import as long as the term “Protected Materials” is included in that designation to indicate that they are Protected Materials. In addition:
  - (a) If the Protected Materials contain Critical Energy Infrastructure Information, the Participant producing such information shall additionally mark

on each page of the document containing such information the words “**CUI//PRIV//CEII.**”

(b) If the Protected Materials contain market sensitive information, public disclosure of which the disclosing Participant believes in good faith would competitively harm the Participant, the disclosing Participant shall additionally mark on each page of the document containing such information the words “**HIGHLY SENSITIVE PROTECTED MATERIALS.**” Except for the more limited list of persons who qualify as Reviewing Representatives for purposes of reviewing Highly Sensitive Protected Materials, such materials are subject to the same provisions in the Protective Order as Protected Materials.

6. The term “Notes of Protected Materials” means memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses materials described in Paragraph 5. Notes of Protected Materials are subject to the same restrictions provided in this Protective Order for Protected Materials except as specifically provided in this Protective Order.

7. Protected Materials shall not include (A) any information or document contained in the files of the Commission (unless the information or documents were submitted to the Commission subject to an express or implied request for privileged treatment pursuant to 18 C.F.R. § 388.112, and such information or documents is accorded privileged treatment by the Commission), or any other federal or state agency, or any federal or state court, unless the information or document has been determined to be protected by such agency or court, (B) information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Order, or (C) any information or document labeled as “Non-Internet Public” by a Participant, or in accordance with Paragraph 30 of FERC Order No. 630, FERC Stats. & Regs. ¶ 31,140. Protected Materials do include any information or document contained in the files of the Commission that has been designated as Critical Energy Infrastructure Information.

8. Non-Disclosure Certificates

(a) The term “Non-Disclosure Certificate Regarding Protected Materials Other than Highly Sensitive Protected Materials” shall mean the certificate annexed hereto by which Participants who are eligible to have access only to Protected Materials other than Protected Materials marked as Highly Sensitive Protected Materials shall certify their understanding that such access to Protected Materials is provided pursuant to the terms and restrictions of this Protective Order, and that such Participants have read the Protective Order and agree to be bound by it. Execution of a Non-Disclosure Certificate Regarding Materials Other than Highly Sensitive Protected Materials by a Reviewing Representative will only entitle the Reviewing Representative to review Protected Materials that are not labeled or otherwise classified as Highly Sensitive Protected Materials.

(b) The term “Non-Disclosure Certificate Regarding Highly Sensitive Protected Materials” shall mean the certificate annexed hereto by which

Participants who are eligible to have access to Protected Materials, including those marked as Highly Sensitive Protected Materials, shall certify their understanding that such access to Highly Sensitive Protected Materials is provided pursuant to the terms and restrictions of this Protective Order, and that such Participants have read the Protective Order and agree to be bound by it. Execution of a Non-Disclosure Certificate Regarding Highly Sensitive Protected Materials by a Reviewing Representative eligible to access Highly Sensitive Protected Materials will entitle the Reviewing Representative to review Protected Materials, including those labeled or otherwise categorized as Highly Sensitive Protected Materials.

All Non-Disclosure Certificates Regarding Protected Materials Other than Highly Sensitive Protected Materials and Non-Disclosure Certificates Regarding Highly Sensitive Protected Materials (collectively, “Non-Disclosure Certificates”) shall be served on all parties on the official service list maintained by the Secretary in this proceeding.

9. The term “Reviewing Representative” shall mean a person who has signed an appropriate Non-Disclosure Certificate and:

(a) For purposes of reviewing Protected Materials not covered by Paragraph 5(b), who is:

- (1) Commission Litigation Staff;
- (2) An attorney who has made an appearance in this proceeding for a Participant;
- (3) Attorneys, paralegals, and other employees associated for purposes of this case with an attorney described in Paragraph 9(a)(2);
- (4) An expert or an employee of an expert retained by a Participant for the purpose of advising, preparing for, or testifying in this proceeding;
- (5) A person designated as a Reviewing Representative by order of the Presiding Judge or the Commission; or
- (6) Employees or other representatives of Participants appearing in this proceeding with significant responsibility for this docket.

(b) For purposes of reviewing Highly Sensitive Protected Materials covered by Paragraph 5(b), who is:

- (1) Commission Litigation Staff;

- (2) Members or staff of any state or local utilities commission which is a Participant;
- (3) An outside attorney who has been engaged by a Participant to represent it in this proceeding and made an appearance in this proceeding;
- (4) Attorneys, paralegals, and other employees of the law firm of the outside attorney described in Paragraph 9(b)(3) working with such outside attorney for purposes of this case;
- (5) In-house counsel who has made an appearance in this proceeding for a Participant;
- (6) Subject to Paragraph 9(b)(8), specifically designated employees of Participants that the producing Participant and receiving Participant agree may serve as a Reviewing Representative for the review of specific Highly Sensitive Protected Material(s) or all Highly Sensitive Protected Material(s) on the basis that such employees are not directly involved in, and do not have supervisory responsibilities over, the purchase, sale, or marketing of energy, capacity, or ancillary services at retail or wholesale; transacting in PJM transmission rights (e.g., products known as FTRs, ARRs, IARRs, or CTRs); the development of transmission projects (if done on a merchant basis, to obtain financial transmission rights, or in response to competitive solicitations made by PJM); the creation or maintenance of models or software that analyze or relate to such purchase, sale, or marketing of energy, capacity, or ancillary services, transacting in PJM transmission rights, or development of such transmission projects; or other activities or transactions of a type with respect to which the disclosure of Highly Sensitive Protected Materials would pose a foreseeable risk of competitive or commercial injury or disadvantage to the disclosing Participant or to other Participant(s), customers, or market participants in any of the aforementioned markets or the PJM market more generally..
- (7) An outside expert or an employee of an outside expert retained by a Participant for the purpose of advising, preparing for, or testifying in this proceeding who is working under the direction of an attorney described in Paragraph 9(b)(2) or 9(b)(3) and who is an unaffiliated expert (or employees thereof) who is not directly involved in, and does not have supervisory responsibilities over, the purchase, sale, or marketing of energy, capacity, or

ancillary services at retail or wholesale; transacting in PJM transmission rights (e.g., products known as FTRs, ARRs, IARRs, or CTRs); the development of transmission projects (if done on a merchant basis, to obtain financial transmission rights, or in response to competitive solicitations made by PJM); the creation or maintenance of models or software that analyze or relate to such purchase, sale, or marketing of energy, capacity, or ancillary services, transacting in PJM transmission rights, or development of such transmission projects; or other activities or transactions of a type with respect to which the disclosure of Highly Sensitive Protected Materials would pose a foreseeable risk of competitive or commercial injury or disadvantage to the disclosing Participant or to other Participant(s), customers, or market participants in any of the aforementioned markets or the PJM market more generally;

- (8) If, after a good faith effort, the producing Participant and receiving Participant fail to agree on designating a specifically-named inside employee(s) of a Participant as a Reviewing Representative for the review of specific Highly Sensitive Protected Material(s) or all Highly Sensitive Protected Material(s), a party may request that the Presiding Judge so-designate such a specifically-named inside employee(s) who, at a minimum, is not directly involved in, and does not have supervisory responsibilities over, the purchase, sale, or marketing of energy, capacity, or ancillary services at retail or wholesale; transacting in PJM transmission rights (e.g., products known as FTRs, ARRs, IARRs, or CTRs); the development of transmission projects (if done on a merchant basis, to obtain financial transmission rights, or in response to competitive solicitations made by PJM); the creation or maintenance of models or software that analyze or relate to such purchase, sale, or marketing of energy, capacity, or ancillary services, transacting in PJM transmission rights, or development of such transmission projects; or other activities or transactions of a type with respect to which the disclosure of Highly Sensitive Protected Materials would pose a foreseeable risk of competitive or commercial injury or disadvantage to the disclosing Participant or to other Participant(s), customers, or market participants in any of the aforementioned markets or the PJM market more generally; or

- (9) A person designated as a Reviewing Representative by order of the Presiding Judge or the Commission specifically ruling on and indicating each such person by name.
10. Protected Materials shall be made available under the terms of this Protective Order only to Participants and only through their Reviewing Representatives.
  11. Protected Materials shall remain available to Participants until the later of the date that an order terminating this proceeding becomes no longer subject to judicial review, or the date that any other Commission proceeding relating to the Protected Materials is concluded and no longer subject to judicial review. If requested to do so in writing after that date, the Participants shall, within fifteen days of such request, return the Protected Materials (excluding Notes of Protected Materials) to the Participant that produced them, or shall destroy the materials, except that copies of filings, official transcripts, and exhibits in this proceeding that contain Protected Materials, and Notes of Protected Material may be retained, if they are maintained in accordance with Paragraphs 12 and 13. Within such time period each Participant, if requested to do so, shall also submit to the producing Participant an affidavit stating that, to the best of its knowledge, all Protected Materials and all Notes of Protected Materials have been returned or have been destroyed or will be maintained in accordance with Paragraphs 12 and 13. To the extent Protected Materials are not returned or destroyed, they shall remain subject to the Protective Order.
  12. All Protected Materials shall be maintained by the Participant in a secure place. Access to those materials shall be limited to those Reviewing Representatives specifically authorized pursuant to Paragraphs 14 and 15. The Secretary will place any Protected Materials filed with the Commission in a non-public file. By placing such documents in a non-public file, the Commission is not making a determination of any claim of privilege. The Commission retains the right to make determinations regarding any claim of privilege and the discretion to release information necessary to carry out its jurisdictional responsibilities.
  13. For documents submitted to Commission Staff (“Staff”), Staff shall follow the notification procedures of 18 C.F.R. § 388.112 before making public any Protected Materials.
  14. Protected Materials shall be treated as confidential by each Participant and by the Reviewing Representative in accordance with the Non-Disclosure Certificate executed pursuant to Paragraph 17. Protected Materials shall not be used except as necessary for the conduct of this proceeding, nor shall they be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person’s responsibilities in this proceeding. Reviewing Representatives may make copies of Protected Materials, but such copies become Protected Materials. Reviewing Representatives may make notes of Protected Materials, which shall be treated as Notes of Protected Materials if they disclose the contents of Protected Materials.

15. If a Reviewing Representative's scope of employment includes the marketing of energy or generation assets, the direct supervision of any employee or employees whose duties include the marketing of energy or generation assets, the provision of consulting services to any person whose duties include the marketing of energy or generation assets, or the direct supervision of any employee or employees whose duties include the marketing of energy or generation assets, such Reviewing Representative may not use information contained in any Protected Materials obtained through this proceeding to give any Participant or any competitor of any Participant a commercial advantage.
16. In the event that a Participant wishes to designate as a Reviewing Representative a person not described in Paragraph 9, the Participant shall seek agreement from the Participant providing the Protected Materials. If an agreement is reached, that person shall be a Reviewing Representative pursuant to Paragraph 9 with respect to those materials. If no agreement is reached, the Participant shall submit the disputed designation to the Presiding Judge designated by the Commission for resolution.
17. A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Protected Materials pursuant to this Protective Order unless that Reviewing Representative has first executed the appropriate Non-Disclosure Certificate; provided that if an attorney qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial, and clerical personnel employed by the same entity as the attorney and under the attorney's instruction, supervision, or control need not do so. A copy of each Non-Disclosure Certificate shall be provided to counsel for the Participant asserting confidentiality prior to disclosure of any Protected Material to that Reviewing Representative.
18. Attorneys qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this order.
19. Any Reviewing Representative may disclose Protected Materials to any other Reviewing Representative entitled to receive the specific category of Protected Materials under Paragraph 5, as long as the disclosing Reviewing Representative and the receiving Reviewing Representative both have executed a Non-Disclosure Certificate. In the event that any Reviewing Representative to whom the Protected Materials are disclosed ceases to be engaged in these proceedings, or is employed or retained for a position whose occupant is not qualified to be a Reviewing Representative under Paragraph 9, access to Protected Materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Protective Order and the certification.
20. Subject to Paragraph 27, the Commission or Presiding Judge shall resolve any disputes arising under this Protective Order. Prior to presenting any dispute under this Protective Order to the Commission or Presiding Judge, as appropriate, the parties to the dispute shall use their best efforts to resolve it. Any Participant that

contests the designation of materials as protected shall notify the party that provided the Protected Materials by specifying in writing the materials whose designation is contested. This Protective Order shall automatically cease to apply to such materials fifteen business days after the notification is made unless the designator, within said fifteen-day period, files a motion with the Commission or Presiding Judge, with supporting affidavits, demonstrating that the materials should continue to be protected. In any challenge to the designation of materials as protected, the burden of proof shall be on the Participant seeking protection. If the Commission or Presiding Judge finds that the materials at issue are not entitled to protection, the procedures of Paragraph 27 shall apply. The procedures described above shall not apply to Protected Materials designated by a Participant as Critical Energy Infrastructure Information. Materials so designated shall remain protected and subject to the provisions of this Protective Order, unless a Participant requests and obtains a determination from the Commission's Critical Energy Infrastructure Information Coordinator that such materials need not remain protected.

21. Unless filed or served electronically, all copies of all documents reflecting Protected Materials, including the portion of other documents which refer to Protected Materials, shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they are sealed pursuant to this Protective Order. Such documents shall be marked "**PROTECTED MATERIALS PROVIDED PURSUANT TO PROTECTIVE ORDER**" (or words of similar import) with the appropriate designation (as relevant) under Paragraph 5 and shall be filed under seal and served under seal upon the Commission and all Reviewing Representatives who are on the service list. Such documents containing Critical Energy Infrastructure Information shall be additionally marked "Contains Critical Energy Infrastructure Information – Do Not Release." For anything filed under seal, redacted versions or, where an entire document is protected, a letter indicating such will also be filed with the Commission and served on all parties on the service list and the Presiding Judge. Counsel for the producing Participant shall provide to all Participants who request the same, a list of Reviewing Representatives who are entitled to receive such material. Counsel shall take all reasonable precautions necessary to assure that Protected Materials are not distributed to unauthorized persons.
22. If any Participant desires to include, utilize, or refer to any Protected Materials or information derived therefrom in testimony or exhibits in these proceedings in such a manner that might require disclosure of such material to persons other than Reviewing Representatives, such Participant shall first notify both counsel for the disclosing participant and the Presiding Judge or Commission, as appropriate, of such desire, identifying with particularity each of the Protected Materials. Thereafter, use of such Protected Material will be governed by procedures determined by the Presiding Judge or Commission, as appropriate.
23. Nothing in this Protective Order shall be construed as precluding any Participant from objecting to the use of Protected Materials on any legal grounds.

24. Nothing in this Protective Order shall preclude any Participant from requesting the Commission or Presiding Judge, or any other body having appropriate authority, to find that this Protective Order should not apply to all or any materials previously designated as Protected Materials pursuant to this Protective Order. The Commission or Presiding Judge, as appropriate, may alter or amend this Protective Order as circumstances warrant at any time during the course of this proceeding after appropriate notice and opportunity for a hearing on the alteration or amendment.
25. Each party governed by this Protective Order has the right to seek changes in it as appropriate from the Commission or Presiding Judge.
26. All Protected Materials filed with the Commission, the Presiding Judge, or any other judicial or administrative body, in support of, or as a part of, a motion, other pleading, brief, or other document, shall be filed and served in sealed envelopes or other appropriate containers bearing prominent markings indicating that the contents include Protected Materials subject to this Protective Order and with the appropriate designation (as relevant) under Paragraph 5. Such documents containing Critical Energy Infrastructure Information shall be additionally marked "Contains Critical Energy Infrastructure Information – Do Not Release."
27. If the Presiding Judge finds at any time in the course of this proceeding that all or part of the Protected Materials need not be protected, those materials shall, nevertheless, be subject to the protection afforded by this Protective Order for a time period designated by the Commission or Presiding Judge, but not less than fifteen business days from the date of issuance of the Commission's or Presiding Judge's decision. None of the Participants waives its rights to seek additional administrative or judicial remedies after the Commission's or Presiding Judge's decision respecting Protected Materials or Reviewing Representatives, or the Commission's or Presiding Judge's denial of any appeal thereof. The provisions of 18 C.F.R. § 388.112 shall apply to any requests for Protected Materials in the files of the Commission under the Freedom of Information Act (5 U.S.C. § 552).
28. Nothing in this Protective Order shall be deemed to preclude any Participant from independently seeking through discovery in any other administrative or judicial proceeding information or materials produced in this proceeding under this Protective Order.
29. None of the Participants waives the right to pursue any other legal or equitable remedies that may be available in the event of actual or anticipated disclosure of Protected Materials.
30. The contents of Protected Materials or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with this Protective Order and shall be used only in connection with this proceeding. Any violation of this Protective Order and of any Non-Disclosure Certificate executed hereunder shall constitute a violation of an order of the Commission.

31. If a Participant believes that Protected Materials previously distributed to Reviewing Representatives were not marked as Protected Materials or were not marked with the appropriate designation under Paragraph 5, the Participant must e-mail Participants on the restricted service list and the ListServe established for e-mail addresses in this proceeding, specifically state which documents contain such data, identify the specific material which should have received the designation, and seek their consent to such treatment, and such consent shall not be unreasonably withheld. If no agreement is reached, the Participant shall submit the dispute to the Presiding Judge.





If option (a) above is checked, provide a description of the specific Highly Sensitive Protected Material(s) to which Reviewing Representative may have access: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ An outside expert or an employee of an outside expert retained by a Participant for the purpose of advising, preparing for or testifying in this proceeding who is working under the direction of an attorney described in Paragraph 9(b)(2) or 9(b)(3) and who is an unaffiliated expert (or employees thereof) not directly involved in, or having supervisory responsibilities over, the purchase, sale, or marketing of energy, capacity, or ancillary services at retail or wholesale; transacting in PJM transmission rights (e.g., products known as FTRs, ARRs, IARRs, or CTRs); the development of transmission projects (if done on a merchant basis, to obtain financial transmission rights, or in response to competitive solicitations made by PJM); the creation or maintenance of models or software that analyze or relate to such purchase, sale, or marketing of energy, capacity, or ancillary services, transacting in PJM transmission rights, or development of such transmission projects; or other activities or transactions of a type with respect to which the disclosure of Highly Sensitive Protected Materials would pose a foreseeable risk of competitive or commercial injury or disadvantage to the disclosing Participant or to other Participant(s), customers, or market participants in any of the aforementioned markets or the PJM market more generally, per Paragraph 9(b)(7).

\_\_\_\_\_ A specifically-named inside employee or outside expert that the producing party and receiving party have agreed shall be, or the Presiding Judge or Commission has designated as, eligible to review Highly Sensitive Protected Materials, per Paragraph 9(b)(8).

I understand that the contents of the Protected Materials, any notes or other memoranda, or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and shall be used only in connection with this proceeding. I acknowledge that a violation of this certificate constitutes a violation of an order of the Federal Energy Regulatory Commission.

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Representing: \_\_\_\_\_  
Date: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document on each person designated on the service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 25th day of July 2019.

/s/ Victoria M. Lauterbach  
Victoria M. Lauterbach  
WRIGHT & TALISMAN, P.C.  
1200 G Street, N.W., Suite 600  
Washington, D.C. 20005-3898  
(202) 393-1200

*Attorney for*  
*PJM Interconnection, L.L.C.*