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**WESTERN**  
POWERPOOL

# Western Resource Adequacy Program

402 Protection of Commercially  
Sensitive and Confidential  
Information

**Revision History**

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## Table of Contents

1. Introduction.....	4
1.1. Intended Audience.....	4
1.2. What You Will Find in This Manual.....	4
1.3. Purpose .....	4
1.4. Definitions.....	4
2. Background .....	5
3. Designation of Confidential or Commercially Sensitive Information.....	5
4. Protection of Confidential and Commercially Sensitive Information.....	5
4.1. General Exceptions .....	6
4.2. Composite or Aggregated Information.....	6
4.3. Required Disclosures.....	6
5. Composite or Aggregated Information.....	7
5.1. Disclosing Entity Review.....	7
5.2. Disclosing Entity Appeal .....	8
6. Objection to Format for Change in Participants .....	9
7. RAPC Decision to Release Participant-Specific Information.....	10



## 402 Protection of Confidential and Commercially Sensitive Information

### 1. Introduction

This Business Practice Manual 402 Protection of Confidential and Commercially Sensitive Information (BPM 402) describes the process for Participants to protect confidential or commercially sensitive information, which includes data, provided to Western Power Pool (WPP) as part of the Western Resource Adequacy Program (WRAP) and how WPP will handle confidential and commercially sensitive information in the documents, data, and information provided by any Participant and in reports compiled therefrom.

#### 1.1. Intended Audience

BPM 402 is intended for WRAP Participants and other interested individuals or entities. This BPM will be particularly useful to Participants responsible for disclosing information to WPP, or any entity requesting the release of information from WPP.

#### 1.2. What You Will Find in This Manual

BPM 402 explains the steps for Participants to protect confidential or commercially sensitive information provided to WPP as part of the WRAP. This BPM also details the WPP process to release WRAP information that was compiled using confidential or commercially sensitive information obtained from or pertaining to Participants.

#### 1.3. Purpose

BPM 402 provides additional detail regarding the process for releasing aggregated or composite information derived from Participant-specific confidential or commercially sensitive information to ensure the protection of the Disclosing Entity's confidential or commercially sensitive information consistent with the Tariff.

This manual is not intended to address WPP's internal policies and controls governing the handling and protection of confidential or commercially sensitive information received by WPP and/or communicated between the Program Administrator and the Program Operator.

#### 1.4. Definitions

All capitalized terms that are not otherwise defined in this BPM have their meaning set forth in the Tariff.

**WPP:** Consistent with Section 10 of the Tariff, references to WPP in this BPM 402 include the Program Administrator and its directors, officers, employees, agents, or consultants, including the Program Operator and its directors, officers, employees, agents, or consultants.



## 2. Background

Participants are obligated to provide WPP with information, including information that may be confidential or commercially sensitive in nature. WPP is obligated to maintain the confidentiality of information that a Participant deems and identifies as confidential or commercially sensitive. However, to keep Participants and other interested entities apprised regarding the WRAP and resource adequacy in general in the WRAP Region, WPP intends periodically to compile and release reports about various aspects of the WRAP. These reports may rely on or incorporate confidential or commercially sensitive information obtained from or pertaining to Participants that WPP is obligated to keep confidential. BPM 402 outlines the process for Participants to protect their confidential and commercially sensitive information.

## 3. Designation of Confidential or Commercially Sensitive Information

When providing confidential or commercially sensitive information to WPP, Participants shall ensure that any information that is confidential or commercially sensitive is specifically identified as such. For information provided in document form (including electronic), each page that contains confidential or commercially sensitive information should be labeled at the top of the page with a clear marking such as "CONTAINS CONFIDENTIAL INFORMATION---DO NOT RELEASE." The confidential or commercially sensitive information included on each page also should be clearly marked. For information in purely electronic form that includes information that cannot be labeled or marked as confidential or commercially sensitive, the submittal of such information should include a written description of which information is confidential or commercially sensitive. WPP shall not be responsible for the release of information that is not clearly marked in accordance with the requirements set forth in Section.

For information containing Confidential Unclassified Information or Critical Energy Infrastructure Information as defined by FERC, the Participant must mark such information in accordance with FERC's regulations set forth in 18 C.F.R. § 388.113. WPP shall not be responsible for release of any such information that is not clearly marked in accordance with FERC's requirements.

## 4. Protection of Confidential and Commercially Sensitive Information

WPP will maintain the confidentiality of all of the documents, data, and information provided by any Participant that the Participant properly designates as confidential or commercially sensitive in accordance with Section 3 of BPM 402 except as provided in this Section 4.



#### 4.1. General Exceptions

WPP is not obligated to maintain the confidentiality of information designated confidential or commercially sensitive in accordance with Section 3 of BPM 402 to the extent that: (i) the information is publicly available or otherwise in the public domain; (ii) it is information required to be disclosed under the Tariff or any applicable legal or regulatory requirement; (iii) it is requested by FERC, during the course of an investigation or otherwise.

#### 4.2. Composite or Aggregated Information

WPP is permitted to release composite or aggregated information that is based on Participant-specific confidential or commercially-sensitive information as outlined in Section 5 of BPM 402.

#### 4.3. Required Disclosures

To the extent that WPP is required by applicable laws and regulations (such as in the course of administrative or judicial proceedings) to disclose a Participant's confidential or commercially sensitive information or such information is requested by FERC (either in the course of an investigation or otherwise), WPP will not be obligated to maintain the confidentiality of the relevant Participant-specific confidential or commercially sensitive information regardless of its designation as such in accordance with Section 3 of BPM 402. WPP will follow the procedure set forth in this Section 4.3 for such disclosure.

##### *4.3.1. Notice to Affected Participants*

Except as provided in Section 4.3.2 below, as soon as practicable after WPP learns of a legal or regulatory disclosure requirement and prior to making such disclosure, WPP will notify any affected disclosing Participant of the requirement and the terms thereof. Upon receipt of such notification, the Participant may, at its sole discretion and own cost, direct any challenge to or defense against the disclosure requirement and WPP will cooperate with the Participant to the extent possible and take all reasonable available steps to oppose or otherwise minimize the disclosure of the information to the extent permitted by applicable legal and regulatory requirements. Such steps will be those that can be completed by WPP (including Program Operator) staff; WPP (including the Program Operator) shall not be required to expend funds to engage outside consultants or lawyers to assist in challenging the disclosure. WPP will cooperate with such disclosing Participant to the extent reasonably practicable to obtain proprietary or confidential treatment of confidential or commercially sensitive information by the person to whom such information is disclosed prior to any such compelled disclosure.



#### 4.3.2. Disclosures to FERC

WPP may disclose confidential or commercially sensitive information, without notice to any affected disclosing Participant(s), in the event that FERC, during the course of an investigation or otherwise, requests information that is identified as confidential or commercially sensitive. In providing the information to FERC, WPP will take action, consistent with 18 C.F.R. §§ 1b.20 and/or 388.112, to request that the information be treated by FERC as confidential and non-public and, if appropriate, as Critical Energy/Infrastructure Information, and request that the information be withheld from public disclosure. WPP will provide the requested information to FERC within the time frame provided in the request for information. WPP will notify any affected disclosing Participant(s) within a reasonable time after WPP is notified by FERC that a request for disclosure of, or decision to disclose, the confidential or commercially sensitive information has been received, at which time WPP and any affected disclosing Participant may respond before such information would be made public.

### 5. Composite or Aggregated Information

In the event that WPP wants to release information that is based upon Participant-specific confidential or commercially-sensitive information so designated in accordance with Section 3 of BPM 402, WPP staff will first provide affected Participants an opportunity to review the form and format to ensure the composite or aggregated information cannot be used to identify or attribute a disclosing Participant's confidential or commercially sensitive information. Such release of composite or aggregated information shall be governed by the process outlined in this Section 5.

The procedures specified in this Section 5 apply only to the first time that WPP proposes a form and format for the release of composite or aggregated information based on confidential or commercially sensitive Participant information. Subsequent releases of the same information using the same approved form and format, but which may or may not be derived from different Participant information, are permitted without any additional procedures, subject to the provisions of Section 6 regarding changes in the composition of the WRAP.

#### 5.1. Disclosing Entity Review

Prior to the initial release of aggregated composite or aggregated information in a new form and format or for the first time, WPP staff will present the form and format of such information to each Disclosing Entity whose information was used to create the composite or aggregated information and give each Disclosing Entity an opportunity to review and object that the form or format reveals confidential or commercially sensitive Participant-specific information. Each Disclosing Entity that receives notification from



WPP staff regarding the proposed form and format will have fourteen Days to communicate its objection to WPP staff using the same method of communication that was used by WPP staff to provide the form and format to the Disclosing Entity.

If any such Disclosing Entity objects to the form and format as revealing or allowing for attribution of confidential or commercially sensitive Participant-specific information, WPP staff will determine whether to modify the form and format or to retain the proposed form and format for release. If WPP staff elects to retain the proposed form and format, WPP staff will immediately inform the objecting Disclosing Entity(ies) of the decision but will not release the information until such time as such objecting Disclosing Entity(ies) has(have) had an opportunity to appeal to the RAPC.

## 5.2. Disclosing Entity Appeal

If WPP staff elects to retain the proposed form and format for release of aggregated or composite information over the objection of a Disclosing Entity, the Disclosing Entity has the right to appeal, and WPP will be prohibited from releasing the composite or aggregated information in the proposed form and format until the Participant's appeal rights as specified in this Section 5.2 are exhausted.

### 5.2.1. Disclosing Entity Appeal to RAPC

A Disclosing Entity appeal to the RAPC must be made in writing within fourteen Days of receipt of notification by WPP that it has decided to retain the proposed form and format over the Disclosing Entity's objection. If a Disclosing Entity appeals a decision made by WPP staff regarding the form and format of composite or aggregated information to the RAPC, the RAPC will consider whether the form and format reveals or allows for attribution of confidential or commercially sensitive Participant-specific information during its next meeting. If the RAPC determines that the proposed form and format is sufficient to protect against the release of confidential or commercially sensitive Participant-specific information (i.e., a Participant motion at RAPC to appeal the proposed form and format does not carry), WPP staff is authorized to release the composite or aggregated information in the proposed form and format unless the Participant timely appeals the RAPC decision to the Board of Directors in writing within fourteen Days of the RAPC determination.

If the RAPC agrees with the Disclosing Entity that the form and format does not sufficiently protect against the release or attribution of Participant-specific confidential or commercially sensitive information, WPP staff is prohibited from using such form and format and may propose a new form and format by repeating the process set forth in BPM 402.



### *5.2.2. Disclosing Entity Appeal to Board of Directors*

If a Disclosing Entity appeals a RAPC decision regarding the form and format of composite or aggregated information to the Board of Directors, the Board of Directors will consider whether the form and format is sufficient to protect against the release or attribution of confidential or commercially sensitive Participant-specific information. Prior to making the decision, the Board of Directors will permit WPP staff to explain its position on the form and format and will permit the Disclosing Entity that appealed to explain its position. If the Board of Directors determines that the proposed form and format is sufficient to protect against the release of confidential or commercially sensitive Participant-specific information, WPP staff is authorized to release the composite or aggregated information in the proposed form and format. If the Board of Directors agrees with the Disclosing Entity that the proposed form and format does not sufficiently protect against the release or attribution for Participant-specific confidential or commercially sensitive information, WPP staff is prohibited from using such form and format and may propose a new form and format by repeating the process set forth in BPM 402. Board of Directors decisions are final.

### *5.2.3. Waiver for Failure to Appeal*

Once a proposed form and format of composite or aggregated information is approved by WPP staff and is not appealed or appeals are unsuccessful, such form and format may be used for all future disclosures of similar composite or aggregate information and no Participant may dispute such release, except as provided in Section 6. If WPP staff proposes to alter the form and format, including but not limited to changing the granularity of information, WPP staff is required to follow the process set forth in this BPM 402 and affected Disclosing Entities will have the right to appeal such changes in form and format as set forth herein.

## **6. Objection to Format for Change in Participants**

Notwithstanding the provisions in Section 5.2, if the composition of Participants in the WRAP changes in such a way that the form and format of composite or aggregated information is no longer sufficient to protect against disclosure or attribution of confidential or commercially sensitive Participant-specific information, an aggrieved Participant shall have a one-time right to raise the issue with WPP for presentation to and review by the Board of Directors, which must be done in writing addressed to the President of WPP and provided within 30 Days of the effective date of the change in composition. WPP staff will promptly present the issue to the Board of Directors during its next meeting and will refrain from issuing reports utilizing such challenged form and format pending review by the Board of Directors. The Board of Directors in its sole discretion will decide whether the change in composition results in the form and format of the composite or aggregated information becoming insufficient to protect against the release or attribution of confidential or commercially sensitive Participant-specific



information; provided, however, that if an aggrieved Participant does not raise its concerns to WPP promptly following the change in composition as set forth herein, such Participant shall have waived its right to contest the release of such composite or aggregated information.

### 7. RAPC Decision to Release Participant-Specific Information

The RAPC may, by unanimous vote, authorize the release of any particular category of Participant-specific information notwithstanding a designation of such information as confidential or commercially-sensitive. Such authorization shall remain in effect and binding on all current and future Participants until such time as such authorization is revoked by a subsequent unanimous vote of the RAPC. The RAPC has unanimously voted to release the following categories of Participant-specific information:

- none

Per section 10.2.2 of the Tariff, this list will be modified solely by unanimous vote of the RAPC, and this BPM will be updated automatically to remain current with the RAPC-approved list.

### 8. Summary

WPP will make available and post on its website a visual representation of the process for releasing information described in this BPM.

