



WRITTEN PROCEDURES IMPLEMENTING THE STANDARDS OF CONDUCT FOR TRANSMISSION PROVIDERS, 18 C.F.R. PART 358

COMPONENTS OF PART 358 – STANDARDS OF CONDUCT

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Introduction

On October 16, 2008, the Federal Energy Regulatory Commission (“FERC” or “Commission”) issued Order No. 717 in its Docket RM07-1-000, which amended the FERC’s Standards of Conduct rules in 18 C.F.R. Part 358 applicable to “Transmission providers,” including interstate natural gas pipelines such as Eastern Shore Natural Gas Company (“ESNG”). The FERC’s Standards of Conduct rules and ESNG’s procedures to comply with them are set forth below.

Section Specific Procedures

§ 358.1 Applicability. *(Natural Gas only – excludes applicability regulation for Electric Transmission Providers)*

Regulation	ESNG Implementation Statement/Procedure
§ 358.1 (a) This part applies to any interstate natural gas pipeline that transports gas for others pursuant to subparts B or G of part 284 ... and conducts transmission transactions with an affiliate that engages in marketing functions.	ESNG provides natural gas transportation and certain storage services under subparts B and G of Part 284 of the FERC’s regulations and conducts transmission transactions with affiliates engaged in marketing functions, as defined in §358.3(c)(2): Chesapeake Utilities-Delaware Division and Chesapeake Utilities of Maryland, Inc. (“Chesapeake”). Accordingly, ESNG is required to comply with the FERC Standards of Conduct rules in 18 C.F.R. Part 358.

§ 358.2 General Principles.

Regulation	ESNG Implementation Statement/Procedure
§ 358.2 (a) A transmission provider must treat all customers, affiliated and non-affiliated, on a not unduly discriminatory basis, and must not make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage with respect to any transportation of natural gas ... in interstate commerce, or with respect to the wholesale sale of natural gas ... in interstate commerce.	As an open access pipeline transporting natural gas and providing certain storage services under subparts B and G of Part 284, ESNG is required to comply with the provisions of the Natural Gas Act and the FERC’s regulations prohibiting unduly discriminatory or preferential treatment of Transmission customers. ESNG’s rules and procedures for complying with these requirements are set forth in its FERC-approved Gas Tariff (posted on ESNG’s website at info.esng.com/interactive-web-site or directly at www.gasnom.com/ip/eshore) and in the procedures specified below to implement the FERC’s Standards of Conduct rules.

§ 358.2 (b) A transmission provider’s transmission function employees must function independently from its marketing function employees, except as permitted in this part or otherwise permitted by Commission order.	ESNG does not engage in marketing functions and has no marketing function employees of its own. ESNG’s transmission function employees operate independently of the marketing function employees of ESNG’s affiliates, Chesapeake, in accordance with the provisions of the “Independent functioning” rule in §358.5 below.
§ 358.2 (c) A transmission provider and its employees, contractors, consultants and agents are prohibited from disclosing, or using a conduit to disclose, non-public transmission function information to the transmission provider’s marketing function employees.	As noted above, ESNG does not engage in marketing functions and has no marketing function employees of its own. ESNG prohibits its employees, contractors, consultants and agents from disclosing, or using a conduit to disclose, non-public transmission function information to the marketing function employees of ESNG’s affiliates, Chesapeake, in accordance with the provisions of the “No conduit” rule in §358.6 below.
§ 358.2 (d) A transmission provider must provide equal access to non-public transmission function information to all its transmission function customers, affiliated and non-affiliated, except in the case of confidential customer information or Critical Energy Infrastructure Information.	ESNG provides its transmission function customers, affiliated and non-affiliated, equal access to non-public transmission function information, except in the case of confidential customer information or Critical Energy Infrastructure Information, in accordance with the provisions of the “Transparency rule” in §358.7 below.

§ 358.3 Definitions.

Regulation	ESNG Implementation Statement/Procedure
§ 358.3 (a) <u>Affiliate</u> of a specified entity means: 1. Another person that controls, is controlled by or is under common control with, the specified entity. An affiliate includes a division of the specified entity that operates as a functional unit. 2. (Applicable only to electric industry) 3. Control as used in this definition means the direct or indirect authority, whether acting alone or in conjunction with others, to direct or cause to direct the management policies of an entity. A voting interest of 10 percent or more creates a rebuttable presumption of control.	As noted above, the Standards of Conduct rules apply to ESNG as an interstate natural gas pipeline that provides natural gas transportation and certain storage services for others pursuant to subparts B and G of Part 284...and conducts transmission transactions with its affiliates, Chesapeake, that engage in marketing functions, as defined in §358.3(c)(2).
§ 358.3 (b) <u>Internet website</u> refers to the Internet location where an interstate natural gas pipeline or a public utility posts the information, by electronic means, required under this part 358.	Informational postings on ESNG's public Internet website can be found at info.esng.com/interactive-web-site, or directly at www.gasnom.com/ip/eshore.

§ 358.3 (c) <u>Marketing function</u> means: 1. (Applicable to electric utilities only) 2. In the case of interstate pipelines and their affiliates, the sale for resale in interstate commerce, or the submission of offers to sell in interstate commerce, natural gas , subject to the following exclusions: (i) Bundled retail sales (ii) Incidental purchases or sales of natural gas to operate interstate natural gas pipeline transmission facilities (iii) Sales of natural gas solely from a seller’s own production (iv) Sales of natural gas solely from a seller’s own gathering and processing facilities (v) Sales by an intrastate natural gas pipeline, by a Hinshaw interstate pipeline exempt from the Natural Gas Act, or by a local distribution company making an on-system sale.	ESNG’s affiliates, Chesapeake, engage in marketing functions, as defined in §358.3(c)(2).
§ 358.3 (d) <u>Marketing function employee</u> means an employee, contractor, consultant, or agent of a transmission provider or of an affiliate of a transmission provider who actively and personally engages on a day-to-day basis in marketing functions.	As noted above, ESNG does not engage in marketing functions and has no marketing function employees of its own. ESNG’s affiliates, Chesapeake, employ marketing function employees, as defined in §358.3(d).
§ 358.3 (e) <u>[applicable to electric utilities only]</u>	N/A
§ 358.3 (f) <u>Transmission</u> means ... natural gas transportation, storage, exchange, backhaul, or displacement service provided pursuant to subparts B or G of part 284.	ESNG provides natural gas transportation service, including certain storage services, pursuant to subparts B and G of Part 284.

§ 358.3 (g) <u>Transmission customer</u> means any eligible customer, shipper or designated agent that can or does execute a transmission service agreement or can and does receive transmission service, including all persons who have pending requests for transmission service or for information regarding transmission.	ESNG's Transmission customers include: (i) any customer, shipper or designated agent of such customer or shipper who executes a transmission service agreement and receives transmission service from ESNG, or is eligible to receive such service, pursuant to the terms of ESNG's FERC-approved Gas Tariff, and (ii) all persons who have pending a request for transmission service or for information regarding transmission service on ESNG's pipeline system.
§ 358.3 (h) <u>Transmission functions</u> means the planning, directing, organizing or carrying out of day-to-day transmission operations, including the granting and denying of transmission service requests.	These functions relate to the day-to-day operation of ESNG's pipeline, including functions performed daily by ESNG's Transmission function employees.
§ 358.3 (i) <u>Transmission function employee</u> means an employee, contractor, consultant or agent of a transmission provider who actively and personally engages on a day-to-day basis in transmission functions.	See §358.7(f) below for information on ESNG's Transmission function employees.
§ 358.3 (j) <u>Transmission function information</u> means information relating to transmission functions.	This includes information on transmission functions, as defined in §358.3(h) above.
§ 358.3 (k) <u>Transmission provider</u> means: (1) [applicable to electric utilities only] (2) Any interstate pipeline that transports gas for others pursuant to subparts B or G of part 284. (3) A transmission provider does not include a natural gas storage provider authorized to charge market-based rates.	ESNG is a Transmission provider because it provides natural gas transportation service and certain storage services pursuant to subparts B and G of Part 284. ESNG is not authorized to charge market-based rates for the storage services which it provides.
§ 358.3 (l) <u>Transmission service</u> means the provision of any transmission as defined in §358.3(f).	The transmission services offered by ESNG are described in its FERC-approved Gas Tariff.

§ 358.3 (m) <i>Waiver</i> means the determination by a transmission provider, if authorized by its tariff, to waive any provisions of its tariff for a given entity.	See §358.7(i) below for information on posting of certain waivers.
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§ 358.4 Non-discrimination requirements.

Regulation	ESNG Implementation Statement/Procedure
§ 358.4 (a) A transmission provider must strictly enforce all tariff provisions relating to the sale or purchase of open access transmission service, if the tariff provisions do not permit the use of discretion.	ESNG strictly enforces provisions of its FERC Gas Tariff relating to the sale or purchase of open access transmission service on its pipeline system if such provisions do not permit the use of discretion.
§ 358.4 (b) A transmission provider must apply all tariff provisions relating to the sale or purchase of open access transmission service in a fair and impartial manner that treats all transmission customers in a not unduly discriminatory manner, if the tariff provisions permit the use of discretion.	ESNG, in applying the provisions of its FERC-approved Gas Tariff relating to the sale or purchase of open access transmission service, treats its transmission customers in a not unduly discriminatory manner, if such tariff provisions permit the use of discretion.
§ 358.4 (c) A transmission provider may not, through its tariffs or otherwise, give undue preference to any person in matters relating to the sale or purchase of transmission service (including, but not limited to, issues of price, curtailments, scheduling, priority, ancillary services, or balancing).	ESNG does not give undue preference to its transmission customers in matters relating to the sale or purchase of transmission service on its pipeline system (including, but not limited to, issues of price, curtailments, scheduling, priority, ancillary services, or balancing).
§ 358.4 (d) A transmission provider must process all similar requests for transmission in the same manner and within the same period of time.	ESNG processes requests by similarly situated transmission customers for similar transmission service on its pipeline system in the same manner and within the same period of time.

§ 358.5 Independent functioning rule.

Regulation	ESNG Implementation Statement/Procedure
§ 358.5 (a) <u>General rule.</u> Except as permitted in this part or otherwise permitted by Commission order, a transmission provider's transmission function employees must function independently of its marketing function employees.	As noted above, ESNG does not engage in marketing functions; consequently, it has no marketing function employees. ESNG's transmission function employees operate independently of the marketing function employees of ESNG's affiliates, Chesapeake.
§ 358.5 (b) <u>Separation of functions.</u> (1) A transmission provider is prohibited from permitting its marketing function employees to: (i) Conduct transmission functions; or (ii) Have access to the system control center of similar facilities used for transmission operations that differs in any way from the access available to other transmission customers (2) A transmission provider is prohibited from permitting its transmission function employees to conduct marketing functions.	ESNG prohibits the marketing function employees of ESNG's affiliates, Chesapeake, from conducting ESNG's transmission functions and from having access to ESNG's system control center or similar facilities used for ESNG's transmission that differs in any way from the access available to ESNG's other transmission customers. As noted above, ESNG does not engage in marketing functions and has no marketing function employees of its own. ESNG prohibits its transmission function employees from conducting marketing functions.

§ 358.6 No conduit rule.

Regulation	ESNG Implementation Statement/Procedure
§ 358.6 (a) A transmission provider is prohibited from using anyone as a conduit for the disclosure of non-public transmission function information to its marketing function employees.	ESNG is prohibited from using anyone as a conduit for the disclosure of non-public transmission function information to any marketing function employee of Chesapeake. Since ESNG does not engage in marketing functions, it has no marketing function employees of its own.
§ 358.6 (b) An employee, contractor, consultant or agent of a transmission provider, and an employee, contractor, consultant or agent of an affiliate of a transmission provider that is engaged in marketing functions, is prohibited from disclosing non-public transmission function information to any of the transmission provider's marketing function employees.	Employees, contractors, consultants and agents of ESNG and Chesapeake are prohibited from disclosing non-public transmission function information to any marketing function employee of Chesapeake. Since ESNG does not engage in marketing functions, it has no marketing function employees of its own. ESNG makes known the prohibitions in §358.6 by means of the posting and training actions described in these procedures implementing the Standards of Conduct rules.

§ 358.7 Transparency rule.

Regulation	ESNG Implementation Statement/Procedure
§ 358.7 (a) Contemporaneous disclosure. (1) If a transmission provider disclosed non-public transmission function information, other than information identified in paragraph (a)(2) of this section, in a manner contrary to the requirements of §358.6, the transmission provider must immediately post the information that was disclosed on its Internet website. (2) If a transmission provider discloses, in a manner contrary to the requirements of §358.6, non-public transmission customer information, critical energy infrastructure information (CEII) as defined in §388.113(c)(1) of this chapter or any successor provision, or any other information that the Commission by law has determined is to be subject to limited dissemination, the transmission provider must immediately post notice on its website that the information was disclosed.	If ESNG, through an employee, contractor, consultant, agent, or any other person, discloses to Chesapeake non-public transmission function information, other than information identified in §358.7(a)(2), ESNG will post on its Internet website the information that was disclosed. If such information falls within the categories described in §358.7(a)(2), ESNG will notify the Commission of the information disclosed and post on its Internet Website a notice of the disclosure, without specifying its content.
§ 358.7 (b) <u>Exclusion for specific transaction information.</u> A transmission provider's transmission function employee may discuss with its marketing function employee a specific request for transmission service submitted by the marketing function employee. The transmission provider is not required to contemporaneously disclose information otherwise covered by §358.6 if the information relates solely to a marketing function employee's specific request for transmission service.	A transmission function employee of ESNG may discuss with a marketing function employee of Chesapeake a specific request for transmission service submitted by the marketing function employee. ESNG is not required to contemporaneously disclose or post information otherwise covered by §358.6 if the information relates solely to the marketing function employee's specific request for transmission service.

§ 358.7 (c) <u>Voluntary consent provision.</u> A transmission customer may voluntarily consent, in writing, to allow the transmission provider to disclose the transmission customer's non-public information to the transmission provider's marketing function employees. If the transmission customer authorizes the transmission provider to disclose its information to marketing function employees, the transmission provider must post notice on its Internet website of the consent along with a statement that it did not provide any preferences, either operational or rate-related in exchange for that voluntary consent.	If a transmission customer voluntarily authorizes ESNG, in writing, to disclose the transmission customer's non-public information to marketing function employees of Chesapeake, ESNG will post notice on its Internet website of the authorization along with a statement that it did not provide any preferences, either operational or rate-related, in exchange for that voluntary authorization.
§ 358.7 (d) <u>Posting written procedures on the public Internet.</u> A transmission provider must post on its Internet website current written procedures implementing the standards of conduct.	These procedures implementing the Standards of Conduct are posted on ESNG's Internet Website.
§ 358.7 (e) <u>Identification of affiliate information on the public Internet.</u> (1) A transmission provider must post on its Internet website the names and addresses of all its affiliates that employ or retain marketing function employees. (2) A transmission provider must post on its Internet website a complete list of the employee-staffed facilities shared by any of the transmission provider's transmission function employees and marketing function employees. The list must include the types of facilities shared and the addresses of the facilities. (3) The transmission provider must post information concerning potential merger partners as affiliates that may employ or retain marketing function employees, within seven days after the potential merger is announced.	The information required by §358.7(e)(1) is posted on ESNG's Internet Website and is provided below: Chesapeake Utilities of Maryland, Inc. and Chesapeake Utilities – Delaware Division 500 Energy Lane, Suite 100 Dover, DE 19901 As noted above, ESNG does not engage in marketing functions and has no marketing function employees of its own. ESNG's transmission function employees and its affiliates' marketing function employees share an office building at 500 Energy Lane, Suite 100 Dover, DE 19901

	If a potential merger is announced in the future, ESNG will post on its Internet Website the information required under §358.7(e)(3).
§ 358.7 (f) <u>Identification of employee information on the public Internet.</u> (1) A transmission provider must post on its Internet website the job titles and job descriptions of its transmission function employees. (2) A transmission provider must post a notice on its Internet website of any transfer of a transmission function employee to a position as a marketing function employee, or any transfer of a marketing function employee to a position as a transmission function employee. The information posted under this section must remain on its Internet website for 90 days. No such job transfer may be used as a means to circumvent any provision of this part. The information to be posted must include: (i) The name of the transferring employee, (ii) The respective titles held while performing each function (<u>i.e.</u>, as a transmission function employee and as a marketing function employee), and (iii) The effective date of the transfer	ESNG posts on its Internet Website the information required by §358.7(f)(1). Since ESNG is not engaged in marketing functions, it has no marketing function employees of its own. If a transmission function employee of ESNG is transferred to a position as a marketing function employee of Chesapeake or if a marketing function employee of Chesapeake is transferred to a position as a transmission function employee of ESNG, ESNG will comply with the provisions of §358.7(f)(2).

§ 358.7 (g) Timing and general requirement of postings on the public Internet.

- (1) A transmission provider must update on its Internet website the information required by this part 358 within seven business days of any change, and post the date on which the information was updated. ...
- (2) In the event of an emergency, such as an earthquake, flood, fire or hurricane, severely disrupts a transmission provider's normal business operations, the posting requirements in this part may be suspended by the transmission provider. If the disruption lasts longer than one month, the transmission provider must so notify the Commission and may seek a further exemption from the posting requirements.
- (3) All Internet website postings required by this part must be sufficiently prominent as to be readily accessible.

In the event of any change that would require ESNG to update the information required under the Standards of Conduct rules in Part 358, ESNG will do so by posting on its Internet Website such updated information required by §358.7(g) within the timeframes required.

§ 358.7 (h) Exclusion for and recordation of certain information exchanges.

- (1) Notwithstanding the requirements of §§ 358.5(a) and 358.6, a transmission provider's transmission function employees and marketing function employees may exchange certain non-public transmission function information, as delineated in §358.7(h)(2), in which case the transmission provider must make and retain a contemporaneous record of all such exchanges except in emergency circumstances, in which case a record must be made of the exchange as soon as practicable after the fact. The transmission provider shall make the record available to the Commission upon request. The record may consist of hand-written or typed notes, electronic records such as e-mails or text messages, recorded telephone exchanges, and the like, and must be retained for a period of five years.
- (2) The non-public information subject to the exclusion in §358.7(h)(1) is as follows:
 - (i) Information pertaining to compliance with the Reliability Standards approved by the Commission, and
 - (ii) Information necessary to maintain or restore operation of the transmission system or generating units, or that may affect the dispatch of generating units.

The applicable exclusion for ESNG would be information necessary to maintain or restore operation of its transmission system, specified in §358.7(h)(2)(ii). In the event that such information must be exchanged, ESNG will adhere to the record-keeping requirements specified in §358.7(h)(1).

§ 358.7 (i) Posting of waivers. A transmission provider must post on its Internet website notice of each waiver of a tariff provision that it grants in favor of an affiliate, unless such waiver has been approved by the Commission. The posting must be made within one business day of the act of the waiver. The transmission provider must also maintain a log of the acts of the waiver, and must make it available to the Commission upon request. The records must be kept for a period of five years from the date of each act of waiver.	In the event that ESNG grants a waiver of a tariff provision in favor of an affiliate, it will comply with the posting and record-keeping requirements of §358.7(i).
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§ 358.8 Implementation requirements.

Regulation	ESNG Implementation Statement/Procedure
§ 358.8 (a) <u>Effective date.</u> A transmission provider must be in full compliance with the standards of conduct on the date it commences transmission transactions with an affiliate that engages in marketing functions.	As a transmission provider, ESNG acknowledges that the Standards of Conduct rules apply to it upon commencement of transmission transactions with an affiliate engaged in marketing functions.

§ 358.8 (b) <u>Compliance measures and written procedures.</u> (1) A transmission provider must implement measures to ensure that the requirements of §§358.5 and 358.6 are observed by its employees and by the employees of its affiliates. (2) A transmission provider must distribute the written procedures referred to in §358.7(d) to all its transmission function employees, marketing function employees, officers, directors, supervisory employees, and any other employees likely to become privy to transmission function information.	ESNG complies with the requirements of §358.8(b)(1) by posting these written procedures and providing the training described under §358.8(c) below. ESNG distributes these written procedures to all persons specified in §358.8(b)(2).
§ 358.8 (c) <u>Training and compliance personnel.</u> (1) A transmission provider must provide annual training on the standards of conduct to all the employees listed in paragraph (b)(2) of this section. The transmission provider must provide training on the standards of conduct to new employees in the categories listed in paragraph (b)(2) of this section, within the first 30 days of their employment. The transmission provider must require each employee who has taken the training to certify electronically or in writing that s/he has completed the training. (2) A transmission provider must designate a chief compliance officer who will be responsible for standards of conduct compliance. The transmission provider must post the name of the chief compliance officer and	ESNG provides annual training to all employees listed in §358.8(b)(2) above. All new employees included in that listing receive this training as part of their orientation, which is held within the first 30 days of their employment. The contact information for ESNG's chief compliance officer for the Standards of Conduct rules is as follows: Lindsay O. Foy AVP, Associate General Counsel & Head Compliance Officer Chesapeake Utilities Corporation 500 Energy Lane Dover, DE 19901 In addition, ESNG has in place a whistleblower hotline and an anonymous website (chpk.ethicspoint.com or 1-844-711-0286). Both are hosted by an unaffiliated third-party (EthicsPoint) and are convenient and secure options to report any behavior by

provide his or her contact information on its Internet website.	employees, contractors, consultants and agents of ESNG or its affiliates, which may be inconsistent with laws, rules and procedures applicable to ESNG and/or its affiliates.
§ 358.8 (d) <u>Books and records.</u> A transmission provider must maintain its books of account and records (as prescribed under parts 101, 125, 201 and 225) separately from those of its affiliates that employ or retain marketing function employees, and these must be available for Commission inspections.	ESNG maintains its books of account and records separately from its affiliates that employ or retain marketing function employees, and such books and records are available for Commission inspections.