



City of Grand Island

Tuesday, August 24, 2010

Council Session

Item G10

#2010-226 - Approving Midwest Reliability Organization Non-Disclosure Agreement

Staff Contact: Gary R. Mader

Council Agenda Memo

From: Gary R. Mader, Utilities Director
Dale Shotkoski, City Attorney

Meeting: August 24, 2010

Subject: Midwest Reliability Organization Non-Disclosure Agreement

Item #'s: G-10

Presenter(s): Gary R. Mader, Utilities Director

Background

The Electric Department maintains a 115,000 volt transmission loop that provides reliable power to the substations connected to it. In addition, several transmission connections with the regional grid are established from various locations around the loop. In an effort to maintain the reliability of the national electric grid, the nation is divided up into several regions. Each utility that resides within a particular region is required to comply with federal regulations and submit proof of compliance to its regional reliability organization. Nebraska currently resides within the Midwest Reliability Organization (MRO) footprint. MRO covers all or part of nine states and two Canadian provinces. One of the tools used to maintain reliability is a large, detailed computer model of the regional electric transmission grid. Each utility within the MRO footprint shares data that is ultimately used to model the entire region. The model is used to determine the impact of various changes and improvements to the transmission system to assure that continued reliable service and redundancy are maintained. Nebraska Public Power District (NPPD) currently integrates Grand Island's modeling information in with its own to be submitted to the MRO. However, Grand Island has access to information across the region since outside changes can impact Grand Island's system.

Discussion

In a post-911 world, security of sensitive documentation becomes increasingly more important. Utilities within the MRO share sensitive information with other utilities for transmission planning and modeling purposes. In an effort to maintain the security of this information, MRO is requiring a Non-Disclosure Agreement to be signed by all participating utilities.

Alternatives

It appears that the Council that the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to a future date
4. Take no action on the issue

Recommendation

City Administration recommends the Midwest Reliability Organization Non-Disclosure Agreement be approved and signed to allow continued involvement with MRO and related transmission planning efforts.

Sample Motion

Move to approve the Midwest Reliability Organization Non-Disclosure Agreement to continue involvement with the MRO.

Midwest Reliability Organization
NON-DISCLOSURE AGREEMENT

Midwest Reliability Organization (MRO) plans to make available certain information to your company (Recipient) related to MRO models and data. Prior to receiving this information, MRO requires that Recipient execute this Non-Disclosure Agreement (Agreement).

For the purposes of this Agreement only, “employees” include third parties retained for professional advice (including, without limitation, attorneys, accountants, consultants, bankers and financial advisors) temporary administrative, clerical or programming support. “Need to know” means that the employee requires the Confidential Material in order to perform his or her responsibilities in connection with Recipient transacting business with MRO or its Members.

By executing this Agreement, Recipient is affirming that all information designated by MRO or its vendor(s) as “confidential”, “proprietary”, “CEII” or other such designation as indicates protection of the material (Confidential Material), will be maintained in the strictest confidence and will not be disclosed to any person or entity other than its officers, directors and employees, consultants or its affiliates and their respective officers, directors, and employees who have a need to know, who have been advised of the confidentiality of the material, and who have agreed to be bound by the terms of this Agreement. Recipient acknowledges that Confidential Material may include Critical Energy Infrastructure Information (CEII). Pursuant to Commission Order on Rehearing (Issued June 17, 2008), 123 FERC ¶ 61,276, Critical Energy Infrastructure Information (CEII) is defined as “specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (1) relates details about the production, generation, transportation, transmission, or distribution of energy; (2) could be useful to a person in planning an attack on critical infrastructure; and (3) does not simply give the general location of the critical infrastructure.”

Recipient shall take necessary precautions to prevent disclosure of the Confidential Material to the public or any third party. Recipient agrees that the Confidential Material will not be copied or furnished to other parties. Recipient will safeguard the Confidential Material with the same degree of care to avoid unauthorized disclosure as Recipient uses to protect its own confidential and private information.

The obligation with respect to handling and using Confidential Material set forth in this Agreement is not applicable to information which:

- a. Is in the public domain at the time of its disclosure to Recipient, or thereafter enters the public domain through no breach of this Agreement by Recipient;
- b. Is known by Recipient at the time of disclosure by MRO;

- c. Is independently developed by Recipient or by a person or persons who have not had access to the Confidential Material received by Recipient from MRO;
- d. Is available to Recipient or others by inspection or analysis or related products available in the open market place;
- e. Is made available by MRO to anyone without similar restrictions by disclosing of such Confidential Material;
- f. Is known to Recipient from a source other than MRO;
- g. Is approved for release by written authorization of a representative of MRO;
- h. Is required by law or regulation to be disclosed, but only to the extent and for the purposes of such required disclosure; or
- i. Is disclosed in response to a valid order of a court or other governmental body of the United States or any of its political subdivisions, but only to the extent of and for the purposes of such order; provided, however, that Recipient will first notify MRO of the order and permit MRO to seek an appropriate protective order.

Confidential Material will be deemed the property of MRO or its vendor(s). Recipient will, within ten (10) days of a written request by MRO or its vendor(s), return all Confidential Material to MRO or, if so directed, destroy all such Confidential Material. Recipient will also, within ten (10) days of a written request by MRO or its vendor(s), certify in writing that it has satisfied the obligations of such a request.

No other obligation of any kind is assumed by or implied against any party except for those stated herein by the receipt of such Confidential Material, nor shall such receipt constitute a waiver of any rights any party may have with respect to similar material.

No manufacturing or software license under any patents or copyrights of any party is granted by this Agreement or by any disclosure of Confidential Material.

The parties agree that an impending or existing violation of any provision of this Agreement would cause MRO or its vendor(s) irreparable injury for which there would be no adequate remedy at law, and that MRO or its vendor(s) will be entitled to seek immediate injunctive relief prohibiting such violation without the posting of bond or other security, in addition to any other rights and remedies available.

No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement or any disclosure hereunder, except for the

right to use such information in accordance with this Agreement. No warranties of any kind are given for the Confidential Material disclosed under this Agreement.

This Agreement may not be assigned by Recipient without the prior written consent of MRO. Any assignment in violation of this provision will be void. This Agreement will be binding upon the parties and their respective successors and assigns.

If any provision of this Agreement is held invalid or unenforceable, such provision will be deemed deleted from this Agreement and replaced by a valid and enforceable provision which so far as possible achieves the party's intent in agreeing to this original provision. The remaining provisions of this Agreement will continue in full force and affect.

Recipient warrants that it has the authority to enter into this Agreement and to lawfully make the disclosures contemplated hereunder.

ACKNOWLEDGED AND AGREED:

Company: _____

By: _____

Name: _____

Title: _____

RESOLUTION 2010-226

WHEREAS, in an effort to maintain the reliability of the national electric grid, the nation is divided up into several regions; and

WHEREAS, each utility that resides within a particular region is required to comply with federal regulations and submit proof of compliance to its regional reliability organization; and

WHEREAS, Nebraska currently resides within the Midwest Reliability Organization (MRO); and

WHEREAS, each utility within the MRO shares data that is ultimately used to model the entire region, and the model is used to determine the impact of various changes and improvements to the transmission system to assure that continued reliable service and redundancy are maintained; and

WHEREAS, Grand Island has access to information across the region since outside changes can impact Grand Island's system; and

WHEREAS in an effort to maintain the security of this information, MRO is requiring a Non-Disclosure Agreement to be signed by all participating utilities.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA that the Mayor is hereby authorized, on behalf of the City, to execute the Midwest Reliability Organization Non-Disclosure Agreement.

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Adopted by the City Council of the City of Grand Island, Nebraska, August 24, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
August 19, 2010	☐ City Attorney