

EUCG, INC.

## Policy #EUCG PO-01

- The purpose of the antitrust
- statutes is to preserve a free
- and competitive economy.
- As a result, laws generally
- prohibit any agreement
- or combination, which
- unreasonably restrain trade.



# EUCG, INC. Antitrust Guidelines



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**M**embership in the EUCG, Inc. is open to any organization affiliated with, or in the business of, production, transmission or distribution of energy and does not constitute an antitrust violation. Competitors may legitimately meet and discuss matters concerning their industry, provided they do so without a specific and continuing purpose, understanding or agreement to pursue actions tending to unreasonably restrict commerce. Activities ordinarily considered appropriate for discussion include:

- Reports on general and industry economic trends;
- Research and demonstrations of technology relating to the solution of industry problems;
- Demonstrations of cost control methods by which member companies can become more efficient and profitable;
- Reports on “Best Practices” and Benchmarking results;
- Discussions of energy supply and utilization; and
- Reports on governmental developments and their impact on the industry.

Meetings, however, afford obvious opportunities for antitrust transgressions. By definition, members of any trade association engage in concerted activities related to mutual commercial concerns. Lawful association activities may constitute forbidden conduct if these in any way result in explicit or tacit agreements which fix, raise, lower, or stabilize prices, limit production, allocate markets, establish discriminatory standards, or otherwise unreasonably restrain free trade.

The EUCG policy is to conduct activities in strict compliance with all applicable antitrust laws and to avoid any appearance of impropriety. This requires the efforts and cooperation of membership and counsel. The following guidelines are intended to prevent the initiation of inappropriate discussions or actions.

- 1. DO NOT** engage in discussions or activities which may tend to:
  - a.** Fix or otherwise restrict the prices charged or paid for goods or services;
  - b.** Allocate markets, sales territories or customers between members;
  - c.** Initiate or encourage boycotts of specific products or services, or refusals to deal with designated customers or suppliers;
  - d.** Limit production levels of members, otherwise restrict the availability of products or services, or share future outage dates;
  - e.** Purposely hinder or disparage the competitive efforts of non-members;
  - f.** Coerce or encourage members to refrain from competing;
  - g.** Limit, impede or exclude anyone of the manufacture, production or sale of goods or services;
  - h.** Promulgate or encourage unfair or misleading practices involving advertising, merchandising of products or services;
  - i.** Make predictions about future behavior, including projected reliability or generation data, or
  - j.** Condition or tie the purchase of one product or service to the purchase of another product or service.
- 2. DO NOT** discriminate against competitors when:
  - a.** Developing standards or specifications for products or services;
  - b.** Setting ethical standards.
- 3. DO NOT** exchange data concerning current or future prices, production levels or costs. However, the exchange of historical information (as distinguished from future data) should not in itself constitute a violation of

federal antitrust laws if it follows applicable U.S. Department of Justice/Antitrust Division and/or Federal Trade Commission guidelines, including antitrust “safe harbor” or “safety zone” provisions and as long as minimal likelihood of any anticompetitive impact and unreasonable restraint on competition exists from an antitrust economics standpoint.

- 4. DO NOT** participate in the dissemination of suggested price lists of members.
- 5. DO NOT** participate in informal “rump sessions” outside the formal sessions which disregard these guide lines.

These guidelines are not intended and should not be understood as a comprehensive summary of all antitrust problem areas. These guidelines are intended to familiarize members with the broad contours of antitrust prohibitions so that the antitrust compliance policies are achieved.

**If a conversation or activity such as those listed here begins, STOP IT IMMEDIATELY!**

Be aware that these guidelines also apply to casual discussions that occur outside of formal EUCG sessions. If there are any questions concerning the application of antitrust laws, the area should not be discussed without first reviewing with legal counsel.

In addition to meetings, EUCG also makes available to the members various products. These products may be made available in some form to non-members. Database products must be audited by a non-competitive third party and must not include data that can be used to calculate current market prices or for any other purpose prohibited by antitrust laws. Surveys must not be taken to collect information related to price or future competitive behavior. Any survey that collects cost data must consider antitrust laws, be authorized by a EUCG official and conducted according to the EUCG Survey procedure.