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MEMORANDUM

TO: NERC Standing Committees Representation Task Force

FROM: David W. Penn and Allen Mosher, American Public Power Association

SUBJECT: Comments on NERC Wholesale Electric Standards Model and the Proposed North American Energy Standards Board

The American Public Power Association offers these comments and the design principles outlined below in an attempt to offer constructive criticism to NERC and the Standing Committees Representation Task Force on the proposed Wholesale Electric Standards Model (WESM), as well as to proponents of alternative models, such the Gas Industry Standards Board's proposal to create and populate the four-quadrant North American Energy Standards Board (NAESB).

APPA is mindful of the Federal Energy Regulatory Commission's December 19, 2001 call to action by the industry, seeking to prompt stakeholder consensus or at least broad support for a wholesale electric industry standards organization, potentially modeled along the governance and voting procedures adopted by GISB for wholesale gas industry business standards. However, APPA, which represents electric load-serving entities that are owned by the customers they serve, places paramount importance on the continuing need for standards that ensure electric system reliability. This is all the more the case during this period of rapid physical and institutional change.

If the Commission's vision for seamless multi-regional competitive wholesale electric markets is to be realized on a timely basis, some form of wholesale electric standards organization that can foster consensus among diverse stakeholders is needed. Further, if the Commission intends to adopt this year a standard wholesale electric market design applicable to jurisdictional utilities and RTOs throughout the United States as discussed within Docket No. RM01-12-000, a standards organization will clearly need to address the details of business rules and practices and communication protocols. The alternative would appear to be a protracted tug of war between competing regional interests, as well as conflict across industry segments at the national level.

In this light, FERC's March 15, 2002 deadline seems understandable, in that baseline national standards should precede further development by RTOs of regional or RTO-specific business standards and communication protocols. To do otherwise would substantially increase the time and expense of getting RTOs into operation, as each region adopts rules that are inconsistent with neighboring systems. On the other hand, the rush to institute a new standards development

model should be tempered by the need for due process in considering the change and realistic timetables for RTO formation in the various regions. We must be mindful that a sudden shift in process and structure may disenfranchise segments of the industry or regions, thereby undermining the ability to gain broad consensus across industry segments. Furthermore, differences between standards and practices in each interconnection must be carefully considered. Can the process accommodate these legitimate differences, thereby fostering greater industry consensus?

In the rush to force consensus in support of organizational and process models for development of wholesale electric business standards, many industry participants appear to be losing sight of the fact that NERC is a multi-national policymaking organization, not merely a developer of voluntary industry standards or mandatory business standards developed in response to FERC policy directives. Events of the last several years have shown repeatedly that certain reliability standards and practices need to be mandatory.

The fact is that FERC lacks both the legal authority and the expertise to address a host of reliability policy issues. While FERC has charged RTOs with certain reliability functions, such as security coordination and responsibility for short term operations, the Commission has not insisted that the NERC Operating Policies and Planning Standards be placed on file with the Commission. Unless and until FERC makes and sustains such an assertion of jurisdiction, or such authority is established in legislation, a continuing role for a North American reliability policy making organization must be assured.

APPA perceives no total and clean separation between reliability and business standards to be possible. Policy 3 – Interchange and Policy 9 – Security Coordinator Procedures, for example, are replete with requirements that were intended to serve both objectives. Particularly in the case of Appendix 9C, (transmission flow reduction and curtailment procedures), all entities seem broadly dissatisfied. But that does not imply that business standards affecting curtailment can be developed in isolation from reliability considerations. The implication that NAESB can address both almost guarantees pushback from system operators and others focusing on reliability. The argument that RTOs will develop many of these business standards also raises concerns in that even the most public interest-oriented RTO is nonetheless an industry stakeholder, like any other. RTOs are in the transmission business.

Further, there is the issue of timing. That FERC would like such a standards organization to become operational soon does not provide confidence that the existing issues addressed by NERC will magically go away in the multi-year transition to operational RTOs.

APPA supports the following standards organization design principles and considerations:

- APPA supports “One Stop Shopping” for wholesale electric reliability and commercial standards, but only where other principles are not unduly compromised.
- Above all, reliability must not be compromised. This entails continued industry support for an organization, such as but not necessarily limited to NERC as currently constituted, with reliability at the core of its mission statement.
- APPA believes that there can be legitimate differences between regions and the interconnections that justify different implementation timetables and variances in business practice and reliability standards.

- APPA is willing to discuss the NAESB four quadrant model, but does not support compromise on other core principles to fit within the GISB model's governance and process standards as they are currently constituted.
- An independent non-stakeholder board, guided by stakeholder input, is essential for any policy-making body, to ensure that business standard development is not captured by those subject to the standards. FERC's experience with stakeholder and ownership-driven boards for RTOs demonstrate the benefits of independence. In its own telling way, FERC itself is and must be independent. Non-governmental standards development organizations can not ignore this requirement.
- Committee and voting pool segment balance is essential, but is not a substitute for independence.
- APPA is deeply skeptical that an entirely stakeholder-run organization can develop meaningful standards with policy content. Recent experience with stakeholder driven organizations highlight the risk of lowest common denominator outcomes as well as a strong bias toward results favorable to those with the deepest pockets.
- APPA concludes that a professional staff is required to help develop and administer the standards process, subject to the policy directives of its Board of Trustees and the substantive input of various stakeholder groups. A professional staff is also critically needed as a reservoir of institutional memory.
- NERC performs or facilitates a variety of non-standards-development related functions, such as training and enforcement. There are significant efficiencies and synergies associated with developing policy, standards, and practices in a single organization that can guide tool development, training and enforcement, as well as acting as an industry body for problem identification and discussion.
- The proposed efficiencies gained through a four quadrant NAESB could be offset by structural separation from the other NERC functions referenced above.
- APPA supports ANSI certification of standards development processes. However, there are alternatives to the GISB process that should be explored.
- Further attention is required for the due-process issues required for interim policies and the interpretation of existing policies. It is unclear how a voluntary organization such as NAESB could perform such functions.
- Enforcement of standards is a major concern. If a standard with reliability-related content were developed by NAESB, a voluntary organization (such as NAESB) could not enforce compliance. In the absence of NERC adoption of the standard, this implies that all interpretation and enforcement would take place at FERC or within RTOs.
- Standards development organizations and processes must be cost effective and the costs must be fairly allocated to electric consumers.
- The cost of participation in GISB/NAESB is a major concern. Pay to vote is a major concern of many small systems, even if it is not a major concern for large utilities. APPA understands that GISB's wholesale gas "customer" segment is in large part populated by large electric utilities that consume gas in electric power generation.
- Public access to all standards material is critically important. The fact that non-members do not have meaningful access to the GISB web site is a non-starter, if public confidence

is to be assured. A members-only web site may be acceptable for business practices. It is unacceptable for reliability rules.

- The WESM process (as well as the NAESB/GISB process) raises significant concerns as to the participation of small entities. As a practical matter, participation in the standards drafting process by municipal and other community owned systems is already difficult – we lack the resources in a single utility to participate in a broad range of standards development processes.

APPA believes it would be a mistake to assume that this effort can result in a set-it-and-forget-it organization and batch of standards. An understanding of the industry and its issues, experience over the past few years, and common sense all point to the need for continuing development and reassessment of standards on into the future. This in turn reinforces the need for great care in the design of standards organizations and for ensuring institutional continuity and memory during the transition.

A flurry of discussion of the business standards issues is already underway in various NAESB, DOE and FERC sponsored meetings and conferences. FERC may need to consider in the alternative consolidating this stakeholder process into one of its public proceedings sooner, rather than waiting until March. Stakeholders alternately seem to talk past each other or come to support recommendations that mask irreconcilable differences. Also, key parties are unable to attend multiple meetings and the collaboration fatigue identified at DOE's meeting on December 7, 2001 is a factor. This process would benefit also from FERC's open and on-the-record format for, despite sincere efforts by those seeking an industry consensus, this ungainly process is still not open and public enough.

APPA's recommendation is to proceed on a two-track basis, under which FERC and the electric industry would move forward quickly with an interim wholesale electric business standards development process, while leaving to NERC (for now at least) the continuing responsibility for electric system reliability.

During the current year, FERC should pursue creation of an interim organization to develop nationally applicable wholesale electric business standards, to help get RTOs up and running, reduce commercial seams between regions, and foster the articulation of its proposal to adopt a standard wholesale electric market design. A GISB-type stakeholder driven model is likely to be acceptable for that purpose, subject to changes to accommodate the membership and public access principles outlined above.

In the second phase, however, industry stakeholders and FERC should pursue development of a unitary policy-making and standards development organization that addresses both electric reliability and commercial issues. Once business standards that are essential for competitive electric markets and cost-effective RTO operations are in place, APPA believes the two tracks will in fact converge in ways that are not evident at present.

To summarize the principles stated above, essential characteristics for this unitary wholesale electric standards organization include an independent non-stakeholder board, a stakeholder advisory committee, balanced stakeholder voting processes, ANSI process certification, a full-time professional staff, cost-effective standards development processes and organization(s), secure funding not dependent on pay-to-play membership fees, open (non-fee) based public participation, and a scope of responsibilities that includes training and compliance enforcement for mandatory standards that are developed to ensure continued bulk electric system reliability.

Thank you for this opportunity to submit comments on behalf of the American Public Power Association and its members.