

# **Public Service Enterprise Group Companies' Response to Richard Drouin Letter dated February 6, 2002 seeking Policy Input to NERC Board of Directors**

Set forth below is the position of the PSEG Companies with respect to the policy questions contained in the entitled letter:

## **1. Should NERC continue to be responsible for establishing and enforcing policies and standards that govern the reliability of the North American integrated grid?**

No. Commercial and reliability standards are inseparably intertwined and should be established by the same entity. It is also inappropriate for the same entity to establish both policy and the standards. Policy issues tend to be highly contentious as compared to standards and policy establishment by the standards setting agency would result in protracted proceedings with unacceptable delays in developing standards. FERC should establish all policy, after appropriate input from the industry and stakeholders. NAESB should develop all standards.

NERC is also not the appropriate entity to engage in enforcement. Enforcement should be a government function, with wholesale standards enforced by FERC, with enforcement of lesser violations delegated to the RTOs by appropriate RTO tariff provisions. Appeal of RTO enforcement actions would be to the FERC, with the well-established right to appeal FERC actions to the US Courts continued. Separating the 'legislative,' 'executive,' and 'judicial' functions rather than having one body act as the developer, implementer and enforcer of the standards best affords due process and avoids placing too much authority in one single entity.

Given the highly intertwined nature of reliability and market practices and standards, FERC currently has adequate jurisdiction over those practices and standards with respect to policy, adoption, implementation and enforcement. There are numerous examples of where FERC has asserted jurisdiction over practices that have material substantial reliability aspects such as TLR, E-Tag and RCP (an operating procedure among Allegheny Power, Virginia Power, and PJM whereby the three control areas agree to fix or reduce power flows when necessary for interregional reliability.)

## **2. Should all wholesale electric standards (reliability and business practice standards) be developed by a single standards development organization?**

Yes. There is widespread consensus that reliability and commercial practices are inextricably intertwined, and thus all standards and practices must be developed at a single entity. They are so inseparable that it is best to refer to them as

‘wholesale electric standards’ rather than implying that there are two sets. FERC expressly recognized the nexus in its Order dated December 19, 2001 in Docket No. RM01-12-000 stating: “Business practices for wholesale electric transactions may be integrally linked with certain reliability standards, since reliability requirements often overlap with business practices; for example, congestion management supports reliability but may significantly affect business practices . . . . The Commission is confident that, based on the characteristics outlined above, the industry can cooperate in creating a single standards organization that will develop a consistent set of national business practice and communications standards that will serve to create an integrated wholesale electricity market that promotes competition and enhanced efficiency.”

In any event, it is essential that whatever entity develops the standards be ANSI accredited. NAESB already has an ANSI-accredited standards development process and PSEG strongly believes that it should be the single standards development organization.

**a. If not, how should business practice standards developed by another organization be coordinated with reliability standards developed by NERC?**

Coordination would be, at best, complex, and implies that a clean division can be made between reliability and commercial standards. Even with the best of coordination of two entities or committees, standards would tend to ping pong between the two groups, and with two entities, an untenable situation of dueling boards would develop.

**How should conflicts be resolved?**

The only rational practical means to resolve conflicts is to develop all standards in a single entity.

**b. If yes, should NERC continue pursuit of a model to become the “one-stop shop” for developing both reliability and business practice standards?**

No. PSEG believes that NAESB is the superior model and should be the one place to shop for all standards and practices. NERC should revise procedures to simply continue to fulfill its vital role of monitoring the grids for the purposes of reliability. The NAESB standards development process is open to all interested parties and all NERC stakeholders are welcome to participate just as any other stakeholder.

- 3. Assuming yes to question 1., how should voting for approval of standards be done within NERC; by assigned/elected delegates or by all interested parties through a weighted segment voting process, such as the one described in the WESM proposal?**

PSEG believes that NAESB is the superior model and should be the one place to shop for all standards and practices. However, since this question applies to any standards development entity, PSEG wishes to state that it believes that either weighted segment voting or the segment-elected delegate balanced voting process of NAESB is acceptable, provided that the process used is ANSI accredited.

Under no circumstances should voting or decision making be by assignment or appointment. It is essential that all aspects of the standards development process be open, balanced, fair and inclusive. Appointments by their very nature are exclusive and often violate both the spirit and the letter of ANSI accreditation.

- 4. What should be the role of the NERC Board in the process of developing, adopting, and implementing reliability standards?**

PSEG believes that NAESB is the superior model and should be the one place to shop for all standards and practices. However, in the event NERC is designated as a standards developer, the role of the NERC Board should be limited to ensuring that the ANSI certified standards approval process is faithfully observed. There should be no other role with respect to developing and adopting standards. Implementation should be by the RTOs after FERC has approved the standards.

**What should be the role of NERC staff?**

PSEG believes that NAESB is the superior model and should be the one place to shop for all standards and practices. The role of NERC staff, in the event that standards are developed at NERC, should be ministerial, that of facilitator, i.e., arranging meetings, issuing notices, and the like. Under the NAESB model and process, NERC's role (whether NERC staff or its Board) should be the same as any other interested entity – to participate on an equal basis in the development of standards. Stakeholders, exercising their own enlightened self-interest should provide the expertise and do their own drafting. The diverse expertise of the stakeholders is beyond that which any staff could be expected to provide, and stakeholder drafting avoids the extra step of sending drafts back and forth between stakeholders and staff. Moreover, by keeping the staff and standards development organization overhead to a minimum, the fees to join and vote will be kept to a level affordable to all interested stakeholders. For those very small stakeholders that may not be able to participate directly, they may group together to designate a proxy for the drafting with the cost of the proxy spread over the group to ensure they are well represented at a modest individual stakeholder cost.

NERC should concentrate its efforts on its traditional reporting and data-gathering role, including the preparation of periodic adequacy and reliability assessments and identification of areas where adequacy or reliability may be deteriorating and in need of attention.

**5. If either a weighted-segment voting model or segment delegate voting model is used for the approval of standards, what should be the segments?**

The segments should reflect the function and general characteristics of the interests in the electric power market. Similar interests must all be in the same segment, not smaller segments that may have the affect of affording any given interest a disproportionate influence in the process.

These broad interest segments can be described as follows:

<b>Segments</b>	<b>Description</b>
Generators	Those companies engaged in the generation of electricity for sale to others.
Transmission Owners	Those companies owning facilities for the transmission of electricity. It includes traditional transmission owners, ITCs, Transcos and merchant transmission.
Load Serving Entities	Those companies engaged in the local distribution of electricity. It includes TDUs, distribution companies, Rural Electric Cooperatives, municipal systems.
End-users	Ultimate consumers of electricity.
Marketers and Brokers	Companies engaged in the marketing or brokering of electricity.
RTOs	Regional Transmission Organizations, Independent System Operators, Independent Market Operators, and NERC Regional Councils.

**How should approval of these segments be proposed, vetted, and approved?**

The existing open and inclusive industry stakeholder initiative being shepherded by EEI to comply with FERC’s order has met numerous times and discussed this issue and is expected to take this up in detail at its next meeting. NERC’s WESM proposal came out of a small exclusive subset of stakeholders and could not reach

true consensus on the number and composition of segments issue. Almost, if not all, of the entities participating at NERC/SCRTF are also participating in the EEI-sponsored open inclusive process and therefore NERC vetting would be duplicative and wasteful. If the open stakeholder EEI process fails in coming to consensus on the segments, the FERC filing should reflect that and seek a FERC resolution of this issue.

**6. How should a standards development process be funded; equal participant dues, tiered dues, organization budget, tariff adder, other?**

PSEG favors the NAESB approach of no charge to participate in the standards drafting committees, and a nominal \$5,000 to be a voting member (for electing representatives on the Executive Committee and for standard ratification) of any segment in which the stakeholder has a bona fide interest. \$5,000 annually is not unreasonable for any entity to join what is a single standards development organization covering all of North America. Costs of participation should be borne by stakeholders which will choose to participate in their enlightened self-interests. Small entities can choose to participate directly or to pool their resources and delegate one or more individuals to participate on their behalf at a reasonable cost to each.

Simply stated, tiered dues are pure subsidization of a class of entities by others. One of the thorniest problems we have faced in restructuring the electric industry is identifying and eliminating subsidies so that all participants compete on a level playing field. PSEG strongly questions the wisdom of creating yet another subsidy as we are proceeding down the road of deregulation. There should be equal participant dues, and if an entity feels that participation is important, it will budget accordingly.

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