

## **Reliant Comments on NERC-NAESB Memorandum of Understanding**

### **A starting point for evaluation criteria for reliability and commercial purposes**

It is difficult to establish up-front criteria that will clearly identify whether a proposed NERC standard has significant enough impact on the marketplace to quantify a “bright-line” for using the NAESB process. However, a deterministic approach that illustrates the cross-overs a NERC reliability standard will have on the marketplace should be employed.

The following questions should be applied to determine the extent of commercial impact of a NERC reliability standard. The responses to these questions will provide insight to the Joint Interface Committee and Industry to make informed decisions as to which standards development process to employ for the development of that standard.

1. FERC Orders – does the proposed NERC standard (or standard revision) relate, in way of support of or integration with, any FERC or wholesale electric regulatory body Orders?
2. NAESB Standards in any of the formed quadrant areas – does the proposed NERC standard materially affect any approved or proposed NAESB standard?
3. Market Operations and Practices – does the proposed NERC standard have any impacts that would either hinder or alter a wholesale electric market?
4. Unfair market advantage – does the proposed NERC standard allow for use of reliability standard by any party in a manner that will advantage an entity or negatively impact a wholesale electric market?

### **Some Background Information for Consideration**

Recently, Reliant filed comments in response to NERC’s statements in defense of its Standards Development Process as being appropriate for ANSI Certification in standards development. NERC believes that its “Market Interface Principles” as approved by the Market Interface Committee will be able to mitigate the impacts on markets of reliability standards. The following is the verbiage submitted by Reliant to ANSI.

(Begin excerpt from Reliant letter to ANSI)

#### **The Market Interface Principles Makes Reliant’s Concerns About Reliability Rules Intruding into Markets Moot**

In comments by Reliant concerning NERC’s Scope being exclusionary, NERC responds by citing its Market Interface Principles will be applied to its standards development process to safeguard against putting forth any rules that may hinder market activity. Reliant wishes to explain how each of these Principles will not be able to protect the marketplace from NERC establishing rules that impede on business practices and market designs as NERC so claims.

1. *The planning and operation of bulk electric systems shall recognize that reliability is an essential requirement of a robust North American economy.*

This is a “motherhood and apple pie type statement” and is merely recognition of NERC’s scope. This principle offers no protection to the markets. In fact, there is no mention of the market needs in this Market Interface principle at all. Most would agree to this principle, as does Reliant, since reliability of the bulk electric system is truly essential for the North American economy to function.

2. *An Organization Standard shall not give any market participant an unfair competitive advantage.*

This principle only assures that those entities that are actively participating in the buying and selling of electricity are kept on an equal playing field in regard to reliability rules. It fails to recognize that operators and owners of the transmission grid and other entities that may not be considered “market participants” can be economically advantaged even without active engagement in the buying and selling of energy. The outcome of any reliability rule provides economic benefit to some and harm to others. A transmission owner who does not participate in the wholesale electric market, may be advantaged economically if market participants are unfairly burdened with ancillary operating costs.

3. *An Organization Standard shall neither mandate nor prohibit any specific market structure.*

This merely states that NERC will not be in the business of designing market structure. It does not prevent a NERC standard from imposing hardships and harm on any given market structure nor does it restrict NERC’s rules from negatively impacting market rules.

4. *An Organization Standard shall not preclude market solutions to achieving compliance with that standard.*

This principle attempts to allow markets to freely develop a solution to meet a reliability standard. However, it is oftentimes the definition and characterization of the reliability standard itself that causes market harm. A standard, that dictates an artificially high reliability limit or requirement, can severely impact transmission access for the marketplace and drive up the cost of transactions. It is the reliability standard (or limit) itself that must be established with due consideration for viable market solutions. Setting the limits absent consideration to the economic impacts is precisely how reliability standards may impede on the marketplace. As a parallel example, there is no doubt that the public would be better served if automobile safety standards protected passengers in a 100 mph frontal impact. However, realizable standards that weigh in available technology, cost, and manufacturability are all considered when automobile safety standards are established. Reliant believes this

approach must also be applied in establishing bulk electric system reliability standards.

5. *An Organization Standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards.*

This merely recognizes the commercial nature of information NERC may employ in the execution of reliability rules and procedures and is not intended to address how reliability rules will accommodate or not impede on market structures.

Reliant does not believe that the NERC Market Interface Principles offer adequate protection to market practices and designs. Reliant has stated publicly and filed at FERC that the development of all standards for the wholesale electric industry must consider both reliability and commercial aspects. Reliant does not intend to strip NERC of any of its authority in the area of reliability as they state in their Response. On the contrary, Reliant fully supports NERC's continuation as an organization to usher the technical requirements and data systems necessary to facilitate reliability. Reliant however, questions whether NERC's standards development process should be ANSI accredited when it has been developed to focus on addressing reliability needs of the wholesale electric industry, and lacks the adequate balance and appropriate safeguards to meaningfully incorporate the commercial concerns into those standards.

(End excerpt from Reliant letter to ANSI)