

Subj: **RE: Comments on Draft NERC-NAESB MOU as of 10-31-02**

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From: Charles Yeung - Reliant

As a follow up to Reliant's comments submitted to NAESB re: MOU, on Nov 1, please add the following.

Another suggestion to Scott Brown's proposal on the constitution of the JIC:

"Line 68 - We support the investigation of the idea suggested by Calpine to consider a role for FERC in deciding ties, but if that proves not to be achievable, we suggest replacing "Chairmen of the Parties" with "Chairman of NERC Board and the Vice Chairman of the Wholesale Electric Quadrant ("WEQ") of NAESB." The Vice Chair of the WEQ is elected by the balanced segments of the WEQ and is responsible for representing the membership of the WEQ thus is better qualified represent NAESB in a matter that always concerns wholesale electric issues. We appreciate that the Chairman of NAESB would normally seek council from the WEQ on these matters, but think this change would be more efficient."

I agree with the approach Dave McMillan and Scott Brown has outlined. FERC should be installed on the JIC as a tie breaker. However, careful consideration should be given to an alternative in the event FERC declines this role. The WEQ Vice Chair certainly has a duty to represent the interests of the entire WEQ and would be an appropriate person in this capacity. However, on the NERC side, I believe the independent governance NERC has established will provide industry with more surety that the best interests of reliability and the marketplace are achieved. Therefore, rather than the Chairman of the NERC Board, an independent member of the NERC Board should be appointed. Additionally, consideration needs to be given to how 2 votes will break a tie. Reliant suggests that both the NERC Board rep and the NAESB vice-chair must agree or neither organization will proceed with development of the standard.

APPENDIX A - JIC Coordination Guidelines

The second and third paragraphs should be deleted and rewritten to be included as one of the suggested factors for evaluation of a proposed standard. The NERC Functional Model in itself is not capable of differentiating between a market practice and a reliability practice. The primary purpose of the Functional Model is to ensure that certain "authorities" are charged with responsibilities pertaining to reliability or commerce. The Model does not provide any guidance on which "authorities" are limited to performing tasks in the reliability area or in the commerce area nor suggests any independence of an "authority" from a market function.

From the NERC document "Functional Model Review Conclusions and Recommendations", ver Oct 27, 2002 pg 3: "The Functional Model is simply a set of definitions of functions that must be performed to ensure a reliable bulk power system. The Model also details the interrelationships between those functions. However, the Model does not require any particular organization structure or in any way attempt to separate the functions that RTOs, ISOs, and ITPs perform."

Therefore, it is inappropriate to assign standards to NERC or to NAESB, "...regardless of where the original request for the standard was filed." based upon the definitions in the NERC Functional Model. Doing so would greatly ignore some of the most integrated commercial/reliability aspects of the wholesale electric industry that should be included within the JIC NERC-NAESB MOU determination.

Both the 2nd and 3rd paragraphs state that "...certain of the relationships and information flows of "transmission service provider," "transmission owner," and "transmission operator" are associated with ... how wholesale electric business practices and electronic communication protocols are developed" for NAESB, and " "transmission service provider," "transmission owner," and "transmission operator" are associated with ... the reliable operation of the bulk power system." for NERC. This seems to recognize that the transmission service provider, owner, and operators, perform overlapping functions between reliability and commerce. Allegheny in its comments points out that the "Balancing Authority" and "Interchange Authority" performs functions that impact commerce. Reliant agrees with Allegheny's observations and suggests that the language in paragraph 2 be expanded to include the balancing authority and interchange authority as two functional areas that have "...certain relationships and information flows associated with how wholesale electric business practices and electronic communication protocols are developed..." Additionally, the Reliability Authority may perform functions that have direct market impacts and should be included in both paragraph 2 and 3 references.