NAESB REVIEW
NORTH AMERICAN ENERGY STANDARDS BOARD
Spring 2003 Vol. 8, No. 1

Interview with William Museler on talks that led to historic MOU, page 10

ISOs, RTOs get equal role in Joint Interface Committee

Independent system operators (ISOs) and regional transmission organizations (RTOs) have been given an equal role in the Joint Interface Committee (JIC) in a memorandum of understanding (MOU) approved by the NAESB Board of Directors at its March 20 meeting at the offices of the American Gas Association in Washington.

The MOU between NAESB, the North American Electric Reliability Council (NERC) and the newly formed ISO/RTO Council calls for all three organizations to be equal members of the JIC, which is designed to prevent duplication by organizations involved in setting electricity standards.

The MOU (see full text, page 5) has been adopted by NERC; the ISO/RTO Council, was expected to take action in late April.

FERC had urged the parties to coordinate their efforts.

"I'd like to thank those board members who supported the adoption of the MOU," said Michael Desselle, director of public policy for American Electric Power and vice chairman of the NAESB Board of Directors representing the wholesale electric quadrant. "I'd also like to thank those who did not support the MOU. Their expressed concerns will help keep us vigilant as we begin the

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Federal Energy Regulatory Commission Chairman Pat Wood III pays a visit to the March 20 NAESB Board of Directors meeting at AGA's Capitol Hill offices in Washington.

In this issue:

NAESB Moves to 1301 Fannin

NAESB is on the move in more ways than one.

As of the end of March, NAESB's office was relocated from 1100 Louisiana to 1301 Fannin in downtown Houston. The new quarters provide more office space at a reasonable rent and, best of all, access to a large conference room at a modest cost.

The new address is 1301 Fannin, Suite 2350, Houston, Texas 77002. The phone and fax numbers and e-mail address remain the same.

NAESB Review

NAESB Review is published quarterly by:
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New NAESB staffer has energy, environmental, political experience

"I always enjoy a new challenge," Jim Cargas says. He may have come to the right place.

As of May 1, Cargas, 36, will become deputy to NAESB Executive Director Rae McQuade. He'll work half-time for NAESB and half-time as general counsel of Generation Power, the company he founded with former Department of Energy official Emil Peña.

"As Rae's deputy, I'm going to try to take some of the burden from her and give her another option for delegation," Cargas says. "It will certainly involve travel when she cannot be two places at once."

A native of the Detroit area, Cargas came to Washington after graduating from the University of Michigan to work for Rep. David Bonior (D-Mich.). He liked the Washington area and decided to attend law school at American University there.

While at AU, Cargas worked in the solicitor's office at FERC. "It was a great experience," he says. "Bonior introduced me to environmental issues and FERC introduced me to energy issues. Those are the two areas I really enjoy working on."

After receiving his law degree in 1992, he went to work for the firm of Wilmer, Cutler & Pickering, then had a three-year stint in Charleston, W.Va., working on environmental issues for Columbia Gas Transmission.

Then it was back to Washington to serve on the staff of the President's Council on Sustainable Development from 1997 to 1999. Cargas followed that with work for Sen. Paul Sarbanes (D-Md.) and the Al Gore presidential campaign.

In May 2000, he joined DOE, serving under Peña, who was deputy assistant secretary for the Office of Natural Gas and Petroleum Technology, Office of Fossil Energy. When the administration changed, he and Peña formed Generation Power. The minority-owned startup is an aggregator in the Texas electricity market and a wholesale supplier of natural gas and has partnered with several engineering firms to provide a variety of energy services.

Cargas is characteristically enthusiastic about his impending move to Houston. "Houston is the energy capital of the world. If you're interested in energy issues, at some point you have to go there," he states.

He's realistic enough, however, to be looking for a place to live that's reasonably close to NAESB's downtown office in order to avoid the energy capital's tangled freeways.

Gas Business Flow class set for Washington

A NAESB class, The Gas Business Flow, will be held May 28–30 at the offices of the American Gas Association, 400 North Capitol St., N.W., Washington.

The two-and-a-half-day course replaces the previous course that was a general overview of NAESB standards on nominations, flowing gas and invoicing.

Using version 1.6 of NAESB standards, the new course is designed to provide a basic understanding of the natural gas business, how the flow of information for a gas transaction works, and how NAESB standards fit into the gas business flow.

Attendees will gain an understanding of the terms used in gas transactions, the roles that different companies play and the rules required to conduct business.

The course will be taught by Sylvia Munson, a board member from the wholesale gas quadrant and a former Executive Committee member who has worked in the natural gas industry for 20 years.

The course costs $850 for NAESB members and $950 for nonmembers until May 21, when tuition increases $150, For more information, call (713) 356-0060 or go to www.naesb.org/training.html.

EXECUTIVE DIRECTOR'S COLUMN

Growing pains: a moving story

The notes for my column must be in this box somewhere . . .

Ah yes, here they are.

The subject is growing pains, and if the movers haven't misplaced my mouse pad, I should be able to get this done in short order.

A trying time

As most of you know, NAESB recently moved its offices. This has been a fairly trying time for the NAESB staff, for all the reasons that are familiar to anyone who has undergone an office move. It seems that whatever we need is either still packed in a box or unpacked and put in someone else's office. It may even have been a trying time for you if you called us with a question whose answer was either still packed in a box or unpacked . . . I think you get the picture.

But the move was well worth the trouble. We have more room for offices and files and access to an excellent conference room. The conference room will help accommodate the growing number of NAESB meetings, and the additional office space will accommodate our modestly expanding staff. That includes my new part-time deputy, Jim Cargas, whom you can read about elsewhere in this newsletter.

Of course these changes have costs attached to them, both tangible and intangible. Moves are tiring and disruptive. More space (although we've executed an excellent lease on our new building) and more staff mean higher operating expenses for NAESB. More quadrants and segments and subcommittees and task forces mean more administrative complexity. A greatly expanded Board of Directors and an Executive Committee that will normally operate as four separate committees mean larger and more expensive meeting rooms and more complicated meeting logistics.

NAESB's growing pains are being felt by our member companies as well. In some cases, more employees must be assigned to standards development activities because company interests span more than one quadrant. For those companies used to GISB's relatively small size and organizational simplicity, keeping track of NAESB and its activities can sometimes be a confusing proposition. And for those same companies' veteran GISB volunteers, NAESB may sometimes seem to lack the shared purpose and even the congeniality of its predecessor.

Temporary pains

But I would argue that most of these growing pains are temporary ones. On the material side, ways will be found to mitigate meeting costs; the reasonably priced meeting room available at 1301 Fannin will help in that regard. Member companies will quickly find efficiencies in the way they assign staff members to NAESB tasks. Quadrants and segments will find their own ways of working better, faster and more efficiently.

Less tangibly, as the exact structure of NAESB becomes finalized—the revised memorandum of understanding for the wholesale electric quadrant is a major step in this direction—future developments will be easier to track. As the wholesale electric, retail electric and retail gas quadrants begin to develop their own standards, NAESB's sense of mission will be reaffirmed and its value will be increasingly apparent both inside and outside the organization.

After all, GISB didn't become NAESB in order to increase its size and power. It decided it was willing to undergo the inevitable pains of expansion because only a larger organization could produce the result that the energy industry demanded and the market needed: a seamless grid for the trading of natural gas and electricity throughout North America. Nobody said that was something that could be accomplished without some heavy lifting, at least at the beginning.

Now, if you'll excuse me, I have to go unpack another box.

Rae McQuade, executive director of NAESB

NAESB's sense of mission will be reaffirmed and its value will be increasingly apparent.

JIC to weigh whether ISO and RTO policies would affect business, reliability standards

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coordination process called for in the MOU."

Steven B. Corneli, director of regulatory affairs for NRG Power Marketing Co. and vice chairman of the NAESB Executive Committee representing the WEQ commented, "The MOU should significantly assist NAESB in carrying out the standards-setting tasks identified as priorities by the industry."

The MOU calls for the JIC to review the NAESB and NERC annual plans of each organization and to review:

• Each standards authorization request approved by NERC's Standards Authorization Committee.

• Each standards request that NAESB's Executive Committee assigns to the wholesale electric quadrant of NAESB.

• Each ISO and RTO policy "anticipated to be proposed or implemented" by ISO/RTO Council member organizations that may affect business practice or reliability standards.

If the JIC, in the annual plan review phase of its operations, determines that any item in the annual plans of the three organizations would require a substantial modification to ISO and RTO policy, "then standard-setting activities associated with the annual plan item would normally be deferred until the FERC or other appropriate regulatory authorities in North America have exercised their authority to determine such policy issues," the MOU said.

Once the ISO and RTO policy issues have been resolved, the JIC will coordinate standards development activity. It will "consider the relationship of each standards proposal, including any standards proposals derived from ISO and RTO annual plan items, to the reliability responsibilities of NERC and the business standards and electronic communication protocol responsibilities of NAESB, and will refer the development of the standard as appropriate to the two organizations," the MOU said.

Each representative of the three organizations present at a JIC meeting will have a vote equal to 33.3 percent divided by the number of representatives of that organization participating in the meeting. If any party fails to have any representatives at a given meeting, the remaining two parties will each receive 50 percent of the vote, to be divided equally among its representatives at the meeting.

Each party may abstain from voting on any question in which it determines it does not have a material interest.

During debate on the MOU at the March 20 board meeting, board member John Anderson, executive director of the Electricity Consumers Resource Council, representing the end user segment of the WEQ, argued that approval of the agreement is premature and said representatives of RTOs and ISOs should not have a vote on standards coordination.

But board Chairman Bill Boswell, assistant corporate secretary of Dominion and a partner in McGuireWoods LLP, stressed that ISO and RTO negotiators had pledged that ISO/RTO Council representatives would only get involved in issues in which they had a genuine interest, and said the JIC needs to be an "equal partnership."

REQ, RGQ ECs to work jointly

The retail electric quadrant and retail gas quadrant executive committees will work jointly on as many issues as possible, the committees agreed at a joint meeting Feb. 19.

Committee members noted that the two quadrants had already agreed to coordinate their annual plans, and joint meetings would help ensure consistency.

The joint meeting was part of back-to-back meetings of the four NAESB quadrant executive committees held Feb. 18–20 in New Orleans.

In other developments at the meetings, the wholesale gas quadrant executive committee defeated a motion to add two items to the creditworthiness work plan: monetary level of credit alternatives, and criteria and financial analysis employed by a transportation service provider for evaluating the creditworthiness of a service requester.

The WGQ EC did approve a modified work plan for creditworthiness calling for an EC comment period from April 1 to May 12 and a WGQ member ratification period from May 20 to June 20.

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Haynes installed as chairman, CEO, succeeding Boswell

Leonard J. Haynes, executive vice president and chief marketing officer of Southern Company, was installed at the March 20 board meeting as NAESB board chairman and CEO.

He succeeds NAESB's first board chairman and CEO, Bill Boswell, assistant corporate secretary of Dominion and a partner in McGuireWoods LLP.

"I intend to build on the strong foundation established by Bill Boswell," Haynes said, "to continue to move NAESB forward. I'm very excited to take on this new challenge."

NAESB Executive Director Rae McQuade said, "NAESB is very fortunate to have Leonard Haynes as its second board chairman and CEO. Our organization will benefit greatly from his energy and leadership skills."

Haynes joined Southern Company in 1977 after working for Florida Power and Light Corp. He was named to his current position in May 2001. Southern Company is a member of NAESB's retail and wholesale electric quadrants.

NAESB–NERC–ISO/RTO Council MOU

Amended and Restated Memorandum of Understanding for the North American Energy Standards Board, North American Electric Reliability Council and the ISO/RTO Council

This Memorandum of Understanding ("MOU") is entered into this ___ day of _____, 2003, between the North American Energy Standards Board ("NAESB") and the North American Electric Reliability Council ("NERC") and the Independent System Operator/Regional Transmission Organization Council ("ISO/RTO Council") (collectively, "Parties").

Whereas NAESB is the primary industry forum for development and promotion of business practice and electronic communication standards in North American wholesale and retail natural gas and electricity markets and its stakeholder-based standards development process is well-suited for the resolution of issues that affect or implicate business practices;

Whereas NERC is the primary industry organization for developing reliability standards for the reliable operation and planning of the bulk electric systems serving North America and NERC as an organization is well-suited for addressing reliability issues related to such standards;

Whereas the ISO/RTO Council is a duly formed organization composed of ISO and RTO chief executive officers, and its Charter has been filed with the Federal Energy Regulatory Commission ("FERC") and other appropriate regulatory authorities in North America;

Whereas each of the Parties has duly authorized its representative to execute this MOU and bind the Organization to abide by the provisions set forth in this MOU;

Whereas the ISO/RTO Council is not a standards development organization, but may participate in standardization activities and existing standards development organizations, including preparing proposed standards for those organizations;

Whereas the Parties understand "policy" in the context of this MOU to mean a definite course of action selected from among alternatives that will guide and determine subsequent material decisions, and also understand "ISO and RTO policy" to mean major market and transmission tariff policies[1] that would normally be proposed and implemented by ISOs and RTOs and which require approval by the FERC or other appropriate regulatory authorities in North America;

Whereas NAESB is precluded by its Charter from setting industry policy, NERC is organized to set reliability policy, and individual RTOs and ISOs are organized to operate transmission systems and administer markets;

Whereas individual ISOs and RTOs must, in carrying out their responsibilities, develop ISO and RTO policy proposals and must also, subject to receiving all required and appropriate regulatory approvals, implement such policies;

Whereas the Parties agree that there is a need to develop and maintain standards to enhance electricity markets and maintain reliability throughout North America;

Whereas the Federal Energy Regulatory Commission ("FERC") has "strongly urged" the Parties to coordinate standards development efforts;

Whereas most electric industry standards have both business and reliability implications and range along a continuum from "predominantly reliability" in nature to "predominantly business" in nature;

Whereas the Parties agree that a coordination process should be developed among the Parties to ensure that the development of business practice and reliability standards is coordinated and harmonized with the development, approval and implementation of ISO and RTO policy and that every practicable effort is made to eliminate overlap and duplication of efforts;

Whereas, the FERC Commissioners and Staff have encouraged the Parties to bring the functions previously addressed by the Electronic Scheduling Collaborative ("ESC") and the Oasis Standards Collaborative ("OSC") into the functionally appropriate Party organization, and through that organization into a single process for coordinating standard-setting;

Whereas, the Parties agree that all the current activities of the ESC and OSC should be included in one or several of the Parties' organizations and thus brought into the single standard setting coordination process as defined in this Memorandum of Understanding;

Whereas, the Parties agree that the coordination that takes place under this MOU should not delay the development of standards or the imple-

At the March 20 meeting of the Board of Directors in Washington, outgoing Chairman and CEO Bill Boswell (left) receives a commemorative certificate from his successor, Leonard J. Haynes. Calligraphy for the certificate, shown in closeup at right, was done by Andrew Stewart Jamieson, who paints and illuminates Letters Patent of Nobility at the House of Lords.

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mentation of ISO and RTO policy;

Whereas, the Parties shall not be obliged to change their existing standards approval processes, but the parties agree it would be beneficial to keep an open mind for future changes to be considered that would improve the processes and achieve the goals contained within this MOU; and,

Whereas, the Parties intend this MOU to be a living document and recognize that the coordination procedures detailed in this MOU are likely to require revision as the Parties gain experience working under these procedures,

Now therefore, the Parties agree as follows:

1. Purpose and Principles of Agreement

1.1 The Parties propose to establish a coordination process set forth in Section 2 of this MOU. The coordination process is intended to avoid overlap and duplication of effort in the activities of the three organizations by distinguishing the development, proposal and implementation of ISO and RTO policy from the setting of reliability standards or business practice standards. The coordination process will accomplish this primarily through the Joint Interface Committee ("JIC") comprised of representative members of NERC, NAESB and the ISO/RTO Council. The JIC is not intended to delay standards development or the implementation of ISO and RTO policy, but to facilitate efficient policy implementation and standards development and to avoid duplication of effort between and among the Parties.

1.2 The Parties recognize that many standards have implications that affect aspects of reliability, market administration and transmission system operation, and business standards and communication protocols. Accordingly, the JIC will evaluate each standards development proposal, as well as the annual plans[2] of each organization, in a two-stage process as described in section 2.5 before determining whether NAESB or NERC should develop the proposed standard.[3] [4]

1.3 The Parties intend to have the coordination process set forth in Section 2 of the MOU in full operation by _____, 2003. The Parties may mutually agree to move the start date for the coordination process.

2. Coordination Process

2.1 The Parties agree to establish a process, as set forth in this section, for coordinating the development of proposed standards, in accordance with the principles in Section 1 of this MOU.

2.2 The JIC shall be responsible for the coordination process. The JIC shall be composed of representatives from NERC holding one-third of the votes, representatives from NAESB WEQ holding one-third of the votes and representatives from the ISO/RTO Council holding one-third of the votes. Each Party will determine its representatives to the JIC, with every effort to have each segment or area represented. The quorum necessary for the transaction of business at meetings of the JIC shall require a majority of the representatives of each of any two Parties. Any or all members of the JIC may participate in a meeting, including being counted as part of the quorum, by means of a communication system by which all persons participating in the meeting are able to hear each other. Use of notational balloting or proxies will not be permitted. NERC, NAESB and the ISO/RTO Council will separately determine whether designated alternates will be permitted to participate in place of their absent JIC representatives. The JIC will have co-chairs, one representing NERC, one representing NAESB, and one representing the ISO/RTO Council chosen by each Party from among its JIC representatives.

2.3 Decisions of the JIC will be by a simple majority of all votes cast, with each NERC representative present at a meeting having a vote equal to 33.3% divided by the number of NERC representatives participating in the meeting, each NAESB representative having a vote equal to 33.3% divided by the number of NAESB representatives participating in the meeting, and each ISO/RTO Council representative having a vote equal to 33.3% divided by the number of ISO/RTO Council representatives participating in the meeting. In the event any Party fails to be represented by at least one representative and quorum requirements are met, the remaining two Parties shall each receive 50% of the vote, to be divided equally among the Party's representatives. In the event of a tie vote, the matter will be referred to the Chairmen of the Parties present for the tie vote [or their Board level designee(s)] for resolution. In the determinations made under Section 2.6, each Party may abstain from voting on any question in which it determines it does not have a material interest.

2.4 The JIC will meet as necessary to review the annual plans of each organization. Additionally, the JIC will meet as necessary to review each Standards Authorization Request ("SAR") that the Standards Authorization Committee ("SAC") of NERC has approved for the drafting of a standard, each standard request that the NAESB Executive Committee ("EC") has assigned to the Wholesale Electric Quadrant ("WEQ") of NAESB and each ISO and RTO policy anticipated to be proposed or implemented by the ISO/RTO Council's constituent organizations that may affect business practice standards and reliability standards.

2.5 In the first stage of its process, the JIC will evaluate the annual plans of each Party. If the JIC determines that an annual plan item would establish or require substantial modification to ISO and RTO policy, then standard setting activities associated with the annual plan item would normally be deferred[5] until the FERC or other appropriate regulatory authorities in North America have exercised their authority to determine such policy issues. Once such ISO and RTO policy issues have been resolved, further standards development activity will be coordinated by the JIC according to this MOU. If the JIC does not determine that an annual plan item would establish or require substantial modification to ISO and RTO policy, then the item would continue through the standards development process. If the JIC determines that an aspect of the ISO/RTO Council's annual plans would alter or require new business practice standards, communication protocol standards or reliability standards, those standards development activities would be coordinated by the JIC according to this MOU. The JIC may also recommend that a particular item or aspect of an item in one Party's annual plan be removed from that Party's annual plan and added to another Party's annual plan in order to carry out the purposes of this agreement.

2.6 Once the JIC has made the determinations in section 2.5, the second stage of the process will take place. In this stage the JIC will consider the relationship of each specific standards proposal, including any standards proposals derived from ISO and RTO annual plan items, to the reliability responsibilities of NERC and the business standards and electronic communication protocol responsibilities of NAESB, and will refer the development of the standard as appropriate to the two organizations. In this stage, the JIC may also determine whether a specific standards request proposal would itself primarily establish or substantially modify ISO and RTO policy, in which case standards development may be deferred until the FERC or other appropriate regulatory authorities have determined the resolution of such policy issues. Once the JIC has assigned or referred the standards proposal for further development, the members and constituents of the other organizations are strongly encouraged to actively engage in the development process by participating in subcommittee, task force and working group deliberations as well as offering comments and recommendations on any and all aspects of the proposed standard or policy.

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2.7 The JIC will make such determinations by the end of the month subsequent to the month in which the annual plan item, standards request proposal or proposed ISO and RTO policy is referred to the JIC. The JIC may prioritize submitted proposals if there are urgent reliability, business, or policy implications.

2.8 All interested individuals and entities are invited and encouraged to participate to the maximum extent possible consistent with membership or registration requirements in NERC, NAESB and the ISO/RTO Council standards development and policy development activity. None of the organizations places any membership or registration requirement on the submission of comments on draft proposed standards or policy development.

2.9 With respect to the provisions of section 2.6, either the determination of the JIC or the resolution reached in the event of a tie vote will become final after thirty days unless, within that thirty-day period, one of the Parties acts to withdraw a standards request proposal. In this event, the proposal may be redrafted and resubmitted to the JIC or the Parties shall meet to attempt to resolve the impasse. Should further consideration not result in a final determination, each of the parties may act consistent with its own standards development or policy definition process. Likewise, with respect to the provisions of section 2.5, a determination of the JIC or the resolution reached in the event of a tie vote will become final after thirty days unless, within that thirty-day period, one of the Parties disagrees with the determination. In this event, the annual plan item may be redrafted and resubmitted to the JIC or the Parties shall meet to attempt to further resolve the issue. Should further consideration not result in a final determination, each of the parties may act consistent with its own standards development or policy development and implementation process.

2.10 Because the Parties' annual planning processes are iterative and are implemented through or otherwise affect the standards setting processes, the JIC may discuss coordination of ongoing annual plan development and implementation, and each Party, through its JIC members, may make recommendations regarding other Parties' annual plan development and implementation.

3. Filings With Governmental and Regulatory Authorities

3.1 Each Party shall be responsible for making filings with governmental and regulatory authorities as appropriate.

3.2 The Parties agree that all meetings of the JIC will be duly noticed, open and transcribed, and that the JIC's deliberations and all supporting documents, including any minority opinions, will be a matter of public record and may be provided by any Party or any of its members in any filing with governmental authorities of a standard or other issue which the JIC has acted upon.

4. Information Exchange

4.1 Each Party will inform each other party each year of its projected standards development, significant policy development and implementation activities for the coming year and of any additional planned activity as it arises. After exchange of this information, the JIC will meet to address any apparent areas of duplicate or inconsistent effort as soon as practical.

4.2 With respect to each particular initiative regarding an RTO or ISO policy activity, or request for a standard or standard development action, each Party will promptly inform the other Parties of the action, or the request in sufficient detail to convey the subject matter and timeline for resolution of such action or request.

5.Costs

5.1 Each Party shall bear its own costs.

6. Reevaluation

6.1 The Parties agree to meet annually during the anniversary month of the signing of this MOU to evaluate in good faith the effectiveness and efficiency of this MOU in meeting the goal of coordinating the standards and policy development-related activities of the three organizations and to make any appropriate revisions.

6.2 The Parties may also agree to revise this MOU, including the appendices, at any other time as mutually agreeable.

7.Termination

7.1 Each Party may withdraw from this MOU upon 60 days' written notice to the other Parties. Notification of such withdrawal should be provided to the FERC or other appropriate Provincial or state regulatory authorities in North America. Prior to the withdrawal becoming effective, the Parties agree to meet to discuss whether changes to this MOU would address the reasons prompting the withdrawal.

8.Miscellaneous

8.1 Each Party is legally authorized to execute this MOU and to exercise the rights and perform the obligations and responsibilities contained in it.

8.2 This MOU constitutes the entire agreement between the Parties with respect to establishing a coordination process intended to avoid overlap and duplication of effort in the activities of the three organizations by distinguishing ISO and RTO policy-making from the setting of reliability and business practice standards supporting energy markets.

8.3 This MOU may be executed in counterparts each of which shall be deemed an original and all of which together shall constitute one instrument.

8.4 None of the Parties shall be liable for any indirect, special, incidental or consequential damages arising in any way from any performance or failure to perform under this MOU.

8.5 The Parties agree that they will create a process whereby the notice of JIC activities and documents are posted on a web site for public access.

8.6 This is an Amendment and Restatement of the Agreement dated November 30, 2002 between NERC and NAESB.

8.7 Nothing in this Agreement is intended for the benefit of third parties, and no third party may claim for damages or otherwise to enforce any such benefit.

8.8 Nothing in this Agreement shall be construed as establishing a joint venture, agency relationship, any authority of any signatory or the JIC to bind another signatory, or as intending to violate the antitrust laws.

APPENDIX A
JIC Coordination Guidelines

The coordination guidelines for use by the JIC as a starting point, under section 2.6 of the MOU, are based in part upon NERC's Functional Model[6] and in part upon market criteria developed by NAESB. As the JIC gains more experience alternative coordination guidelines may be developed and used as the JIC sees fit.

In general, the functions identified in the functional model diagrams as "generator" (whether merchant or load-affiliated), "purchasing-selling entity," "load-serving entity," "market operator," "customer aggregator," and 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 use by market participants. Additionally, market criteria such as product or service defini-

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tions, specifications, and compensation; prerequisites for participation in market and identification of costs and funding obligations; arrangements for product and service delivery to customers; creditworthiness requirements; market-related business practices; market settlement practices; and communication protocols in support of market criteria should be considered. Standards development proposals applicable to those functions and to the relationships and information flows among those functions normally would be assigned to NAESB, regardless of where the original request for the standard was filed.

In general, the functions identified in the functional model diagrams as "reliability authority," "balancing authority," "interchange authority," "compliance monitor," "NERC," and certain of the relationships and information flows of "transmission service provider," "transmission owner," and "transmission operator" are associated with the reliable operation of the bulk power system. Standards development proposals applicable to those functions and to the relationships and information flows among those functions normally would be assigned to NERC, regardless of where the original request for the standard was filed.

In general, the functions associated with ISO and RTO policy relate to proposals for and implementation of a definite course of action selected from among alternatives that will guide and determine subsequent material decisions for administering electricity markets and operating regional transmission systems, with the approval of the FERC or other appropriate regulatory authorities in North America. Such policy issues would normally be deferred until the FERC or other appropriate regulatory authorities in North America have exercised their authority to determine such policy issues.

Other factors that may be considered by the JIC in determining the assignment of a particular standards development request to NERC or NAESB include (but are not limited to):

Regulatory direction to one organization or the other;

The priority of the proposal and the ability of either organization to take on and complete the standard development in a timely manner, given its other workload; and

Whether the proposal includes a significant reliability compliance element.

Notes

1. In Canada, the more common term for this is market rules.

2. The JIC is not limited to new standards or annual plan items, but can receive existing proposed standards or annual plan items referred to it by any Party.

3. While the JIC will evaluate the disposition of standards with the recognition that most standards have both reliability and business standards and communication protocols implications, the intent of NERC and NAESB (through the JIC) is that the coordination process should work toward the development of "standards for the industry" and avoid characterizing standards, wherever possible.

4. The Parties expressly agree that reliability and business practice standards that are required for ISO/RTO Council activities would typically be developed by NERC and NAESB, consistent with this MOU.

5. If the FERC or other appropriate regulatory authorities in North America have already assigned the item to the ISO/RTO Council's constituent organizations for development of a policy proposal, the Parties may await the policy resolution. In the interim while awaiting the policy resolution, the Parties may identify specific standards activity needed to support any proposed policy resolution.

6. A PowerPoint display of NERC's Functional Model may be downloaded at http://www.nerc.com/~filez/fmrtg.html. The Functional Model identifies and defines the functions, associated responsibilities, and the relationships and information flows among those functions, that are necessary for electric systems to operate reliably and for participants in wholesale electricity markets to transact business efficiently, independent of which entities perform which functions.

Austin's historic Driskill Hotel is site of NAESB's Second Annual Meeting, Sept. 16–17

Austin's historic Driskill Hotel will be the site of NAESB's Second Annual Meeting, to be held Sept. 16 and 17.

Once again, the meeting will feature a top-quality program including speeches and panel discussions by energy, finance and electronic commerce experts, regulators and political observers. The "state of NAESB" will also be discussed by NAESB officers.

Built in 1886 as cattle baron Jesse Lincoln Driskill's "frontier palace," the Driskill underwent a three-year, multimillion-dollar restoration in the late 1990s.

The restoration included a total remake of the hotel's 188 rooms and suites. Each is decorated in Victorian style and each features wrought-iron beds, original furnishings and art work and rich fabrics.

The lobby features a hand-laid marble floor, a hand-painted decorative ceiling, period furnishings and original artwork. The highlight, however, is a custom-made stained-glass dome that serves as the hotel's focal point.

Special annual meeting room rates of $135, single or double, are available by calling the Driskill reservation line at 800-252-9367 and mentioning that you are attending the NAESB Annual Meeting. The cutoff date for the special room rate is Sept. 1.

Commission issues final rule to protect critical information on energy infrastructure

by Stephen Gidiere

On February 21, 2003, the Federal Energy Regulatory Commission issued a final rule detailing the circumstances under which it will make available information that could be used to plan a terrorist or other attack on energy-related facilities. Such information is known as critical energy infrastructure information (CEII). If you participate in filing any information with FERC or routinely seek access to information from FERC, you need to understand this new rule. The final rule changes the existing procedures for filing all types of privileged information and adds a new regulatory section that spells out the procedures for requesting CEII.

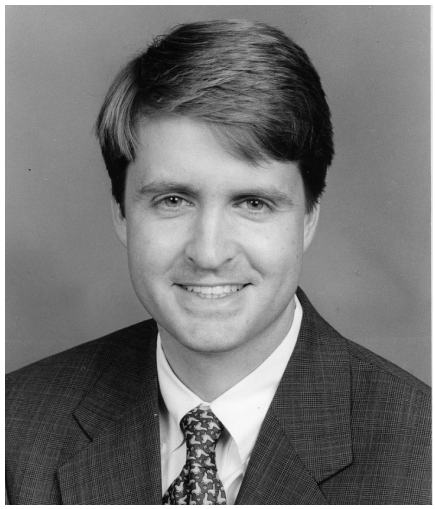
Following the Sept. 11 terrorist attacks, FERC, along with many other federal and state agencies, reacted quickly to limit easy public access to information that could be useful in planning a terrorist attack. FERC followed up on its initial action by issuing a notice of inquiry , 67 Fed. Reg. 3129 (2002), and then a notice of proposed rulemaking, 67 Fed. Reg. 57994 (2002), to provide a comprehensive approach to handling and disseminating information about critical energy infrastructure. The final rule brings this process to a close.

The final rule defines CEII as "information about proposed or existing critical infrastructure that: i) relates to the production, generation, transportation, transmission, or distribution of energy; ii) could be useful to a person in planning an attack on critical infrastructure; iii) is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552; and iv) does not simply give the location of the critical infrastructure." 18 C.F.R. § 388.113(c)(1). The term "critical infrastructure" is defined as "existing and proposed systems and assets, whether physical or virtual, the incapacity of which would negatively affect security, economic security, public health or safety, or any combination of those matters." 18 C.F.R. § 388.113(c)(2).

Thus, information about the location of energy facilities will generally not be considered CEII. However, FERC noted several exceptions to this general rule. For example, FERC was very specific about certain hydropower, gas and electric transmission-location–related information that it considers to be CEII. For example, with respect to hydro, FERC intends to treat as CEII drawings showing technical details of a project, such as plans and specifications, supporting design reports, Part 12 independent consultant reports, facility details, electrical transmission systems, and communication and control center information. Examples of gas-location-related information that FERC intends to treat as CEII include diagrams of valve and piping details at compressor stations, meter stations, LNG facilities, and pipeline interconnections. On the transmission side, FERC specifically stated in the preamble to the final rule that it considers the transmission system maps and diagrams in part 3 of FERC Form 715 to be CEII. There are other examples in the preamble to the final rule.

FERC's intention is to deny FOIA requesters access to CEII. Under the final rule, however, CEII is not off-limits to members of the public who are able to demonstrate a legitimate need for the information and the ability and willingness to protect the information from further disclosure. To demonstrate the latter, FERC may typically require the requester to sign a nondisclosure agreement.

The final rule clarifies that the determination as to whether a particular document qualifies as CEII is made by the newly created CEII coordinator, whose decision is subject to a request for rehearing by the commission. 18 C.F.R. § 385.1902(a). However, FERC refused to adopt the recommendation of many commenters that FERC extend certain time periods to challenge CEII determinations. Thus, submitters of CEII to FERC should have a complete understanding of the procedural and timing aspects of the new rule to prevent CEII from being released without a full review by FERC and input from the submitter of the information.



It is also important to note that the final rule significantly changes the method for filing all types of privileged information with FERC, not just CEII. The new regulations reflect FERC's conclusion that, as a practical matter, privileged information is more easily protected if it is filed in a separate appendix, rather than if two entire copies of the filing, one public (redacted) and one nonpublic, are submitted. However, the regulations allow the submitter the option of filing one public and one nonpublic copy of the filing, as is current practice.

FERC's final rule is recognition that national security risks must be reevaluated after Sept. 11. In this regard, FERC is a pioneer among federal agencies. Many agencies, such as the Energy Information Administration, continue to collect and disseminate energy infrastructure information under policies and regulations that do not officially recognize the changed national security environment. Hopefully, other agencies will follow FERC's lead.

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How NAESB, NERC, ISOs-RTOs built 'three-legged stool'

NAESB Review *recently spoke to William J. Museler, president and CEO of the New York Independent System Operator (NYISO), who was the lead negotiator for the IAO/RTO Council in the talks that led to the memorandum of agreement (MOU) between NAESB, the North American Electric Reliability Council (NERC) and the ISO/RTO Council.*

Museler came to the NYISO from the Tennessee Valley Authority, where he was executive vice president of the transmission/power supply group. Before that, he held various positions at Long Island Lighting Co. A graduate of the Pratt Institute with a B.S. in engineering science, he also holds an M.S. degree in mechanical engineering from Worcester Polytechnic Institute.

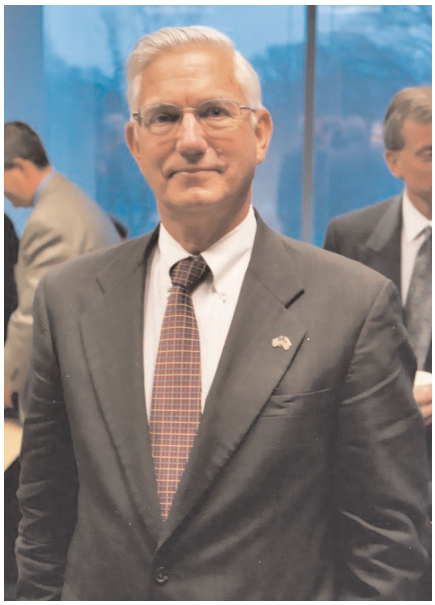
Q: Please describe how the negotiations began.

A: They started informally with discussions with Bill Boswell. He came to Albany and we met to see how we could go forward. We both thought we could reach some conclusion on this, so we set up a process where NAESB and NERC chose the appropriate representatives from their sides and the ISOs and RTOs decided that three of us—New England, New York and the Southwest Power Pool—would be the representatives from our side.

Q: What was the tenor of the negotiations?

A: For a short period of time things were a little awkward, but very quickly, an atmosphere of trust among the negotiators developed and within two meetings we arrived at a very preliminary overall structure that we called the three-legged stool: NERC, NAESB and the ISO/RTO Council as the traffic cops to direct where the standards should go. It was very clear to everybody that this was not a standards-setting role. The RTOs and the ISOs are not standards-setting organizations, nor do we want to be. But we felt we had a role in the process because whatever standards get developed and approved by FERC, whether they're from NERC or NAESB or some other standards-setting organization, we're the ones who have to put them into place and we have to live with them and operate markets under them. That was a fundamental reason why we felt it was really appropriate for us to be in on those discussions.

Q: As the discussion at the NAESB Board of Directors meeting in March



showed, not everyone is completely satisfied with the MOU.

A: Since the Joint Interface Committee operates in the open, virtually all of those concerns will go away once they see how we operate. I understand the concerns people have, and they're legitimate concerns, but the people who negotiated this understand how the organizations are really going to operate under it, and I really believe that it won't take more than one or two JIC meetings for people to feel comfortable that the RTOs and ISOs can add value to the process and are not going to be a problem.

Q: Do you think part of the concern is based on the fact that the RTOs and ISOs aren't standards-setting organizations?

A: No, I don't think that's the objection. The objection that was laid on the table at the board meeting is that since all of the ISOs and RTOs haven't been formed, we don't represent all the ISOs and RTOs and all sections of the country. That's an understandable concern.

But we're not a closed organization. As soon as these organizations exist, we certainly will invite them to become members, because I think we should be a nationwide organization. But until FERC anoints the RTOs in those areas, we just don't have anybody to deal with. As the RTO formation moves forward, we'll have representation from any new areas.

Q: Since you're one leg of the stool, was there concern that you'd cause delays in standards development?

A: I guess some people were concerned about that. But the MOU was modified in a couple of ways to deal with that concern. First, it only takes two legs of the stool to have a vote at a JIC meeting. So if the concern is that the ISOs and RTOs either wouldn't show up or would decline to vote, and therefore be able to stop something because of a lack of a quorum, that concern is eliminated, because we wouldn't be able to do that if we wanted to. And we certainly wouldn't want to.

The other provision was that in the event of something that is not material to our concerns or responsibilities, we won't vote on it. Now some people got concerned because that is written as a "may" and not a "should," but if it was a "should" we would never be able to settle the question of what was in our material interest and what wasn't. So it's really a good-faith effort not to hamstring the process but allow it to move forward. To do anything else, we would have needed a bunch of lawyers for months.

Q: Why couldn't the RTOs and ISOs

just have joined the appropriate segment of the wholesale electric quadrant?

A: Some of the ISOs did pursue that, but when we got together and talked about it, we thought there really was a fundamental difference between the representatives of the sector and the ISOs and RTOs. The ISOs and RTOs feel that we're required by our charters to be independent of the market participants. For example, it was suggested that we join the transmission owners' segment. But the transmission owners have their own self-interest in that segment—as they should. That's how the organization is set up. We don't have the same self-interests as the transmission owners or the generators or the marketers or the distribution companies.

So when we really sat back and looked at it, we felt that while we're allowed to participate in any part of the NAESB process because it's an open process, we should remain independent in terms of not being part of the segment voting structure because we really have a different role. We have a public interest role because of the independence requirement in our tariffs.

Q: Was the ISO/RTO Council formed just to facilitate participation in NAESB?

A: It was already in the works. It had actually existed in a less formal form for about two years. But the NAESB issue probably accelerated the transition to a more formal organization.

Q: What is the organization's mission?

A: Beyond NAESB, the actual charter is fairly general, but we are very interested in standardizing the markets, so we formally review FERC proceedings and, where we can, file joint comments. For example, we filed joint comments on standard market design. So one of our things is to try to achieve market standardization both through commenting on FERC proposals and, potentially, to make proposals of our own.

There's an adequacy working group that is trying to develop a standard adequacy market in the Northeast. So again, standardization is one of the activities we're pursuing jointly. And then from a technical standpoint our CIO group, our IT committee, is working on a number of projects to standardize data transfer between ISOs, and those projects are actually moving forward. And those were in the works before the NAESB interaction started.

Q: Will there actually be more RTOs? That's become a rather controversial issue in some regions of the country.

A: Nobody has a crystal ball in that regard. My opinion is that there will be more RTOs formed or ITPs—independent transmission providers, which are just RTOs with a smaller size and scope. Whether it will blanket the whole country is anybody's guess because of the concerns that some of the southerners and westerners have, but I do think we'll see more of them formed. I think you're going to see continued RTO formation or you're going to see RTOs absorbing the nonaffiliated transmission owners. I don't mean absorbing them from an ownership standpoint, just absorbing them into their markets.

Q: But it wouldn't surprise you to see FERC make changes in the SMD NOPR.

A: No, it wouldn't. In fact, ISOs and RTOs made some strong recommendations on changes we think FERC should make.

Q: Getting back to NAESB, how do you see the JIC shaping the standards process in the WEQ?

A: I see it as an opportunity for all three of the organizations to coordinate the overall direction of the electric markets, because we all have different—but I think complementary—responsibilities. We have the ability to eliminate duplication and, more importantly, to make sure that each of the three legs of the stool understands where the other legs are going and what their priorities are and talk about that at a high level.

The JIC will provide an extremely valuable forum for the leaders of the electric markets to talk about how to work together to get to better markets. I see it as a very positive step, and as I said earlier, the concerns that people have will be overwhelmed very quickly by what I feel sure will be a very positive relationship.

Q: And clearly you support the NAESB process.

A: Oh yes. In terms of setting business standards, we have not had any experience with the predecessor organization, GISB, because most of us are just on the electric side. But if a standard can get through that process, it's really a consensus driven standard, and I think that's very appropriate.

Most people don't know this, but in New York, we have joint governance. In order to file something with FERC in New York, both the market participants and our board have to agree. Neither side can file independently. What that does is drive consensus, and once something is decided upon, you automatically get buy-in with it. You've achieved consensus or at least a majority vote. You get buy-in on the outcome of the process as opposed to trying to impose something from on high or having one side have undue leverage over the other side. So to me, that's what the NAESB process looks like, and our experience in the market says that's a good way to do it.

REQ forms Glossary Subcommittee

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In other business:

- The WGQ EC approved a motion setting a July 31 publication date of version 1.7 of the WGQ standards.
- The wholesale electric quadrant executive committee approved a motion asking for a report at the next meeting on possible realignment of subcommittees to avoid overlap.
- The REQ EC voted to establish a Glossary Subcommittee to develop and maintain a glossary of terms and definitions.
- Suzanne Calcagno, associate director for regulatory compliance of UBS Warburg Energy LLC, was elected second vice chair of the RGQ EC.

A look back at 2002, NAESB's first year

First Quarter

The North American Energy Standards Board (NAESB) officially comes into existence on Jan. 1, with the former Gas Industry Standards Board becoming the wholesale gas quadrant of NAESB. The NAESB bylaws call for an organization with four quadrants: wholesale natural gas, retail natural gas, wholesale electricity and retail electricity. The quadrants consist of segments that reflect the differing interests of the companies that make up each quadrant. There is a single board of directors consisting of the total number of directors appointed by each quadrant and an executive committee that will divide itself into quadrants to consider standards and model business practices.

The American National Standards Institute transfers GISB's accreditation as a standards development organization to NAESB.

NAESB makes major progress toward becoming a four-quadrant organization as the Board of Directors at its March meeting approves the quadrant procedures for the retail gas and retail electric quadrants. Meanwhile, the wholesale electric quadrant gives tentative approval to five segments.

A number of electric industry participants respond to a FERC order calling for a single organization to develop wholesale electricity standards, with a majority contending that reliability and business practice standards are virtually inseparable. The North American Electric Reliability Council (NERC) says it has begun to work with NAESB on a memorandum of understanding (MOU) on how the organizations will work together.

Second Quarter

At its June meeting, the board approves the 2002–2003 annual plan for the retail electric quadrant. It also authorizes the creation of a Technical Advisory Council to give regional transmission organizations and independent system operators a voice in NAESB.

Third Quarter

On a notational vote, the NAESB Board of Directors approves revised quadrant procedures for the wholesale electric quadrant, meaning that the procedures for all four NAESB quadrants have been approved. The quadrant has five segments: transmission, generation, marketers/brokers, distribution/load-serving entities, and end users.

A major issue during the formation of the wholesale electric quadrant, the relationship between NAESB and NERC, moves toward resolution with the signing of a letter of intent by officials of the two organizations. The letter commits NAESB and NERC to coordinate the development of business practice standards and electronic communications protocols by NAESB and the development of wholesale electric reliability standards by NERC.

Version 1.6 of wholesale gas quadrant standards is released. Many of the changes in version 1.6 as compared to version 1.5 are in the electronic delivery mechanism section and were the result of recommendations in a surety assessment carried out by Sandia National Laboratories.

A Board Managing Committee to assist the chair and executive director in administering NAESB between board meetings is formed by the Board of Directors through a notational vote.

Participants in a meeting sponsored by NAESB and the National Energy Marketers Association agree to establish an informal coordinating group to help develop a response to skepticism about the energy merchant industry on the part of Wall Street and the general public.

The retail electric quadrant holds a kickoff meeting. It forms three subcommittees: Supplier-Utility Interface, Customer Processes and Technical Electronic Implementation.

At its September meeting prior to the first NAESB Annual Meeting at Hunt Valley, Md., the Board of Directors approves a resolution modifying the wholesale gas quadrant annual plan to include the issue of creditworthiness, in recognition of a FERC order encouraging parties interested in the establishment of generic creditworthiness standards to go through the NAESB process. The resolution emphasizes that it is FERC, not NAESB, that must set creditworthiness policy.

In an address to the annual meeting, FERC Commissioner Linda Breathitt says creditworthiness is precisely the type of issue NAESB should be addressing. A panel discussion by state regulators reveals a striking diversity of views on issues such as convergence, FERC's rulemaking on standard market design and even the value of deregulation itself.

Fourth Quarter

NAESB Chairman and CEO Bill Boswell and NERC Chairman Richard Drouin sign an MOU on the relationship between the two organizations. The NAESB Board of Directors approves the MOU at its November meeting in San Diego; NERC's board approves the document in December. The MOU calls for the formation of a Joint Interface Committee that will coordinate the development of business practice and electronic communications standards by NAESB and electronic reliability standards by NERC. Because most standards have both reliability and business standards and communication protocol implications, the JIC will evaluate each standards development proposal that comes before NERC and NAESB to determine which organization should develop the proposed standard.

The board at its November meeting approves the annual plans for the retail electric and wholesale electric quadrants.

All four quadrant Executive Committees hold back-to-back meetings for the first time in December. The wholesale gas quadrant EC approves a work plan on creditworthiness from the Business Practices Subcommittee.