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To: All Participants in the Development of the NAESB WEQ

From: Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC (the "PSEG Companies")

Re: Sub-Segments / Protection of Minority Interests

Several stakeholders at the NAESB WEQ organizational meetings have expressed a desire to have segments fragmented into "sub-segments" to mitigate a perceived concern that minority interests would otherwise be ignored. The PSEG Companies would like to point out that such balkanization is neither necessary nor desirable, as the existing NAESB ANSI certified process¹ contains strong protections for individual stakeholder and minority views. Creation of numerous sub-segments can only lead to difficulties in Quadrant formation, deadlocks in voting, or at best cumbersome procedures and unnecessary delays.

ANSI requires that all concerns, including those of minorities and individual stakeholders, be fairly and completely addressed. ANSI expressly does not permit the "exclusion of fair and equitable consideration of other viewpoints" and ANSI expressly requires that

"...an effort to resolve an expressed objection accompanied by comments related to the proposal under consideration shall be made, and each such objector shall be advised in writing (including electronic communications) of the disposition of the objection and the reasons therefor. If resolution is not achieved, each such objector shall be informed that an appeals process exists within procedures used by the standards developer."²

¹ ANSI certification is the generally accepted and time proven means of achieving the goals of a fair, open and inclusive process. NAESB has already been informed by ANSI that the NAESB process is acceptable. Moreover, ANSI accreditation is the best, and perhaps only expeditious, way to meet the Commission's Order issued December 19, 2001 in Electric Market Design and Structure Docket No. RM01-12-000 which cites in Footnote 1 (mimeo at page 1) OMB Circular No. A-119 for the form that the organization must take to achieve true industry consensus. The Circular lists the requirements set forth in OMB Circular No. A-119 – (i) Openness, (ii) Balance of interest, and (iii) Due process, (vi) An appeals process, and (v) Consensus, which is defined as general agreement, but not necessarily unanimity, and includes a process for attempting to resolve objections by interested parties, as long as all comments have been fairly considered, each objector is advised of the disposition of his or her objection(s) and the reasons why, and the consensus body members are given an opportunity to change their votes after reviewing the comments.

² American National Standards Institute Procedures for the Development and Coordination of American National Standards, Sections 1.2.2 and 1.2.7., available at www.ansi.org.

Furthermore, the disposition of minority positions are required to be forwarded to the Executive Board and the full membership for their consideration during votes. NAESB also indicated that these dispositions are also part of the record forwarded to the FERC together with the standard.

Further protection is provided in that all NAESB standards are “voluntary” unless deemed mandatory by FERC in a rulemaking proceeding. In such a determination, all persons would receive the due process protections under the Federal Power Act and the Administrative Procedures Act. Finally, after exhausting remedies at the FERC an appeal can be made to the federal courts. These due process protections should be sufficient to allay any concerns of any stakeholder.