

September 18, 2002

Mr. Richard Drouin
Chairman, NERC
LeWindsor
1170 Peel Street
Montreal, Quebec H3B 4S8

Mr. William Boswell
Chairman, NAESB
McGuire Woods LLP
Dominion Tower
625 Liberty Avenue
23rd Floor
Pittsburgh, PA 1522-3142

Dear Mssrs. Drouin and Boswell:

The undersigned industry stakeholders are writing to address a topic requiring immediate attention: the impending effort to develop a NERC/NAESB coordination process. The signatories to this letter strongly believe that the details of any NERC/NAESB coordination process should be developed by industry participants – not staff or officers of the organizations. Additionally, we believe that a meaningful MOU will require serious consideration of real changes in the approach to standards development required to meet the new challenges of coordination.

We believe that FERC intended such working level of activity. Specifically, FERC stated: “we strongly urged **the industry** to consider how best to achieve coordination between business practice and reliability standards.”¹ FERC further stated: “In the December 19th Order, we strongly urged **the industry** to consider how best to achieve coordination between business practice and reliability standards.”² On August 15th, a privately negotiated letter of intent (LOI) was executed on behalf of both organizations recognizing the

¹ FERC Docket No. RM01-12, May 16, 2002, page 9 (Emphasis added).

² Ibid. Emphasis added.

potential for overlap and duplication and the need to harmonize standards development. However, industry stakeholders were given only an after the fact opportunity for comment.

We believe the industry stakeholders themselves should play a central role in the MOU negotiating process. In this regard, the resolution adopted by the NARUC Board of Directors on July 31, 2002 (copy attached) provides a meaningful outline for the next steps necessary to implement the general goals contained in the LOI. Particularly, the resolution contemplates a threshold process for allocating issues to either organization, based upon an objective determination as to whether the expertise required to develop the standard is predominantly business/market or reliability-related. Accordingly, we request that this proposal be specifically considered and discussed during the MOU negotiations. Additionally, beyond vague and uncertain provisions, there must be affirmative obligations to provide the basis for accountability and dispute resolution. The organization without developmental authority will play an advisory role in the standards process.

We look forward to working with all industry stakeholders in developing a coordination MOU between NERC and NAESB. Specifically, we believe that the members of NAESB's WEQ Board and the Standards Authorization Committee of NERC, supported by and with input from the industry stakeholder groups they represent, should be responsible for directly negotiating the MOU. Obviously, the Boards of each organization should review and approve the MOU for ultimate presentation to FERC.

Sincerely,



Mark Bennett
Electric Power Supply
Association



Chuck Gray
National Association of
Regulatory Utility
Commissioners

/S/

John Anderson
Electricity Consumers
Resource Council

Cc: NERC Board
NAESB Board
FERC Commissioners

Resolution Encouraging NARUC and State Commission Membership In the North American Electric Reliability Council (NERC) and the North American Energy Standards Board (NAESB) Wholesale Electric Quadrant (WEQ), Encouraging NERC and NAESB to Offer Reduced Membership Fees for State Commissions, and Endorsing Principles to Guide the End User Segment Of the NAESB Wholesale Electric Quadrant

WHEREAS, The establishment of competitive wholesale electric markets has illustrated the need for some standardization of commercial business practices and the review and possible revision of reliability standards related to these markets; and

WHEREAS, The Federal Energy Regulatory Commission (FERC) issued an order on December 19, 2001, encouraging wholesale industry participants to develop a standard-setting organization for commercial practices and communications protocols for the implementation of standard market design and other policy directives that is to coordinate with the NERC standard-setting processes; and

WHEREAS, NERC has adopted a new standard-setting process for reliability, based on a weighted nine-segment voting model with each segment representing a stakeholder group, and one of the segments is reserved for regulatory and other State government entities; and

WHEREAS, In response to FERC's order, NAESB sponsored an open stakeholder process using its organization as a platform to develop a WEQ for standards development, and the stakeholders have proposed a five-segment voting model with defined sub-segment seats, which includes an End User segment with a sub-segment for regulators (currently pending approval by the NAESB Board of Directors); and

WHEREAS, NARUC and State commission staff participated in the design of both the NERC and NAESB models and obtained inclusion of the right for State regulatory entities to join the organizations, including the right to vote on proposed standards; and

WHEREAS, NERC membership fees are being evaluated by NERC's Board of Trustees and a tiered dues structure is being considered; and

WHEREAS, The NAESB WEQ End User segment consists of customers and customer representatives, those who ultimately pay for electricity but may be unable to afford the current NAESB membership fee of \$5,000 annually, NARUC, the National Association of State Utility Consumer Advocates (NASUCA), and the Electricity Consumers Resource Council (ELCON) have requested membership fees of no more than \$500 annually in a letter to the NAESB Board of Directors sent July 12, 2002; and

WHEREAS, NARUC, NASUCA, and ELCON representatives have formulated principles to guide the NAESB WEQ End User segment (attached) in anticipation of developing quadrant and segment procedures; now therefore be it

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened at its July 2002 Summer Meetings in Portland, OR, urges

State commissions to join both NERC and the NAESB WEQ and authorizes NARUC membership in both organizations so that States have the opportunity to provide input into the development of reliability and commercial standards that will shape the operation of wholesale markets and the delivery and cost of electricity to retail consumers; and be it further

RESOLVED, That NARUC encourages NERC to consider, when appropriate, a tiered dues structure or other appropriate reduction of dues for NARUC and State commissions, and NAESB to adopt membership fees of no more than \$500 annually for members of the WEQ End User segment that do not also hold membership in other WEQ segments so that dues are not a barrier to participation; and be it further

RESOLVED, That NARUC endorses the attached principles developed by NARUC, NASUCA, and ELCON representatives to guide the NAESB WEQ End User segment.

Sponsored by the Committee on Electricity
Adopted by the NARUC Board of Directors July 31, 2002

Two Attachment Follow

Attachment #1

Principles to Guide the End User Segment of the North American Energy Standards Board (NAESB) Wholesale Electric Quadrant (WEQ)

1. Membership for the End User Segment
 - The End User segment must not be a dumping ground for entities rejected for membership in other segments.
 - Entities providing services to the industry should not be in the End User segment.
 - Organizations (such as associations, trade groups, or consortiums which join the End User segment as representatives of the regulator, residential/commercial, large industrial, and end use (self-generation) sub-segments cannot be supported financially or materially, directly or indirectly, by entities eligible for membership in the other segments.
 - If, at any time, the End User segment is populated with inappropriate members that disproportionately represent their portion of the End User segment (for example, electric utilities with meters on their office buildings or electric utility executives with meters on their houses), then our alternative actions would be: 1) appeal to the NAESB Board with a copy to the Federal Energy Regulatory Commission (FERC), 2) if satisfactory action is not taken by the Board within 30 days, immediately request that FERC remedy the situation; or 3) to quit the End User segment, thus leaving only inappropriate members in it.
2. The Letter of Intent (LOI) and the Memorandum of Understanding (MOU) between NAESB and the North American Electric Reliability Council (NERC), and the associated process diagram for developing standards must clearly set forth:
 - An upfront allocation of issues between NERC and NAESB;
 - Real coordination between NERC and NAESB, meaning:
 - The organization without developmental authority for a standard automatically assumes an advisory-only role to the other organization.
 - RTOs and ISOs must have a meaningful (hard-wired) advisory role in the standards development process, including a specified role for the Technical Advisory Council.
3. All members of the End User segment that are not in any other segment should pay no more than \$500 in dues.
4. There must be a mechanism to reduce bias from “volunteers” in the standards drafting process.
 - An unbiased technical drafting process should be implemented.
 - We strongly recommend an RFP process for the drafting of standards so that the process is not controlled by well-funded entities who can support several “volunteers.”

Attachment #2

WHOLESALE ELECTRIC INDUSTRY STANDARDS ORGANIZATIONS FACT SHEET

As the competitive electric industry continues to develop, there is an increasing demand for national standards. The two main forums for establishing these standards will be the North American Energy Standards Board – Wholesale Electric Quadrant (NAESB-WEQ) and the North American Electric Reliability Council (NERC). NAESB will do business practices; NERC will do reliability standards. Both entities have voting rights for state regulators. The inclusion of state regulators stems directly from NARUC efforts, despite strong industry resistance. Everything the NAESB-WEQ produces and much of what NERC establishes will go to FERC for incorporation into its tariffs. Reliability and commercial standards for the wholesale electric industry will not, therefore, come before state commissions for authorization.

State regulators have two options for participation in these organizations. The first is to take advantage of the opportunity to participate in formation, discussion and subsequent voting on standards by joining both NERC and NAESB. The second avenue is to make a filing after the fact when FERC has proceedings to adopt the tariff standards. It is not likely that any of these standards will come before state commissions. If there are issues that could come before the states, the affected states could abstain from voting but still participate in the discussions. This situation is similar to participation in the IEEE standard setting process. State staff members routinely participate and vote on voluntary standards although many states consider the final products for adoption.

NERC

NERC is in the process of dramatically transforming itself. It believes the changes are required to continue setting standards to ensure a reliable electric transmission system for the competitive market. As NERC changes, the role of state regulators in the process changes.

Traditionally, NERC was an umbrella organization that served as the forum for the development of voluntary reliability standards. The core activities resided in the regional councils that comprise NERC and the regional councils were controlled by the vertically integrated utilities. During the early 1990's other market participants, most notably the IPPs, demanded that the organization be opened to wider participation. Stakeholders were also added to the NERC Board.

NERC is the main author of the currently pending reliability legislation in Congress. Under the bill, responsibility for standard setting would shift from the regions to the national organization. Mandatory national standards would be developed with limited regional variation. In anticipation of this change, three years ago NERC established an independent board. Initially, ten new independent members were added to the existing Board. After a year's time, the original Board members resigned and the ten new members became the entire Board. Recognizing the importance of electric reliability, NERC implemented a program of mandatory compliance with the reliability standards through contracts as opposed to waiting

for federal legislation.

NERC revised its standard setting process. Traditionally, the NERC Committees¹ (Operations, Planning, and a recent addition – Market Interface) would propose, debate and vote on new and revised standards. The new process reduces Committees to an advisory status. Anyone can propose a new standard and have it move through the process. The balloting is performed on a nine-weighted-segment² basis. Each segment will also elect representatives to participate on the Standards Authorization Committee (SAC) which will guide the standards process.

It should be noted that while NERC's focus has always been reliability, out of necessity they have also implemented standards that could be considered business practices or market rules. The present plan is to identify which standards are more business related and have the NAESB-WEQ address those issues. NERC will retain its business-related measures as a backup to ensure reliability if the NAESB standards fail.

Along with the NERC reorganization will come a change in the funding mechanism for the organization. The regions have pledged to continue complete financial support of the organization through 2003. At that time, a new mechanism needs to be in place. While the issue has not been resolved at this time, alternatives include membership fees for voting entities or, if national reliability legislation passes, a national transmission charge instituted by FERC.

NAESB-WEQ

The North American Energy Standards Board is a new industry based organization established January 2002 to develop voluntary business practices for the wholesale and retail, electric and gas markets. NAESB is divided into four quadrants. The former Gas Industry Standards Board was the model for NAESB and now occupies the wholesale gas quadrant. Separate quadrants were formed to develop consensus business practices for both the retail gas and retail electric industry; they were incorporated into NAESB in June 2002. A proposal for the organization of the fourth quadrant to address wholesale electric issues is currently before the NAESB Board. While NAESB develops voluntary standards, all work products for the wholesale industry are submitted to FERC.

The proposed Wholesale Electric Quadrant (WEQ) will be organized into five stakeholder segments with weighted voting. One of the segments is reserved for End Users. Retail customers, regulators and organizations that represent customers and regulators are eligible to join the segment as voting members. Once Board authorization is received, 40 entities must join - with at least five members in each segment - before the WEQ can commence drafting a workplan for standards development.

NAESB dues are \$5,000 annually for each entity. If an entity wishes to join more than one

¹Regulators hold three non-voting seats (representing the eastern interconnection, western interconnection, and ERCOT) and one observer seat on each of the NERC Committees. NARUC has traditionally staffed these positions.

²One of the nine segments is reserved for federal, state and provincial regulators.

segment, it must pay \$5,000 for each additional segment. Dues accord the entity the right to vote, and possibly be elected to seats on the Executive Committee and Board. NARUC, in conjunction with NASUCA and ELCON, have petitioned the NAESB Board to establish dues of no more than \$500 for entities joining the End Users segment. The two retail quadrants were granted reduced dues for three entities each for the first two years.