

1 **Memorandum of Understanding between**
2 **North American Energy Standards Board and North American Electric Reliability Council**
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5 This Memorandum of Understanding (“MOU”) is entered into this [DATE], 2002
6 between the North American Energy Standards Board (“NAESB”) and the North American
7 Electric Reliability Council (“NERC”) (collectively, “Parties”).

8 Whereas NAESB is the primary industry forum for development and promotion of
9 business practice and electronic communication standards in North American wholesale and
10 retail natural gas and electricity markets;

11 Whereas NERC is the primary industry organization for developing reliability standards
12 for the reliable operation and planning of the bulk electric systems serving North America;

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

15 Whereas the Federal Energy Regulatory Commission (“FERC”) has “strongly urged” the
16 Parties to coordinate their standards development efforts;

17 Whereas most standards have both business and reliability implications and range along a
18 continuum from “predominantly reliability” in nature to “predominantly business” in nature;

19 Whereas the Parties agree that a coordination process should be developed between the
20 Parties to ensure that business practice and reliability standards are harmonized and that every
21 practicable effort is made to eliminate overlap and duplication of efforts;

22 Whereas, the Parties agree that the coordination that takes place under this MOU should
23 not delay the development of standards;

24 Whereas, the Parties shall not be obliged to change their existing standards approval
25 processes, but the parties agree it would be beneficial to keep an open mind for future changes to

26 be considered that would improve the processes and achieve the goals contained within this
27 MOU; and,

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

31 Now therefore, the Parties agree as follows.

32

33 **1. Purpose and Principles of Agreement**

34 1.1 The Parties propose to establish a coordination process set forth in Section 2 of
35 this MOU. The coordination process is intended to produce reliability standards and business
36 practice standards as efficiently as possible. The coordination process will accomplish this
37 primarily through the creation of the Joint Interface Committee (“JIC”) comprised of
38 representative members of NERC and NAESB. The creation of the JIC is not intended to create
39 delay in standards development, but to facilitate efficient standards development and avoid
40 duplication of effort between the Parties.

41 1.2 The Parties recognize that most standards have both reliability and business
42 standards and communication protocols implications. Accordingly, the JIC will evaluate each
43 standard development proposal¹ with this recognition in mind to determine whether NAESB or
44 NERC should develop the proposed standard.²

¹ The JIC is not limited to new standards but can receive existing proposed standards referred to it by either Party.

² 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.

45 1.3 The Parties intend to have the coordination process set forth in Section 2 of the
46 MOU in full operation by January 1, 2003. The Parties may mutually agree to move the start
47 date for the coordination process.

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49 **2. Coordination Process**

50 2.1 The Parties agree to establish a coordination process, as set forth in this section,
51 for coordinating the development of proposed standards, in accordance with the principles in
52 Section 1 of this MOU.

53 2.2 The JIC shall be responsible for the coordination process. The JIC shall be
54 composed of representatives from NERC holding 50 % of the votes and representatives from
55 NAESB WEQ holding 50 % of the votes. Each Party will determine its representatives to the
56 JIC, with every effort to have each segment represented. The quorum necessary for the
57 transaction of business at meetings of the JIC shall be both a majority of the NERC
58 representatives and a majority of the NAESB representatives. Any or all members of the JIC may
59 participate in a meeting, including being counted as part of the quorum, by means of a
60 communication system by which all persons participating in the meeting are able to hear each
61 other. Use of notational balloting or proxies will not be permitted. NERC and NAESB will
62 separately determine whether designated alternates will be permitted to participate in place of
63 their absent JIC representatives. The JIC will have co-chairs, one representing NERC and one
64 representing NAESB, chosen by each Party from among its JIC representatives.

65 2.3 Decisions of the JIC will be by a simple majority vote, with each NERC
66 representative present at a meeting having a vote equal to 50% divided by the number of NERC
67 representatives participating in the meeting and each NAESB representative having a vote equal

68 to 50% divided by the number of NAESB representatives participating in the meeting. Appendix
69 C to this MOU contains illustrative examples of this voting allocation. In the event of a tie vote,
70 the matter will be referred to the Chairmen of the Parties [or their Board level designee(s)] for
71 resolution.

72 2.4 The JIC will meet as necessary to review each Standards Authorization Request
73 (“SAR”) that the Standards Authorization Committee (“SAC”) of NERC has approved for the
74 drafting of a standard and each standard request that the NAESB Executive Committee (“EC”)
75 has assigned to the Wholesale Electric Quadrant (“WEQ”) of NAESB. The JIC will determine
76 whether a particular standard should be developed by NERC or by NAESB, based upon the
77 coordination guidelines in Appendix A of this MOU, as they may be revised from time to time.

78 2.5 The JIC will make its determination on each standard development proposal by
79 the end of the month subsequent to the month in which the standard development proposal is
80 referred to the JIC. The JIC may prioritize submitted proposals if there are urgent reliability or
81 business implications.

82 2.6 Once the JIC has assigned a standard development proposal to one of the Parties,
83 that Party will then develop the proposed standard through its existing standards development
84 process. The other Party shall assume an advisory-only role, although its members and
85 constituents are strongly encouraged to actively participate in the development process by
86 participating in subcommittee, task force and working group deliberations as well as offering
87 comments and recommendations on any and all aspects of the proposed standard.

88 2.7 All interested individuals and entities are invited and encouraged to participate to
89 the maximum extent possible consistent with membership or registration requirements in NERC

90 and NAESB standards development activity. Neither organization places any membership or
91 registration requirement on the submission of comments on draft proposed standards.

92 2.8 Either the determination of the JIC or the resolution reached in the event of a tie
93 vote becomes final after thirty days unless, within that thirty-day period, either Party acts to
94 withdraw the proposal. In this event, the proposal may be redrafted and resubmitted to the JIC or
95 the Parties shall meet to attempt to resolve the impasse. Should further consideration not result
96 in a final determination, either party may act consistent with its own standards development
97 process.

98 **3. Filings With Governmental Authorities**

99 3.1 Each Party shall be responsible for making filings with governmental authorities
100 of the standards that it develops, as appropriate.

101 3.2 All filings must include, verbatim, any comments submitted by the Party that did
102 not develop the standard, as well as the comments of other interested parties.

103

104 **4. Information Exchange**

105 4.1 NERC will inform NAESB each year of its projected standards development
106 activity for the coming year and of any additional planned activity as it arises. NAESB will
107 inform NERC of the WEQ annual plan each year and of any amendments to the WEQ annual
108 plan as they arise. After exchange of this information, the Parties agree to meet to address any
109 apparent areas of duplicate effort as soon as practical.

110 4.2 With respect to each particular request for a standard or standard development
111 action, each Party will promptly inform the other of the action, or the request in sufficient detail

112 to convey the subject matter and timeline for resolution of such action or request. See Appendix
113 B.

114

115 **5. Costs**

116 5.1 Each Party shall bear its own costs.

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118 **6. Reevaluation**

119 6.1 The Parties agree to meet annually during the anniversary month of the signing of
120 this MOU to evaluate in good faith the effectiveness and efficiency of this MOU in meeting the
121 goal of coordinating the standards development activity of the two organizations and to make
122 any appropriate revisions.

123 6.2 The Parties may also agree to revise this MOU, including the appendices, at any
124 other time as mutually agreeable.

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126 **7. Termination**

127 7.1 Either Party may withdraw from this MOU upon 60 days' written notice to the
128 other Party and to the FERC or other appropriate jurisdictional regulatory authorities. Prior to
129 the withdrawal becoming effective, the Parties agree to meet to discuss whether changes to this
130 MOU would address the reasons prompting the withdrawal.

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132 **8. Miscellaneous**

133 8.1 This MOU constitutes the entire agreement between the Parties with respect to
134 establishing a coordination standards development process for new proposed wholesale electric

135 industry standards and supersedes all prior understandings, proposals, negotiations and
136 communications, oral or written, between the parties or their representatives with respect to such
137 subject matter.

138 8.2 This MOU may be executed in counterparts each of which shall be deemed an
139 original and all of which together shall constitute one instrument.

140 8.3 Neither Party shall be liable for any indirect, special, incidental or consequential
141 damages arising in any way from any performance or failure to perform under this MOU.

142 8.4 The Parties agree that they will create a process whereby the notice of JIC
143 activities and documents are posted on a web site for public access.

144

145 AGREED TO This [DATE].

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147 NORTH AMERICAN ENERGY
148 STANDARDS BOARD

NORTH AMERICAN ELECTRIC
RELIABILITY COUNCIL

149

150 By: _____

By: _____

151

151 APPENDIX A

152 JIC Coordination Guidelines

153 The coordination guidelines for use by the JIC as a starting point, under paragraph 2.4 of
154 the NERC-NAESB MOU, are based in part upon NERC's Functional Model³ and in part upon
155 market criteria developed by NAESB. Once the JIC convenes and as it gains more experience
156 alternative coordination guidelines may be developed and used as the JIC sees fit.

157 In general, the functions identified in the functional model diagrams as "generator"
158 (whether merchant or load-affiliated), "purchasing-selling entity," "load-serving entity," "market
159 operator," "customer aggregator," and certain of the relationships and information flows of
160 "transmission service provider," "transmission owner," and "transmission operator" are
161 associated with how wholesale electric business practices and electronic communication
162 protocols are developed for use by market participants. Additionally, market criteria such as
163 product or service definitions, specifications, and compensation; prerequisites for participation in
164 market and identification of costs and funding obligations; arrangements for product and service
165 delivery to customers; creditworthiness requirements; market design criteria; market settlement
166 practices; and communication protocols in support of market criteria should be considered.
167 Standard development proposals applicable to those functions and to the relationships and
168 information flows among those functions normally would be assigned to NAESB, regardless of
169 where the original request for the standard was filed.

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

³ 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.

177 Where a single standard development proposal meets the coordination guidelines for
178 assigning it to either NERC or NAESB, and the proposal is not more properly recast in an
179 alternative format, the JIC should normally assign the proposal to either NERC or NAESB based
180 upon the following factors:

- 181 a. Regulatory direction to one organization or the other;
- 182 b. The relative portion of the proposal that would be associated with the reliable
183 operation of the bulk power system (NERC) vs. how wholesale electricity business is
184 transacted (NAESB);
- 185 c. The priority of the proposal and the ability of either organization to take on and
186 complete the standard development in a timely manner, given its other workload; and
- 187 d. Whether the proposal includes a significant reliability compliance element.

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APPENDIX B
Current Notification Criteria

NERC

NAESB

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|--|---|
| a. Receipt of a Standard Authorization Request (“SAR”). | a. Decision by NAESB Executive Committee (“EC”) to assign a standard request to the WEQ and referral to a subcommittee. |
| b. SAC reviews standard request. | b. Notify NERC of standard request. |
| c. Notify NAESB of SAR Posting. Posting of SAR for comment. | c. Standard request forwarded to JIC for review and organization assignment. |
| d. Authorization by SAC to draft standard. | d. Activities of subcommittee. |
| e. Standard request forwarded to the JIC for review and organization assignment. | e. Posting of draft standard for public comment. |
| f. Activities of Standards Drafting Team. | f. Submission of draft standard and public comments to EC. |
| g. Posting of draft standard for public comment. | g. Decision of EC. |
| h. Decision that draft standard is ready for ballot. | h. Action by NAESB Board of Directors. |
| i. Submission of draft standard for ballot. | i. Filing the standard with governmental regulatory authorities. |
| j. Ballot results. | |
| k. Action by NERC Board of Trustees. | |
| l. Filing the standard with governmental authorities. | |

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193 APPENDIX C

194 JIC Voting Examples

195 (Quorum requirement: Both a majority of the NAESB representatives
196 and a majority of the NERC representatives.)
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198 Example 1:

- 199 1. The JIC is composed of: 5 representatives from NAESB
200 9 representatives from NERC
- 201 2. All JIC members are in attendance at the meeting – quorum requirement is met.
- 202 3. Each group gets 50% of the vote, which means that each NAESB JIC member gets 10%
203 of the total vote (5 representatives times 10% = 50%), and each NERC JIC member gets
204 5.55% of the total vote (9 representatives times 5.55% = 50%). When the votes are cast
205 on an issue, the percentages cast are totaled and if the votes in favor of an issue exceed
206 50%, the issue is considered adopted.

207
208 Example 2:

- 209 1. The JIC is composed of: 5 representatives from NAESB
210 9 representatives from NERC
- 211 2. 3 NAESB JIC members and 5 NERC JIC members are in attendance at the meeting –
212 quorum requirement is met.
- 213 3. Each group gets 50% of the vote, which means that each NAESB JIC member gets
214 16.66% of the total vote (3 representatives times 16.66% = 50%), and each NERC JIC
215 member gets 10% of the total vote (5 representatives times 10% = 50%). When the votes
216 are cast on an issue, the percentages cast are totaled and if the votes in favor of an issue
217 exceed 50%, the issue is considered adopted.

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219 The two examples above illustrate the importance to the organizations for the JIC members to
220 attend the JIC meetings.
221