



North American Energy Standards Board

1301 Fannin, Suite 2350, Houston, Texas 77002
Phone: (713) 356-0060, Fax: (713) 356-0067, E-mail: naesb@naesb.org
Home Page: www.naesb.org

TO: NAESB Board Managing Committee, and posting for interested parties
FROM: Retail Structure Review Committee Members: Bill Bourbonnais (Chair), Jim Buccigross, Leonard Haynes, Ruth Kiselewich, David Koogler, Mark Maassel, Marcy McCain, Mike Novak, Keith Sappenfield and James Cargas (Deputy Director)
RE: **Final Report** – Recommendation for One-Year Bylaws Waiver and Other Actions
DATE: December 6, 2005

Retail Structure Review Committee Final Report

BACKGROUND:

Over the past few years, the memberships of the Retail Gas and Electric Quadrants of the North American Energy Standard Board (NAESB) have steadily declined, recently to a level below the Bylaw requirement of 40 members in each quadrant (NAESB Bylaws, Section 2.3). At the December 9, 2004, NAESB Board of Directors meeting, the Board requested volunteer board members to form a committee to address the retail quadrant membership issues and make recommendations to Board of directors by the end of 2005.

On June 1, 2005, the Retail Structure Review Committee (RSR Committee) had its first meeting of the following volunteers and NAESB staff:

Bill Bourbonnais, WPS Resources
Jim Buccigross, Group 8760
James Cargas, NAESB
Leonard Haynes, Southern Company Services
Ruth Kiselewich, Baltimore Gas and Electric
David Koogler, Dominion Virginia Power
Mark Maassel, NiSource Inc.
Marcy McCain, Duke Energy
Rae McQuade, NAESB
Mike Novak, National Fuel Gas Distribution
Keith Sappenfield, EnCana Corporation

At this meeting the RSR Committee adopted the following Mission Statement:

The Retail Structure Review Committee functions solely at the pleasure of the NAESB Board of Directors and reports to the NAESB Board of Directors through the NAESB Board Managing Committee. The Committee will make recommendations to the full board to address the membership levels in the retail electric and retail gas quadrants through possible changes to NAESB By-laws, structural changes to the quadrants or their segments including merger of the two quadrants.

The RSR Committee also reviewed the reasons for the decline in the two retail quadrant's membership, which can best be summarized as the primary focus of the retail quadrants on business practices for the customer choice retail market coupled with the stalled or even regressive status of the retail customer choice initiatives in the nation.



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The RSR Committee reviewed its options, which included (a) an increase of retail quadrant membership to bylaw requirement levels, (b) changing the bylaws to reduce the membership requirement, (c) combining the two Retail Quadrants to reach the bylaw membership levels, or (d) delaying any structural changes until the original work plan of developing business practices for the customer choice retail markets is completed.

The RSR Committee has determined that none of the available options will have any appreciable effect on the finances of the NAESB organization. It is believed that the Retail Quadrants are operating as efficiently as possible and only a major increase in Retail Quadrant membership will have any significant improvement in NAESB finances.

The RSR Committee also reviewed the current potential expansion of the retail quadrant focus from the development of business practices for just the customer choice retail markets to also including the development of business practices needed for regulated as well as customer choice retail markets. This expansion of focus is being driven by a number of requests for standard retail energy contracts (R05013) and standard electronic billing (a request from national accounts customers) (R05016) and a discussion on green energy business practices in both gas and electric markets.

On June 22, 2005, the Board of Directors agreed that the governance documents permitted the focus of the retail quadrants to include the development of business practices needed for regulated as well as customer choice retail markets. This move to address business practices applicable to retail regulated markets, plus a partnership with the Resources Committee to focus on the increase of retail quadrant memberships, was thought to be the needed synergy to increased interest and membership in the two retail quadrants and elimination of the need for immediate structural remedies.

On September 27, 2005, the retail quadrants published their first set of business practice standards for the electric and natural gas customer choice markets. The retail quadrants also announced the formation of committees to start work on two new initiatives: retail contracts and uniform electronic billing business practices. These initiatives are intended to produce business practices for the customer choice markets as well as the regulated retail markets. It was hoped that the completed customer choice business practices and the new initiatives for the regulated markets, along with a focused initiative to work with the Resources Committee in late 2005 and early 2006 to focus on encouraging new retail quadrant members would significantly increase retail quadrant membership going forward. To date this has not been the experience, there still is difficulty in getting new memberships, continued loss of retail members and disappointing participation in the subcommittees working on the two requests for business practices for retail customer choice and regulated markets noted above.

On November 30, 2005, the RSR Committee presented a proposal to merge the two quadrants to the Retail Quadrants Executive Committees to obtain their input (Attachment #1). The members of the Retail Executive Committees were concerned that the effort required to combine the two quadrants at this time would be disruptive to completion of the original work plan of retail customer choice business practices (Attachment #2). The overall opinion of the Retail Executive Committees was to delay any structural changes until the original work plan of the two quadrants is jointly completed, which is projected to be largely completed in 2006.



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DISCUSSION OF OPTIONS:

The option of revision of the NAESB bylaws may only be a short-term remedy. The current membership requirement of 40 for each retail quadrant was not scientifically reached but was a reasonable minimum level of membership if the retail quadrants were to be effective at reaching consensus of a critical mass of the market. A membership level of less than 40 could result in concern regarding critical mass for a nation of 48 contiguous states. Current memberships of 27 in the Retail Electric Quadrant and 29 in the Retail Gas Quadrant could continue to decline if (1) companies with more than one retail quadrant membership decide to reduce their memberships since most work is done through cooperative work of both quadrants, (2) the nationwide customer choice initiative remains stalled and (3) the expansion of the focus to provide business practices for both choice and regulated markets does not encourage an increase in the involvement of stakeholders.

The option of merging the NAESB Retail Electric and Retail Gas Quadrants would provide immediate membership levels that satisfy the bylaw membership requirements and would continue the current practice of the two quadrants working together. The current combined level of 56 members could decline to as low as 51 members, if members with both gas and electric quadrant memberships decide they only need one membership, which is still above the bylaw membership requirement of 40, unless there are significant membership terminations due to the merger of the two quadrants. The merger of the two quadrants will also require bylaw revisions to reflect one rather than two quadrants and to resolve bylaw differences between the two quadrants.

The option of continuing to expand the focus of the retail quadrants to include projects for regulated markets along with customer choice markets may result in an increased interest in retail quadrant memberships, but this has not been the experience to date. Given the time (estimated at 6 – 9 months) it will take to modify the bylaws and ratify the governance changes, if there is an unexpected success in increasing membership, the Board could subsequently decide to leave the quadrants as they are. Also, the combining of the two quadrants could be done in a way that permits the easy return to two quadrants in the future. Also, if a decision is made to merge the two retail quadrants, great care should be taken to ensure that representatives of both gas and electric have an equal voice (Attachment #1 contains such an approach).

The option of delaying any structural changes at this time would allow the continuation of the work of the combined retail quadrants to complete the original work plan of choice business practices without the disruption of quadrant structural changes (Attachment #2). It would also allow measurement of the progress on the two new initiatives for development of business practices for both customer choice and regulated retail markets and determination as to whether that proves to provide adequate industry interest to increase retail quadrant memberships. Finally it would also allow time to develop a strategy for the retail quadrants after the original work plan of customer choice business practices are completed allowing any structural changes to fit the future work of the quadrants.



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RECOMMENDATION:

Based on the reviews completed by the RSR Committee and the input from the Retail Quadrants Executive Committees, the RSR Committee recommends that the NAESB Board of Directors delay any structural changes to the Retail Quadrants at this time and allow the Retail Quadrants to complete their original work plan of customer choice business practices and continue work on the three business practices for both customer choice and regulated retail markets in 2006.

The RSR Committee also recommends the NAESB Board:

1. Direct the RSR Committee to complete a strategic planning exercise in 2006 to determine the direction of the two retail quadrants after completion of the original work plan of development of business practices for customer choice retail markets in 2006. This strategic planning exercise should include input from the NAESB Advisory Committee at their scheduled February 11, 2006, meeting.
2. Direct the RSR Committee to complete a review of the need for structural changes to the two Retail Quadrants in 2006 based on quadrant membership levels, progress and interest in the three initiatives for business practices for both retail customer choice and regulated markets and the results of the Retail Quadrants Strategic Planning Committee with a final recommendation to the Board at the December 2006 Board meeting.



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ATTACHMENT #1

November 25, 2006 RSR Committee Proposal to Combine Retail Quadrants

- 1) Consolidated the two retail quadrants into one combined retail quadrant called "Combined Retail Quadrant" (CRQ). Another option is "Retail Energy Quadrant" but that could be confused with the current Retail Electric Quadrant.
- 2) CRQ would have 4 segments of 7 members each.

Based on the current Board roster and EC roster, no one would lose a seat, initially the CRQ Board in the transition would include the following:

Distributors - 7/7 (RGQ:4,REQ:3)
Suppliers - 3/7 (RGQ:1,REQ:2)
Services - 6/7 (RGQ:4,REQ:2)
End Users - 2/7 (RGQ:1,REQ:1)

Initially the CRQ Executive Committee in transition would include:

Distributors - 7/7 (RGQ:3,REQ:4)
Suppliers - 5/7 (RGQ:3,REQ:2)
Services - 6/7 (RGQ:4,REQ:2)
End Users - 2/7 (RGQ:1,REQ:1)

- 3) In the transition, until the next elections a company would be allowed to hold two seats in a segment only if they want to separate their electric interests and gas interests and maintain two NAESB retail memberships. This would avoid displacement of current Board and EC members and subsequent elections would prevent any abuse of having two votes on the Board or EC.
- 4) Within each segment, one seat (maybe two) could be reserved for sole commodity companies (gas or electric only). Unlike WEQ, these reserve spots should not be left unfilled if no sole commodity company is interested - in such cases a combination company could fill the slot.
- 5) CRQ should keep two bodies of MBPs - one for electric and one for gas, the vast majority of which would be identical. This avoids the automatically assumption to be applicable to both REQ and RGQ.
- 6) It may be appropriate to include a reserve clause that says if membership of CRQ reaches 85 or 90 and with 2/3rds vote of the CRQ members, gas and electric quadrants could be separated.



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ATTACHMENT #2

Report on RSRC draft final report and resulting discussions held during REQ and RGQ EC meeting on November 30, 2005 in Washington, DC.

From: Kiselewich, Ruth C [<mailto:Ruth.C.Kiselewich@bge.com>]
Sent: Thursday, December 01, 2005 7:46 AM
Subject: RE: CRQ Proposal

The concept of combining the two retail quadrants was presented at the joint REQ and RGQ Executive Meetings held November 30th. Mike Novak gave a presentation on the proposal and there was almost an hour-long discussion with numerous comments which included:

- Combining the quadrants will not solve the membership issue which is the primary goal so, basically, why mess with something that is working very well.
- Currently, the quadrants are essentially joined with meetings, the annual plan, the same standards and having legal documents reflect a single quadrant takes away the future flexibility.
- Making a change in the organization of the retail quadrants will require changing the By-laws and the quadrant procedures. (A comment was made after the meeting that the By-laws would have to be changed even if the two quadrants are left as is because the quadrants are below the required membership levels. I think the Board can continue to authorize the ECs to operate with below the minimum membership requirements and avoid changing the By-laws.)
- Rather than spend time on the cosmetic change, we should focus on what is needed in the marketplace, focus on providing value so that more will see the benefit of NAESB.
- We are a year away from completing the standards and changing the organization does nothing now. It actually slows down the standards development work as found with the recent change in subcommittee structure, i.e. the establishment of IR. We are more likely to see a change in membership when all the standards are done and have been well communicated.
- Concern was voiced about the optics of seeing all the vacancies and this could be addressed by changing the numbers in each segment.
- There needs to be a discussion with NARUC on what they think about combining the quadrants because in the past they have wanted the two.
- A couple said they thought this was a good move.

Ruth