April 16, 2017

**TO:** Parliamentary Committee Members

**FROM:** Bill Boswell, NAESB General Counsel & Jonathan Booe, NAESB Executive Vice President & CAO

**RE:** NAESB Governance Documents 2.0

Based on the discussions of the NAESB Parliamentary Committee beginning in March 2015 concerning majority voting by the Board of Directors and the direction provided by the NAESB Board of Directors in December 2016, the Parliamentary Committee is undertaking an effort to review and modify, where necessary, the NAESB Governance Documents (NAESB Certificate of Incorporation, NAESB Bylaws, NAESB Bylaw Addendums and the NAESB Operating Practice) to ensure the following goals are met:

1. The NAESB Governance Documents are consistent with Delaware corporate law
2. The NAESB Governance Documents are consistent with each other
3. The language of the provisions and/or procedures included in the NAESB Governance Documents is consistent with the original intent of the adopted provision and/or procedure
4. The NAESB Governance Documents are consistent with, and incorporate where necessary, resolutions adopted by the NAESB Board of Directors
5. The NAESB Governance Documents are consistent with, and incorporate where necessary, undocumented practices and procedures of NAESB

The NAESB Governance Documents are structured into the following hierarchy, whereby each document is controlled by the document that supersedes it.

* Certificate of Incorporation: <https://www.naesb.org//pdf/naesb_certificate_102414.pdf>
* Bylaws: <https://www.naesb.org//pdf/naesbbylaws.pdf>
* Bylaw Addendums
  1. Wholesale Gas Quadrant: <https://www.naesb.org//pdf/wgq_procedures_051904.pdf>
  2. Wholesale Electric Quadrant: <https://www.naesb.org//pdf/weq_quadrant_procedures_091114.pdf>
  3. Retail Markets Quadrant: <https://www.naesb.org//pdf4/rmq_quadrant_procedures_121814.pdf>
* Operating Practices: <https://www.naesb.org//pdf/operating_procedures.pdf>

Each document should be reviewed in a “top down” approach to ensure that goals 1-5 are met.

**Issue: Majority Voting by the Board of Directors**

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| Majority Voting by Board of Directors | | |
| Certificate | Bylaws | Operating Practice |
| **Article V. Section I.** All actions within the respective responsibilities of the Board and the Executive Committee, as the case may be, shall be by majority vote, except as otherwise provided in this Certificate of Incorporation. A quorum shall be a majority of the Board or Executive Committee, respectively. | **Section 1.1 K**. “Majority” means a simple majority of each of the applicable Quadrants for the purposes of voting. | **Section III. A.** The Board of Directors meets en banc throughout the year. It determines and approves the annual budget of NAESB and its quadrants, sets the overall strategic direction of the organization, approves each quadrant’s annual plan for standards development and maintenance, and determines all governance issues.  The proceedings of all Board meetings are transcribed. *All decisions by the Board are made en banc; at the Board level, the quadrants do not operate separately.* Each quadrant represented on the Board has 25 percent of the decision-making authority, regardless of the actual number of Board members that represent the quadrant. For all decisions, other than changes to the certificate or bylaws, a simple majority is needed for passage. For approval of changes to the certificate or bylaws, there must be a 75 percent affirmative vote from each of the quadrants and a 40 percent affirmative vote from each of the segments within the quadrants. All Board votes are recorded and posted. |
| All references to majority voting by the Board of Directors that may be impacted by any modifications to the Governing Documents can be found through the following hyperlink: <https://www.naesb.org/misc/parliamentary_majority_matrix_021617.docx> | | |

**Proposed Solution: Weighted voting that allows the Board of Directors to act en banc.**

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| Weighted Voting by Board of Directors | | |
| Certificate | Bylaws | Operating Practice |
| **Article V. Section 2.** Voting members shall be entitled to one vote each at meetings of members, except that procedures attached to the By-Laws may provide for weighted or limited voting for members of any Segment, if such By-Law provision is first approved by a majority of the Directors representing such Segment, provided such Segment is fully populated to the extent determined in the By-laws. The quorum for meetings of members shall be one-third of the total number of votes eligible to be cast unless a different number is established by this Certificate. | **Section 2.2(b).** Balance of Interests – The voting with respect to governance, Standards, Model Business Practices, and Operating Procedures should provide for balance among industry Segments and Quadrants participating in NAESB so as to avoid any one interest group or group of interests having the ability to exert undue influence over any decision. | **Section II.** Balance of Interests. Voting with respect to governance, standards, and operating procedures provides for balance among industry quadrants and segments so that no interest group or groups have undue influence over any decision. |
| **Section 7.3.** The Board shall consist of representatives of the Quadrants, each Quadrant determining the number of Directors who shall occupy seats on the Board, except that every Segment of a Quadrant shall be represented by at least one Director. *Regardless of the number of Directors elected from each Quadrant, no Quadrant shall be entitled to cast a vote greater than the percentage that its Quadrant represents in relation to the total number of Quadrants represented on the Board at a given time.* Each Segment within a Quadrant shall be represented by an equal number of Directors, to be determined by that Quadrant. The procedures for electing the Directors shall be as specified in each Quadrant’s Exhibit. Each Quadrant shall communicate the timing of its election of Directors. |

Proposals Considered

Proposal 1: <https://www.naesb.org/misc/parliamentary_041917_weighted_voting_proposal_boswell.docx>

Board member is removed

No other action is needed and board member is not removed.

NAESB Board members determine by simple majority vote if there is a basis for the allegation and the member should be removed

Proposal 2: <https://www.naesb.org/misc/parliamentary_041917_weighted_voting_proposal_kruse.docx>