

***Comments of the NAESB Board Members from the
Large Industrial and End User (Self Generation) Sub-segments
On the Proposed
Memorandum of Understanding (MOU) between
NERC and NAESB***

The NAESB Board is being asked to approve the "final" MOU at its November 21st meeting in San Diego. The NAESB Board members from the Large Industrial and the End Use (Self Generation) sub-segments offer the following thoughts. At the outset, we emphasize that we are **NOT** opposing the approval of the MOU. However, we have serious concerns with the MOU as it is written and feel we should formally communicate our concerns prior to the vote.

There is much good in the MOU. For example, the MOU specifically: (1) recognizes that most standards have both business and reliability implications; (2) states that the objective of the MOU is to avoid duplication (an objective consumers strongly support); (3) states that both Parties should keep an "open mind" for necessary changes in their existing standards approval processes that would improve the processes and achieve the goals of the MOU; (4) establishes a "Joint Interface Committee" (JIC) to "assign" proposed standards between NERC and NAESB (ostensibly, to avoid duplication); and (5) specifies that the decisions of the JIC should be final.

The problem is the decisions of the JIC actually are **NOT** final. The MOU explicitly states that any decision of the JIC can be rejected by either NERC or NAESB for any reason at any time. Specifically, Section 2.8 (at page 5) states that any decision of the JIC becomes final after 30 days "... unless, within that thirty-day period, either Party acts to withdraw the proposal. In this event, the proposal **MAY** be redrafted and resubmitted to the JIC or the Parties shall meet to **ATTEMPT** to resolve the impasse. Should further consideration not result in a final determination, either Party may act consistent with its own standards development process." [Emphasis added]

We participated in all aspects of the drafting of the MOU. We argued very hard for an elimination of Section 2.8. We said that we would rather NOT have any MOU than have an MOU with this Section. We submitted several documents setting forth our thoughts on this issue. We even specifically offered a proposed compromise: The Party that disagreed with a decision of the JIC would only have to do two small things (but they would **HAVE** to do these two small things) before they could overturn the decision: (1) rewrite the request one time and resubmit it to the JIC for another decision and (if they still don't like the second decision) (2) explain in writing why they think that they should be the one to develop the standard and what they had done to try to resolve the impasse. Even this compromise was rejected.

The bottom line is the creation of the JIC without finality in its decisions results in a costly, and either unnecessary or ineffective, bureaucracy. If there are no differences of opinion between NERC and NAESB regarding a final standard or regarding the allocation of standard development by the JIC, the JIC and the resulting processes are both unnecessary, and costly (in time, attention and money). If NERC and NAESB are not aligned on a the allocation of a standard to be developed or a final standard that has been developed through the JIC process, the JIC is again ineffective, and still costly. Thus, the creation of the JIC, to us, can be a useless, but costly, activity that has the potential to waste resources.

CONCLUSION:

We recognize the importance of having a good MOU – primarily to (hopefully) eliminate duplication of effort. We recognize that there is much good in the proposed MOU. Unfortunately, we do not believe that the MOU, as drafted, will accomplish the stated objective of eliminating duplication. However, we also recognize that there is considerable momentum behind approving this MOU. Thus, we will abstain in the vote on November 21st. However, we feel it important to express our views prior to the vote.

/Signed/

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