

1 **Memorandum of Understanding between**
2 **North American Energy Standards Board and North American Electric Reliability Council**
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4

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 wholesale and retail natural gas and
10 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”
16 [delete the comment on “urged”] the 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, neither Party shall be obliged to change its existing standards approval process
25 nor shall this MOU be construed to in any way denigrate the charters of either Party; and,

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

29 Now therefore, the Parties agree as follows.

30

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

32 1.1 The Parties propose to establish a coordination process set forth in Section 2 of
33 this MOU. The coordination process is intended to produce reliability standards and business
34 practice standards as efficiently as possible. The coordination process will accomplish this
35 primarily through the creation of the Joint Interface Committee (“JIC”) comprised of
36 representative members of NERC and NAESB. The creation of the JIC is not intended to create
37 delay in standards development, but to facilitate efficient standards development and avoid
38 duplication of effort between the Parties.

39 1.2 The Parties recognize that most standards have both reliability and business
40 standards and communication protocols implications. Accordingly, the JIC will evaluate each
41 standard development proposal¹ with this recognition in mind to determine whether NAESB or
42 NERC should develop the proposed standard.²

43 1.3 The Parties intend to have the coordination process set forth in Section 2 of the
44 MOU in full operation by January 1, 2003. The Parties may mutually agree to move the start
45 date for the coordination process.

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.

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47 **2. Coordination Process**

48 2.1 The Parties agree to establish a coordination process, as set forth in this section,
49 for coordinating the development of proposed standards, in accordance with the principles in
50 Section 1 of this MOU.

51 2.2 The JIC shall be responsible for the coordination process. The JIC shall be
52 composed of representatives from NERC holding 50 % of the votes and representatives from
53 NAESB WEQ holding 50 % of the votes. Each Party will determine its representatives to the
54 JIC, with every effort to have each segment represented. The quorum necessary for the
55 transaction of business at meetings of the JIC shall be both a majority of the NERC
56 representatives and a majority of the NAESB representatives. Any or all members of the JIC may
57 participate in a meeting, including being counted as part of the quorum, by means of a
58 communication system by which all persons participating in the meeting are able to hear each
59 other. Use of notational balloting or proxies will not be permitted. NERC and NAESB will
60 separately determine whether designated alternates will be permitted to participate in place of
61 their absent JIC representatives. The JIC will have co-chairs, one representing NERC and one
62 representing NAESB, chosen by each Party from among its JIC representatives.

63 2.3 Decisions of the JIC will be by a simple majority vote, with each NERC
64 representative present at a meeting having a vote equal to 50% divided by the number of NERC
65 representatives participating in the meeting and each NAESB representative having a vote equal
66 to 50% divided by the number of NAESB representatives participating in the meeting. Appendix
67 C to this MOU contains illustrative examples of this voting allocation. In the event of a tie vote,

68 the matter will be referred to the Chairmen of the Parties (or their Board level designee(s)) for
69 resolution.

70 2.4 The JIC will meet as necessary to review each Standards Authorization Request
71 (“SAR”) that the Standards Authorization Committee (“SAC”) of NERC has approved for the
72 drafting of a standard and each standard request that the NAESB Executive Committee (“EC”)
73 has assigned to the Wholesale Electric Quadrant (“WEQ”) of NAESB. The JIC will determine
74 whether a particular standard should be developed by NERC or by NAESB, based upon the
75 coordination guidelines in Appendix A of this MOU, as they may be revised from time to time.

76 2.5 The JIC will make its determination on each standard development proposal by
77 the end of the month subsequent to the month in which the standard development proposal is
78 referred to the JIC. The JIC may prioritize submitted proposals if there are urgent reliability or
79 business implications.

80 2.6 Once the JIC has assigned a standard development proposal to one of the Parties,
81 that Party will then develop the proposed standard through its existing standards development
82 process. The other Party shall assume an advisory-only role, although its members and
83 constituents are strongly encouraged to actively participate in the development process by
84 participating in subcommittee, task force and working group deliberations as well as offering
85 comments and recommendations on any and all aspects of the proposed standard.

86 2.7 All interested individuals and entities are invited and encouraged to participate to
87 the maximum extent possible consistent with membership or registration requirements in NERC
88 and NAESB standards development activity. Neither organization places any membership or
89 registration requirement on the submission of comments on draft proposed standards.

90 2.8 Either the determination of the JIC or the resolution reached in the event a tie vote
91 becomes final after thirty days, unless within that thirty-day period, [either Party acts to reject the
92 determination or resolution] Needs further clarity].

93

94 **3. Filings With Governmental Authorities**

95 3.1 Each Party shall be responsible for making the appropriate filings of the standards
96 that it develops with governmental authorities.

97 3.2 All filings must include, verbatim, any comments submitted by the Party that did
98 not develop the standard, as well as the comments of other interested parties.

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100 **4. Information Exchange**

101 4.1 NERC will inform NAESB each year of its projected standards development
102 activity for the coming year and of any additional planned activity as it arises. NAESB will
103 inform NERC of the WEQ annual plan each year and of any amendments to the WEQ annual
104 plan as they arise.

105 4.2 With respect to each particular request for a standard or standard development
106 action, each Party will promptly inform the other of the action, or the request in sufficient detail
107 to convey the subject matter and timeline for resolution of such action or request. See Appendix

108 B.

109

110 **5. Costs**

111 5.1 Each Party shall bear its own costs.

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113 **6. Reevaluation**

114 6.1 The Parties agree to meet no later than the anniversary month of the signing of
115 this MOU to evaluate in good faith the effectiveness and efficiency of this MOU in meeting the
116 goal of coordinating the standards development activity of the two organizations and to make
117 any appropriate revisions.

118 6.2 The Parties may also agree to revise this MOU, including the appendices, at any
119 other time as mutually agreeable.

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121 **7. Termination**

122 7.1 Either Party may withdraw from this MOU upon 60 days' written notice to the
123 other Party and to the FERC or other appropriate jurisdictional regulatory authorities. Prior to
124 the withdrawal becoming effective, the Parties agree to meet to discuss whether changes to this
125 MOU would address the reasons prompting the withdrawal.

126

127 **8. Miscellaneous**

128 8.1 This MOU constitutes the entire agreement between the Parties with respect to
129 establishing a coordination standards development process for new proposed wholesale electric
130 industry standards and supersedes all prior understandings, proposals, negotiations and
131 communications, oral or written, between the parties or their representatives with respect to such
132 subject matter.

133 8.2 This MOU may be executed in counterparts each of which shall be deemed an
134 original and all of which together shall constitute one instrument.

135 8.3 Neither Party shall be liable for any indirect, special, incidental or consequential
136 damages arising in any way from any performance or failure to perform under this MOU.

137 8.4 The Parties agree that they will create a process whereby the notice of JIC
138 activities and documents are posted on a web site for public access.

139

140 AGREED TO This [DATE].

141

142 NORTH AMERICAN ENERGY
143 STANDARDS BOARD

NORTH AMERICAN ELECTRIC
RELIABILITY COUNCIL

144

145 By: _____

By: _____

146 APPENDIX A

147 JIC Coordination Guidelines

148 The coordination guidelines for use by the JIC under paragraph 2.5 of the NERC-NAESB
149 MOU are based upon NERC's Functional Model.³,

150 In general, the functions identified in the functional model diagrams as "generator"
151 (whether merchant or load-affiliated), "purchasing-selling entity," "load-serving entity," "market
152 operator," "customer aggregator," and certain of the relationships and information flows of
153 "transmission service provider," "transmission owner," and "transmission operator" are
154 associated with how wholesale electric business practices and electronic communication
155 protocols are developed for use by market participants. Standard development proposals
156 applicable to those functions and to the relationships and information flows among those
157 functions normally would be assigned to NAESB, regardless of where the original request for the
158 standard was filed.

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

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

170 a. Regulatory direction to one organization or the other;

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.

- 171 b. The relative portion of the proposal that would be associated with the reliable
172 operation of the bulk power system (NERC) vs. how wholesale electricity business is
173 transacted (NAESB);
- 174 c. The priority of the proposal and the ability of either organization to take on and
175 complete the standard development in a timely manner, given its other workload; and
- 176 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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182 APPENDIX C

183 JIC Voting Examples

184 (Quorum requirement: Both a majority of the NAESB representatives
185 and a majority of the NERC representatives.)
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187 Example 1:

- 188 1. The JIC is composed of: 5 representatives from NAESB
189 9 representatives from NERC
- 190 2. All JIC members are in attendance at the meeting – quorum requirement is met.
- 191 3. Each group gets 50% of the vote, which means that each NAESB JIC member gets 10%
192 of the total vote (5 representatives times 10% = 50%), and each NERC JIC member gets
193 5.55% of the total vote (9 representatives times 5.55% = 50%). When the votes are cast
194 on an issue, the percentages cast are totaled and if the votes in favor of an issue exceed
195 50%, the issue is considered adopted.

196
197 Example 2:

- 198 1. The JIC is composed of: 5 representatives from NAESB
199 9 representatives from NERC
- 200 2. 3 NAESB JIC members and 5 NERC JIC members are in attendance at the meeting –
201 quorum requirement is met.
- 202 3. Each group gets 50% of the vote, which means that each NAESB JIC member gets
203 16.66% of the total vote (3 representatives times 16.66% = 50%), and each NERC JIC
204 member gets 10% of the total vote (5 representatives times 10% = 50%). When the votes
205 are cast on an issue, the percentages cast are totaled and if the votes in favor of an issue
206 exceed 50%, the issue is considered adopted.

207
208 The two examples above illustrate the importance to the organizations for the JIC members to
209 attend the JIC meetings.
210