



**EDISON ELECTRIC  
INSTITUTE**

EDWARD H. COMER  
Vice President & General Counsel

May 21, 2007

Dear Mr. Schwermann:

In preparation for Tuesday's Seams Subcommittee conference call, I am writing to respond to your March 5 letter asking whether the NAESB WEQ should develop Energy Product definitions. The NAESB WEQ has an important list of projects to work on this year and limited member resources to address those projects. After consulting with the EEI Contract Drafting Committee and other EEI members, EEI does not recommend that the WEQ add standardizing energy product definitions to its work plan because such an effort would be duplicative of the work undertaken by other organizations and therefore there is no urgent need for a further effort to be initiated by NAESB. In addition we believe the NAESB process is not likely to result in broad market consensus.

From a contract perspective, there is general agreement about the products that are trading in the marketplace. These products include variations on the terms the parties discuss, such as firm, non-firm, "into" and "Firm (LD)." The other two products that you mentioned, interruptible and non-interruptible, are not frequently used. Both EEI and the WSPP master agreements for trading wholesale electricity have product definitions. The EEI products can be found at:

[http://www.eei.org/industry\\_issues/legal\\_and\\_business\\_practices/master\\_contract/product.htm](http://www.eei.org/industry_issues/legal_and_business_practices/master_contract/product.htm). The ISDA Power Annex, the other main master agreement for trading wholesale power, uses the EEI product definitions. EEI has already developed certain product definitions that are intended to be consistent with WSPP products so that power sold under a WSPP agreement can be resold under an EEI agreement without creating basis risk when using both agreements. Some of these products are regional in nature because the market designs vary by region.

In some cases, companies do disagree about the requirements of a particular product, particularly where new products are concerned and market standards have not yet been clearly established. If these concerns are generic in nature, then they may be addressed by the organization sponsoring the product. It is unlikely that the NAESB process would facilitate resolution of such disagreements or produce the market consensus necessary to establish new standardized products. The previous attempt to develop a new master agreement for electricity trading met with resistance from users of the WSPP and EEI agreements. An effort to develop standardized national products would be likely to meet with the same resistance.

However, if the WEQ does decide to move forward with this project, EEI would at least monitor the effort.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Comer', written over a horizontal line.

Edward H. Comer