**TO:** NAESB Board Retail Structure Review Committee Members

**FROM:** Elizabeth Mallett, NAESB Deputy Director

**RE:** Notes from the NAESB Board RSRC Conference Call – March 16, 2018

**DATE:** March 19, 2018

Dear Retail Structure Review Committee,

A Retail Structure Review Committee conference call was held on Friday, March 16, 2018 to continue discussions regarding the future of the Retail Markets Quadrant (RMQ) and the potential membership deficiencies. Mr. Booe served as the counsel for the conference call and the notes below serve as the record.

| Notes from the March 16, 2018 NAESB Board Retail Structure Review Committee Conference Call |
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| Administrative | * Mr. Burks welcomed the participants to the conference call and thanked them for their attendance. Ms. Mallett provided the antitrust guidance and other meeting policies reminder. Mr. Booe called the roll of the Retail Structure Review Committee and noted that quorum was not established. Mr. Burks reviewed the agenda with the participants. Mr. Gallagher moved to adopt the agenda as drafted. The motion passed without opposition.
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| Discuss NAESB Intellectual Property Rights Policy Concerning Patents | * Ms. Mallett reviewed the [Draft Patent Policy Work Paper](https://www.naesb.org/pdf4/rsrc031618w2.docx) with the participants. Mr. Booe stated that – at the suggestion of Mr. Lackey and Stuart Laval, co-chairs of the Open Field Message Bus (OpenFMB) Task Force – the NAESB staff has researched the potential for incorporating an intellectual property rights (IPR) policy concerning patents into the existing NAESB IPR Policy. Mr. Lackey explained that there were some vendors during the development of the OpenFMB Model Business Practices that had concerns about joining NAESB under the current IPR Policy, [*NAESB Intellectual Property Rights Policy Concerning Contributions and Comments*](https://www.naesb.org/pdf4/naesb_ipr_policy.docx), which was described as overly broad. Mr. Burks asked about the feedback on the draft patent policy from the vendors that reviewed the draft. Mr. Lackey stated that the lawyers of one of the vendors gave him favorable feedback, as the ANSI Patent Policy that the draft is closely based on is widely accepted. He noted that the integration of the document with the *NAESB Intellectual Property Rights Policy Concerning Contributions and Comments* will meet the concerns of the groups and lead to further supplier participation.
* Mr. Burks asked whether the draft patent policy, if adopted, would impact the wholesale quadrants. Mr. Booe clarified that the *NAESB Intellectual Property Rights Policy Concerning Contributions and Comments* covers all instances of Intellectual Property Rights, but the draft patent policy would carve out a subset that applies only to standards essential patents. He explained that Bill Boswell, NAESB General Counsel, and possibly outside counsel as well will need to review and comment on the draft patent policy. Mr. Booe added that whether the draft patent policy is specifically applied to one quadrant could be another option to discuss with Mr. Boswell and the committee.
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| Discuss Possibility of Alternative Membership Fee Structure for New Members | * Mr. True reviewed the [work paper](https://www.naesb.org/pdf4/rsrc031618w1.docx) concerning cost/benefit analyses for the RMQ membership. Mr. Peress asked whether the value proposition development for renewables listed in the work paper included distributed energy, such as small scale solar aggregation. Mr. True responded affirmatively and added that some of the behind the meter and rooftop solar could also be included in that category. He stated that there is a wholesale and resale aggregation occurring in the industry. Mr. Peress stated that there will be an increase in policy discussion and policies adopted regarding behind the meter output and the implications of interconnection. Mr. Burks stated that the number of solar providers has grown from a few major players to thousands of smaller companies. Mr. True explained that the committee should be state-specific when discussing renewables because some of the states have net metering and some merely utilize metering that does not register electricity going back to the grid. He stated that NAESB could be a conduit in education and garner more membership.
* Mr. Burks suggested establishing a pilot program that would cost $X/year and allow a seat on the RMQ Executive Committee, but not the Board of Directors. Mr. Booe stated that it would be necessary to parse out exactly what would be included in the pilot program. Mr. Peress stated that another benefit to companies joining NAESB is the ability to use their membership and participation as a quasi-marketing tool. Ms. Rager stated that a pilot program may create an uptick in certain members, but it will depend who would have access to the program. She noted that NAESB currently allows a nonmember to access work products and participate on conference calls for twelve months at a fee of $1,000. She explained that, at one point, as many as seven nonmembers took advantage of that offer, but now there is only one nonmember participating.
* Mr. Booe stated that the committee should consider three steps: 1.) Decide what the new membership product, if any, should look like, 2.) Determine interest from the industry, and 3.) Gauge how the existing members will react to any proposal. Mr. Skiba and Mr. Connor agreed that the existing members may have substantial concerns regarding the discounted price and representation within NAESB. Mr. Gallagher suggested charging for forums. Mr. Peress suggested that the revenue of a company could be taken into account when determining membership levels. Mr. True suggested calling the proposed charge an “introductory rate.” Mr. Coffin cautioned that developing a lower level tier may provide an incentive for members to drop their existing membership and join the lowest tier. The committee will continue this conversation during its next conference call.
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| Summary of Action Items, Assignments and Other Business | * Mr. Booe and Ms. Mallett will work offline to draft a range of membership options and present it to the committee during its next meeting.
* Mr. Booe will contact Bill Boswell regarding the draft patent policy.
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| Adjournment | * Mr. Gallagher moved to adjourn the meeting at 1:54 PM Central. The motion passed without opposition.
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| Member Attendance | **Name** | **Organization** | **Attendance** |
| Cade Burks | Big Data Energy Services | Phone |
| James P. Cargas | City of Houston |  |
| Michael Desselle | Southwest Power Pool |  |
| Bruce Ellsworth | New York State Reliability Council | Phone |
| William Gallagher | Vermont Public Power Supply Authority | Phone |
| Jonathan Peress | Environmental Defense Fund | Phone |
| Tim Sherwood | Southern Company Gas |  |
| Leigh Spangler | Latitude Technologies, LLC | Phone |
| Mark Stultz | BP Energy |  |
| Observer Attendance | **Name** | **Organization** |
| Susan Anthony | Electric Reliability Council of Texas, Inc. |
| Jonathan Booe | North American Energy Standards Board |
| Donald Coffin | Green Button Alliance |
| Pete Connor | American Gas Association |
| David Darnell | Systrends USA |
| Patrick Eynon | Ameren |
| Larry Lackey | Open Energy Solutions, Inc. |
| Elizabeth Mallett | North American Energy Standards Board |
| Denise Rager | North American Energy Standards Board |
| Keith Sappenfield | Environmental Resources Management |
| Ed Skiba | Midcontinent Independent System Operator |
| Doug Smith | New England Independent System Operator |
| Roy True | Alliance for Cooperative Energy Services Power Marketing LLC |