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Smart Energy Policy

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VIA EMAIL

North American Energy Standards Board
Attn: Mr. Jonathan Booe, Deputy Director
801 Travis Street
Suite 1675
Houston, TX 77002

North American Energy Standards Board
Retail Electric Quadrant Executive Committee
Attn: Mr. Phil Precht, Chairman
801 Travis Street
Suite 1675
Houston, TX 77002

Re: Energy Services Provide Interface Standard/Model Business Practices

Ladies and Gentlemen:

Southern Company Services, Inc., as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (collectively, "Southern"), is pleased to have had the opportunity to participate in the development of the NAESB Energy Services Provider Interface ("ESPI") draft model business practices and thanks the NAESB ESPI Task Force for all of their hard work. Southern appreciates the opportunity to now provide formal comments on the current draft ESPI business practices.

While this letter does not detail each and every change proposed by Southern as reflected in the attached marked draft of the ESPI business practices, we want to highlight and outline our comments for the benefit of the ESPI Task Force and the NAESB REQ Executive Committee.

As more thoroughly explained below, Southern's comments can be categorized into five main areas.

First, the ESPI business practices should be made more consistent and harmonized with the recent NAESB REQ.22 (referred to herein as “Data Privacy” business practices). Southern recognizes that, in order to expedite their completion, the ESPI and Data Privacy business practices were developed in parallel. Unfortunately, this has resulted in a number of inconsistencies which need to be resolved due to, among other things, the closely related nature of the ESPI and Data Privacy business practices. For example, the current ESPI draft contains several terms which are similar to but called out/defined materially differently than in the Data Privacy business practices. Southern’s recommendations to resolve at least some of these inconsistencies include the following:

- Revise the definition of “Third Party” to read as follows in order to be more consistent with the Data Privacy business practices:

Third Party: An Entity which provides some service to a Retail Customer based on Energy Usage Information for the Retail Customer to which it does not have direct access and over which it has no direct authority ~~over other than: the Data Custodian and its contracted agents, the Applicable Regulatory Authority, ISOs or other regional entities.~~ ~~A Third Party relies on a Data Custodian to provide access to Retail Customer Information.~~

- Revise the definition of “Authorized Third Party” to read as follows in order to be more consistent with the Data Privacy business practices:

Authorized Third Party: A Third Party that is permitted to receive EUI in accordance with applicable law, regulation, the Governing Documents and any requirements of the Applicable Regulatory Authority ~~has been approved by an Authorizing Entity for the relevant jurisdiction~~ and has met the requirements of the Applicable Regulatory Authority and Governing Documents to utilize the Energy Services Provider Interface.

- Revise the definition of “Energy Usage Information” to read as follows in order to be more consistent with the term “Smart Meter-based Information” which is used in the Data Privacy business practices:

Energy Usage Information: Any information and data from a smart meter identifiable to an individual ~~concerning a Retail Customer’s use of energy concerning that Retail Customer’s energy usage, which may be made available pursuant to the Governing Documents consistent with any requirements of the Applicable Regulatory Authority.~~

- Add to the Executive Summary on page 2 the following paragraph from the Executive Summary of the Data Privacy business practices:

These Model Business Practices are not intended to apply to the Data Custodian's disclosure, collection, use and handling of Energy Usage Information in connection with the Data Custodian's or its agents' utility services, product or service fulfillment or billing and collection activities.

- Delete the last sentence of REQ.21.3.1.3 as it would prohibit an Authorized Third Party from gaining information from another Authorized Third Party or from the Data Custodian, which is inconsistent with the Data Privacy business practices which allow for that possibility.
- Add the following language to REQ.21.3.1.16 regarding transfer, merger, etc., which is similar to the language in REQ.22.3.3.2.6 of the Data Privacy business practices:

In the case of a transfer, merger, reorganization or sale of or involving an Authorized Third Party, the Data Custodian is not required to notify the Retail Customer of the transfer, merger, reorganization or sale and a new authorization, request or direction is not required for the Distribution Company to continue to disclose the EUI to the transferee, subsequent owner or successor of the Authorized Third Party.

- Add the following language to REQ.21.3.1.18 regarding data quality which is largely similar to the language in REQ.22.3.9.1.1.1 of the Data Privacy business practices:

It is recognized that a Data Custodian providing EUI directly from the smart meter or before the data is validated for billing purposes can only provide the EUI as that data is registered by or recorded in the smart meter. Retail Customers and the Third Parties to which such data is disclosed should acknowledge that there are inherent limitations in EUI disclosed before the Data Custodian has verified and validated it for billing purposes. Further, these Model Business Practices do not establish or recommend any intervals at or for which EUI will or should be provided or available.

- Delete the term “Authorizing Entity” in order to be consistent with the Data Privacy business practices which do not use such a term and allow for more flexibility as to how Third Parties become Authorized Third Parties.

As referenced above, Southern believes this harmonization process is important, especially in light of all the work by stakeholders to develop both the Data Privacy and ESPI business practices, and such harmonization process should not be rushed to an unsatisfactory completion. Instead, the Task Force’s work product at the end of the call tomorrow to resolve these and other comments relating to inconsistency of the Data Privacy and ESPI business practices should be referred to NAESB’s Technical Electronic Implementation Subcommittee (“TEIS”) for review and confirmation and to identify and resolve any other inconsistencies. As you are aware, the TEIS was established for the following purposes:

The mission of TEIS is to develop recommendations for transaction sets, data communication standards and implementation guidelines to support the standards and model business practices of the REQ.

...

The TEIS is primarily tasked with assessing and addressing those Requests for Standards or portions thereof involving data communications, ANSI data element and transaction set definitions, with an initial focus on electronic delivery mechanisms and on the technical implementation standards associated with (1) billing and payments, (2) customer enrollment and switching, (3) metering, (4) load profiling and (5) customer information.¹

Southern’s second area of comments concerns the number of internal inconsistencies in the draft ESPI business practices. For example, the draft uses a myriad of similar but different terms, such as “data”, “resource data”, “usage information”, “energy usage data”, “energy usage information”, etc. The draft document also is somewhat inconsistent regarding the use of “Third Party”, “Authorized Third Party” and “PII”. We believe these and similar inconsistencies create unnecessary ambiguities. Accordingly, and as reflected in more detail in our attached markup, Southern recommends the consistent use of the terms “Energy Usage Information”, “PII” and, unless the context clearly otherwise requires, “Authorized Third Party”, among others.

Third, the draft ESPI business practices unnecessarily stray into policy areas in a few instances. While the line separating business practice from policy is sometimes blurred and difficult to discern, Southern believes NAESB, the Task Force and the Executive Committee must be diligent to ensure that the ESPI business practices do not create or promote policy. In connection therewith and as you are aware, the NAESB Bylaws and Operating Practices both provide that NAESB’s committees, subcommittees, and task forces should avoid creating policy

¹ NAESB REQ Technical Electronic Implementation Subcommittee Mission, Feb. 25, 2004, p. 1.

in their standards development activities.² Accordingly, certain provisions should be deleted from the ESPI business practices such as those purporting to constrain or require certain technologies. For example, REQ.21.3.1.26 unnecessarily encroaches on policy issues and, by its terms, is outside the scope of NAESB's objectives and, therefore, should be deleted.

Fourth, Southern suggests a number of miscellaneous changes including the following:

- The use of “request” and “authorize” should also include “direction” (REQ.21.3.1.1, REQ.21.3.1.7, and REQ.21.3.1.8) to allow for more flexibility, as reflected in the attached markup.
- Language should be added to REQ.21.3.1.3 and REQ.21.3.1.17 to recognize the importance of the Governing Documents and the Applicable Regulatory Authority as reflected in the attached markup. For example, REQ.21.3.1.3 should be revised to read as follows:

A Third Party should not be able to access EUI or any other Personally Identifiable Information (PII) from a Data Custodian, except as permitted or required by the Governing Documents, the Applicable Regulatory Authority or, subject to the Governing Documents and the requirements of the Applicable Regulatory Authority, as otherwise requested or directed by the Retail Customer. ~~PII may only be provided to a Third Party by the Retail Customer.~~

- It seems inappropriate and counter-productive to precondition the use of ESPI on procedures that have not yet been created and could potentially apply to a Distribution Company's use of ESPI for its own purposes. Accordingly, REQ.21.3.1.21 should be deleted.
- Language should be added in first paragraph under “Use Cases” to clarify that the use cases relate to the Energy Usage Information relationship between Data Custodians and Authorized Third Parties.
- We also have made a few comments and raised some additional concerns/questions regarding Encryption, Communication Specifications, Conformance, Electric Power Usage Summary, TOUType, UomType, and Interval Reading, as reflected in more detail in the attached markup.

² NAESB Bylaws Amended by the Board of Directors Nov. 21, 2008, p. 5; NAESB Operating Practices as approved via Board Resolution – Mar. 24, 2011, p. 2.

- The definitions of Personally Identifiable Information and Energy Usage Information create what may be a false dichotomy for those jurisdictions and/or Data Custodians that consider or may consider Energy Usage Information to be a subset of Personally Identifiable Information. As referenced above, Southern has inserted suggested language in various part of the document to allow for the possibility that Energy Usage Information is a subset of Personally Identifiable Information, even though they may be discussed separately and treated separately for purposes of the ESPI document/model.

Last, and perhaps most importantly, the model in the ESPI standard/business practices contains a number of data elements calling for information which is neither now nor reasonably expected in the near future to be available. As you are aware, the NAESB Operating Practices provide:

NAESB will carefully consider whether proposed standards are both timely and necessary. In particular, it will try to avoid adopting and implementing new standards, however beneficial, before the industry is able to reasonably make use of them.³

Accordingly, work remains to be done on the data model to resolve inconsistencies and eliminate data elements for which data is not available and will remain unavailable for some time. This is the case even though the ESPI standard/business practices are not “mandated” and only applications claiming conformance thereto should comply therewith. Southern believes it is in the best interest of all stakeholders to develop a model with which utilities can confidently now (or very shortly) fully comply (i.e., “use”, as quoted from the Operating Practices above) as opposed to a model with which many utilities can neither now nor soon so comply.

Failure to make the model more consistent with existing deployed technologies could also create false expectations and, thereby, ultimately disappoint our customers and concern regulators. Among other things, unless changes to the model are adopted, utilities will not be able to claim that they are fully ESPI compliant, which could have adverse and unexpected consequences on not only such utilities, but also on their customers and on the adoption and use of the model. In connection therewith, Southern has proposed to revise REQ.21.3.1.28 to add the following proviso in order to help mitigate some of our concerns: “; provided not all data elements must be used in order to be ESPI conformant”. However, it is preferable (and consistent with NAESB’s Operating Practices) for the ESPI model to now be truncated, and thereby made usable, and then later updated and expanded as and when utilities and their vendors are better able to fully comply with such expanded model.

On a related point, as currently drafted, the ESPI model often mixes data elements that reflect monthly values with elements that reflect daily and/or hourly values. As an example, Southern has noted certain conflicting items in our markup in the Electric Power Usage

³ NAESB Operating Practices as approved via Board Resolution – Mar. 24, 2011, p. 4 (emphasis added).

Summary which should be resolved, and other instances may exist. In connection therewith, Southern has suggested adding a sentence to the end of REQ.21.3.1.18 as follows:

Further, these Model Business Practices do not establish or recommend any intervals at or for which EUI will or should be provided or available.

However, Southern's proposed changes to the ESPI model, while helpful, do not resolve all of the issues referenced above regarding the current usability of the ESPI model and related compliance issues. In addition, there is some concern (requiring further analysis) that Authorized Third Parties receiving Energy Usage Information may be able to reverse-engineer or otherwise use this data to rebuild and therefore gain improper access to proprietary information.

For these and the other reasons, Southern joins those requesting that the NAESB REQ Executive Committee refer the Task Force's work product after tomorrow's call to the TEIS for more in-depth review, analysis and revision. Engaging the TEIS would be the most appropriate method for bringing final resolution to the important, varied and very technical concerns raised by Southern and others and would be consistent with the "deliberate" review required by NAESB Operating Practices. Engaging the TEIS would also be consistent with the related NAESB Procedure that NAESB standards not be adopted, however beneficial, before the industry is able to reasonably use them. Utilizing the TEIS to resolve the number of outstanding issues associated with ESPI would also help ensure broader industry involvement with the development of the ESPI standard/business practices than has been the case to date. In furtherance thereof, Southern commits to volunteering at least one working member of the TEIS to help resolve these and other outstanding issues. Southern would also welcome non-NAESB members to participate in the TEIS consistent with NAESB Practice that "[t]here is no requirement that a member of the TEIS be a NAESB Member."⁴

To the extent you have any questions or concerns about any of Southern's comments or questions, please do not hesitate to contact me.

Respectfully submitted,

/s/ Cherry C. Hudgins
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⁴ NAESB REQ Technical Electronic Implementation Subcommittee Mission, Feb. 25, 2004, p. 1.