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## NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL

Princeton Forrestal Village, 116-390 Village Boulevard, Princeton, New Jersey 08540-5731

July 22, 2002

Mr. Charles H. Yeung  
Director, Business Standards  
Asset Commercialization  
Reliant Resources  
P.O. Box 286  
Houston, Texas 77001-0286

Dear Mr. Yeung:

### **Response to Comments ANSI Accreditation Application**

We have reviewed the comments you provided on the North American Electric Reliability Council (NERC) application for accreditation as a standards developer by the American National Standards Institute (ANSI). Our responses to your comments are enclosed.

We note that many of your comments are similar to issues raised by you, and a few others, during either the course of the development of the NERC standards process or in the industry forums that discussed the standards development responsibilities of industry organizations. NERC has responded with the rationale regarding why the NERC standards process was developed and the industry consensus upon which it is based. We believe it provides an effective consensus process that is fair, open, balanced, and inclusive of all participants.

The industry is embracing the new standards development process as evident by the positive and interested discussions, workshops, and committee meetings. Equally exciting is the number of persons volunteering their support and participation. In just three months, over 400 persons have registered for the Registered Ballot Body, individuals who represent all the segments of the industry. Of these, 266 have already chosen one of the nine industry segments in which they will participate.

We request that you join in supporting our application for ANSI accreditation as a standards developer.

Sincerely,

Enclosure

**Reliant Resources Comments on  
North American Electric Reliability Council  
Application for Accreditation as a Standards Developer by the American National Standards  
Institute**

**Comments Due July7, 2002**

Reliant Resources (“Reliant”) is a stakeholder and market participant in the wholesale electric industry and is materially impacted by standards that will be developed by the North American Electric Reliability Council (“NERC”). Reliant submits these comments to oppose NERC’s May 17, 2002 request for accreditation by the American National Standards Institute (“ANSI”) as a standards developer for the wholesale electric industry. NERC’s request should be denied due to, among other things, a lack of balance of industry interests in the voting model as described in detail in these comments. NERC’s standards development process should not be ANSI accredited until NERC provides stakeholder equality between buyers and sellers in the wholesale electric industry, and can clearly define a “core reliability” standard that is not commercially oriented.

**RESPONSE:** Reliant’s comments are similar to comments it submitted during the development of the Weighted Segment Voting model that is incorporated into NERC’s standards development process. NERC’s responses to each of the points raised by Reliant in their comments appear below.

**Comments on Section III — Scope and Rationale**

**NERC’s Scope is Exclusionary.** Reliant questions whether an organization that is chartered to take a leadership position in reliability of the bulk electric system, should have an ANSI accredited process to develop standards that focus only on reliability. Such reliability-focused standards could negatively impact the functioning of electric markets and their business standards because of inextricable links to the marketplace.

**RESPONSE:** Reliant is one of several merchant electricity generators and electricity marketers that argued before NERC as well as the Federal Energy Regulatory Commission to have a single organization, other than NERC, develop both reliability standards and business practice standards. The organization that Reliant, and others with similar commercial interests, preferred as the developer of all standards is the North American Energy Standards Board (NAESB). NAESB is an ANSI-accredited standards developer of business practice standards and communications protocols for the wholesale natural gas industry. Neither the NERC independent Board of Trustees nor FERC were persuaded by these arguments as evidenced by FERC’s May 16, 2002 Order, in which it stated:

*“We also consider coordination between business practice standards and reliability standards to be critical to the efficient operation of the market. We urge the industry to expeditiously establish the procedures for ensuring such coordination after the NAESB WEQ is formalized, and request NAESB and others to file an update on the progress on coordination between it and NERC [emphasis added], 90 days after the formation of the WEQ. Given the critical importance of such coordination, the Commission stands ready to establish its own process to ensure coordination if the industry cannot agree on an effective mechanism.”*

NERC’s Chairman sent NAESB’s Chairman a Letter of Intent to coordinate the development of reliability standards by NERC with business practice standards by NAESB once the NAESB Wholesale Electric Quadrant of NAESB is formed. From the introduction of that Letter of Intent:

*“A need exists to develop standards to enhance energy markets throughout North America, while ensuring the continued reliability of interconnected international bulk electric systems. There are both business practice and reliability aspects to such standards, and each has implications for the other. The North American Energy Standards Board (“NAESB”) and the North American Electric Reliability Council (“NERC”) desire to work together to coordinate the development of business practice standards and electronic communication protocols by NAESB and the development of reliability standards by NERC. It is the intent of both organizations that the business practice and reliability standards be harmonized, that all reasonable efforts be made to eliminate overlap and duplication of effort, and that each organization be able to move forward with its appropriate standards development activity while keeping the other fully informed as to its efforts.*

*“The electric industry is in the process of formulating the Wholesale Electric Quadrant of NAESB. This letter of intent is, therefore, preliminary in nature. It will be supplemented by a more extensive memorandum of understanding that describes the details of the coordination process after the Wholesale Electric Quadrant of NAESB comes into existence.”*

**Reliability of the Bulk Power Grid Affects the Wholesale Electric Marketplace.** Reliant questions how NERC can uphold their claim that reliability standards “...support the reliability of the North American bulk electric systems without causing undue restrictions or adverse impacts on competitive electricity markets.” NERC states that each NERC standard must support the principles described in “Attachment A – NERC Reliability and Market Interface Principles” to assess the validity of NERC standards. However, no such protections on electricity markets are provided in these principles.

**RESPONSE:** To the contrary, the Market Interface Principles, which were developed through an open process and duly approved by NERC’s independent Board of Trustees, are cited in the NERC Organization Standards Process Manual on page 30. As independent, non-stakeholder Board members, the NERC Board has acted to adopt Reliability and Market Interface Principles that protect the public interest by assuring continued reliability of interconnected electricity grids as well as the integrity of competitive electricity markets. As evidence of the Board’s interest and concern with both reliability and markets, it passed a resolution in February 2002 that stated, in part:

*WHEREAS, safeguarding the reliability and integrity of the integrated, international bulk power system is of paramount importance, and*

*WHEREAS, the NERC Board is committed to NERC developing reliability standards that enable and encourage market solutions to the maximum extent possible, and*

*WHEREAS, NERC has successfully exercised responsibility for reliability of the interconnected, international transmission grid for nearly 35 years, and...*

*BE IT THEREFORE RESOLVED that NERC will, through a fair, open, balanced, and inclusive process, continue to set, monitor, and enforce compliance with standards for the reliable operation and planning of interconnected electric grids throughout North America, and*

*BE IT FURTHER RESOLVED that NERC will work with other electric industry organizations to create a workable process to coordinate NERC’s standards with the development of related standards.*

The Board, at this same February 2002 meeting, adopted a statement that included:

*“The Board of Trustees recognizes that some in the industry have expressed reservations about NERC’s role based on the historical role of integrated utilities in NERC’s governance. However, times have changed. We believe it would be a step backwards for final decisions on reliability standards, including compliance and enforcement of these standards, to be made by any organization governed solely by those with economic interests in the outcome.”*

**There is a Lack of Balance of Interests in NERC Structure and Process.** Reliant challenges the extent to which NERC can represent itself as working with all segments by using a voting model that does not provide a balanced representation of all industry segments, particularly parity between buyers and sellers of electricity.

**RESPONSE:** Reliant has argued at NERC-industry meetings that a different set of segments should be adopted by NERC for use in its Weighted-Segment Voting Model. Many different opinions were expressed over the course of the several months during which this model was developed and fully vetted with industry participants. NERC believes that the nine-segment model that was adopted by the Board represents the best consensus of industry opinion.

The following text is from the ANSI **Procedures for the Development and Coordination of American National Standards:**

#### 1.2.4 Interest categories

*The interest categories appropriate to the development of consensus in any given standards activity are a function of the nature of the standards being developed. Interest categories shall be defined and such definitions shall be available upon request. In defining the interest categories appropriate to a standards activity, consideration shall be given to at least the following:*

- a. producer;*
- b. user;*
- c. general interest*

*Where appropriate, more detailed subdivisions should be considered.*

*Appropriate, representative user views shall be actively sought and fully considered in standards activities. Whenever possible, user participants shall be those with the requisite technical knowledge, but other users may also participate. User participation should come from both individuals and representatives of organized groups. There are several user categories.*

NERC believes that its nine-segment model includes the balance of interests recommended by ANSI and does so in a more inclusive manner than a model whose emphasis is on parity between only buyers and sellers. The nine segments represent the diversity of interests found within the electric industry today.

## **I. NERC’s Scope Is Exclusionary**

NERC’s mission and scope aligns its interests along a single perspective of the wholesale electric industry – reliability.

*“Whereas, safeguarding the reliability and integrity of the integrated, international bulk power system is of paramount importance...” (from Board Resolutions, Statement and Other Considerations Related to the WESM Proposal February 20, 2002)*

While the above-quoted language indicates NERC’s concerns regarding reliability, we note that there is no similar “Whereas” paragraph indicating NERC believes commercial interests are important. Because of NERC’s limited mission and scope, NERC’s structure and standards development process has been formulated to emphasize and over-represent the interests of parties that seek to maintain existing reliability rules that embody certain economic advantages for them. These parties are generally less interested than other market participants in developing reliability rules that are truly fair and non-discriminatory. Truly fair and non-discriminatory rules are essential for promoting robust competitive wholesale power markets.

**RESPONSE:** Reliant’s comment above is incorrect in that NERC did in fact include in its February 20, 2002 resolution a “Whereas” statement indicating its concern for markets and market solutions:

*WHEREAS, the NERC Board is committed to NERC developing reliability standards that enable and encourage market solutions to the maximum extent possible, and*

Reliant’s comments fail to acknowledge that NERC’s Market Interface Principles clearly recognize the interrelationship between reliability and markets, and the need to assure that reliability standards do not create opportunities for one group of market participants to gain a competitive advantage over other participants under the guise of reliability. The complete set of Market Interface Principles are shown below:

*Recognizing that bulk electric system reliability and electricity markets are inseparable and mutually interdependent, all Organization Standards shall be consistent with the Market Interface Principles. Consideration of the Market Interface Principles is intended to assure Organization Standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.*

*Market Interface Principle 1 — The planning and operation of bulk electric systems shall recognize that reliability is an essential requirement of a robust North American economy.*

*Market Interface Principle 2 — An Organization Standard shall not give any market participant an unfair competitive advantage.*

*Market Interface Principle 3 — An Organization Standard shall neither mandate nor prohibit any specific market structure.*

*Market Interface Principle 4 — An Organization Standard shall not preclude market solutions to achieving compliance with that standard.*

*Market Interface Principle 5 — An Organization Standard shall not require the public disclosure of commercially sensitive information. All market participants shall have equal opportunity to access commercially non-sensitive information that is required for compliance with reliability standards.*

Moreover, NERC itself recognizes it is not positioned to be a single standards organization to address both commercial and reliability issues in wholesale electric standards. This fact is evidenced in the February 20, 2002 Board Resolutions document, in which the NERC Board recognized that for the industry to fulfill a Federal Energy Regulatory Commission (“FERC”) initiative to form a single, consensus, industry-wide organization to develop wholesale electric business practice standards, NERC will have to rely on coordination with another industry organization since it will not recognize commercial needs in its standards development process.

*“Be it further resolved that NERC will work with other electric industry organizations to create a workable process to coordinate NERC’s standards with the development of wholesale electric business practice standards and communications protocols,”*

Therefore, by its own accord, NERC realizes it cannot and will not, on its own, address the needs and concerns of an integral perspective of the electric industry.

**RESPONSE:** The NERC Board resolution that Reliant refers to does not say that NERC will develop its reliability standards without regard for markets or commercial impacts. It does state that NERC will focus on its primary mission of developing standards for the reliable planning and operation of interconnected bulk electric systems, but will do so with full regard for undue impacts on competitive markets and market participants. The NERC process also assures the opportunity for full participation by all market participants.

## **II. Reliability of the Bulk Power Grid Affects the Wholesale Electric Marketplace**

The interconnected transmission system is a “highway” for the wholesale electric markets as much as it is a reliability tool as NERC emphasizes it to be. The inseparable nature of the commercial/market aspects of all wholesale electric standards makes it difficult if not impossible for NERC to declare its focus solely on “reliability” and utilize a reliability-focused standards development process to develop standards that are intended to be fair to all parties that may be impacted by those standards.

As an example, a NERC reliability standard on transmission congestion may dictate a certain curtailment procedure for operators to follow to reduce transactions on the grid in a manner that relieves congestion, through a “command and control” approach with little to no consideration for market mechanisms to work to “off-load” transactions. Such a NERC reliability focused procedure, which may be very effective for reliability purposes, may, however, be destructive to market mechanisms and provide improper economic incentives. On the other hand, a NAESB congestion management procedure, developed by stakeholders without assuming any preference to facilitate reliability or commercial interests, could be as effective for system operators to employ to achieve electrical congestion relief while simultaneously minimizing the economic impacts of curtailing transactions. This is the fundamental difference between the outcomes of the NERC process and the NAESB process. In the past, many NERC “command and control” procedures and standards have provided economic benefits to entities entrusted with the operations and planning for reliability at the cost of the customers, or non-owners, of the transmission systems. Thus most of the NERC voters by purposeful segment designation have strong economic interests to rely on “command and control” approaches instead of market solutions to manage congestion. Reliant believes that an ANSI accredited process should not allow rules to be established that disregards the needs of a significant part of the wholesale electric industry.

**RESPONSE:** The new NERC standards development process, which is submitted for accreditation by ANSI, relies on an open, industry consensus process to reach agreement first on the need for a new or revised reliability standard and then on the scope of that standard (see description of Standards Authorization Request). An open, industry consensus process is also used to develop the standard itself.

There are three safeguards against developing overly restrictive standards and/or standards that unduly have an adverse impact on electricity markets. First, the Standards Authorization Committee is balanced by having an equal number of representatives for each industry segment. Their primary responsibilities are to review each Standards Authorization Request, and ensure that the proposed standard would not have an undue adverse impact on industry markets. Second, the standards development process encourages all interested parties to provide written comments on all draft documents. These written comments are publicly posted for all industry participants to see. Any entity that feels as though a proposed standard would be overly restrictive or would have an adverse impact on competitive markets is responsible for bringing this forward in written comments. Every comment is addressed before any voting takes place. Third, a weighted segment voting model is used to ensure that each industry segment has an equal vote in approving all new standards. Under this model, standards that don't have widespread industry acceptance (i.e., those that are overly restrictive or those that would adversely impact markets) would not be approved.

Reliant's specific complaint about "command and control" approaches references on existing NERC Operating Policy, developed under a previous standards development process, not under the new standards development process. Further, the existing Operating Policy referenced by Reliant was not developed as a market-based congestion management scheme at all, but rather as a fallback procedure in the event market-based approaches for solving congestion either did not exist or were not effective in relieving real-time overloads on the transmission system that could risk widespread cascading outages if not corrected promptly. NERC would be very pleased if market-based solutions were established to deal with transmission congestion so that fallback mechanisms did not need to be employed. As indicated in the "Whereas" statement cited above, the NERC Board is committed to NERC developing reliability standards that enable and encourage market solutions to the maximum extent possible.

### **III. There is a Lack of Balance of Interests in NERC Structure and Process**

NERC's 9 segment structure for weighted voting (as proposed in NERC's Wholesale Electric Standards Model, or "WESM") does not represent a balance of interests of the industry

- NERC proposes a 2/3 (67% through a weighted segment average) super majority of its member ballot pool to ratify a standard.
- Six of the nine segments in the ballot pool (Transmission Owners, Load Serving Entities, Transmission Dependent Utilities, Federal/State/Provincial Regulatory or Other Governmental Entities, RTOs/ISOs/Regional Reliability Councils, Generators), or 67%, can be dominated by incumbent market players, with an interest to maintain standards that place them at a competitive and economic advantage over newer supplier entities.
- Only one of the nine segments (Electricity Brokers/Aggregators/Marketers) will likely represent energy supplier entities that are more interested in developing reliability standards that are not competitively advantageous to any party, unless there is an absolute reliability need for such a standard.

**RESPONSE:** Reliant's claim that "Six of the nine segments in the ballot pool ... can be dominated by incumbent market players," is totally unfounded. Membership in all nine segments is open to any and all entities that qualify. For example, in the Generators segment, there are currently 53 entities registered, which cover the full range of ownership types — totally independent generators such as Tenaska, Calpine, Ontario Power Generation, and Mirant; generators with some affiliation with utilities such as PSEG Power, Dynegy, Duke Energy North America, and Reliant Resources; G&T cooperatives such as East Kentucky Power Cooperative;

municipal joint action agencies such as Wisconsin Public Power Inc.; federal power marketing agencies such as Bonneville and TVA; Canadian provincial utilities such as Manitoba Hydro Energy Board; and regulated investor-owned utilities such as American Electric Power - Generation. Similar observations on the breadth and diversity of participation can be made for the other segments as well.

NERC disagrees with Reliant's comments that suggest that the NERC process will result in reliability standards that are competitively advantageous to one group of participants over another. The NERC Board is committed to a fair, open, balanced and inclusive process and has resolved to revisit the standards process and the weighted segment voting process for those criteria at every subsequent Board meeting.

NERC's standards balloting pool for a particular standard is closed

- A registered entity with NERC must designate, during the initial development of a proposed standard, whether they wish to be included in the balloting of that proposed standard.
- An entity that may not have elected to be a balloting party to the proposed standard may not later ballot the final proposed standard. This is exclusionary if,
  - o a proposed standard evolves through the drafting process such that it materially impacts an entity in a way that was unknown in the beginning, or
  - o if an entity was unaware of material impacts of a proposed standard in the early development stages.

**RESPONSE:** Reliant's understanding of the process for joining a Standard Ballot Pool to vote on a standard is incorrect. As stated in Step 3 of the NERC standards development process (page 5 of the NERC Organization Standards Process Manual), "While the Ballot Pool is established early in the standards development process, any member of the Registered Ballot Body may join or drop out of a Ballot Pool until the draft standard is posted for ballot (Step 9).

NERC's Standards Development Process is unfair and exclusionary

- The standards drafting team is intended to be composed of a small subset of members from each of the 9 segments and its slate is ratified only by the Standards Authorization Committee which itself consists only of a closed small sub-set of the membership body.
- Members of the standards drafting groups are selected by NERC staff from the industry.
- Though Reliant does not believe the nine segments identified by NERC is representative of industry balance, there is no requirement that the composition of the drafting team reflects a balance of these segments, only that representatives be selected from each one.
- There is no general membership ratification of the drafting committee membership.

**RESPONSE:** Reliant's understanding of the selection and approval of SAR and standards drafting teams is incorrect in several respects. First, anyone may self-nominate to join a drafting team. Appointments to drafting teams are limited to those who self-nominate. Second, the drafting team established for work on a particular SAR or standard is chosen based on technical knowledge of the subject matter, with secondary consideration given to a combination of other interests including industry segment representation, Interconnection representation, national representation, regional representation and functional representation. Each drafting team is designed to have technical expertise and also represent a broad perspective of the industry. There are no requirements that every industry segment be represented, no requirements that every region be represented, etc. Third, the Standards Process Manager collects data from self-nomination forms and recommends the membership of the team, but the final decision to accept this recommendation or to add/delete members are totally up to the segment-balanced Standards Authorization Committee.

NERC's Board of Director selection process is exclusionary and not representative of the industry stakeholders

- Only a sub-set of the industry, the Stakeholder Committee (whose membership is dominated by the incumbent load serving interests) approves the slate of the NERC Independent Board

**RESPONSE:** The Stakeholders Committee, which has representation across all segments of the industry, unanimously approved the election of the slate of Board members presented at its February 19, 2002 meeting. A representative of Reliant is a member of the Stakeholders Committee and voted in the affirmative along with every other member of the Committee.

NERC's Funding Mechanism is exclusionary and creates bias towards certain stakeholders

- The funding of NERC is provided exclusively through the NERC Regional Councils of North America. (ECAR, ERCOT, FRCC, MAAC, MAIN, MAPP, NPCC, SERC, SPP, WECC) These 10 Councils are heavily funded by larger incumbent utilities through various fee structures, creating financial bias towards larger, load serving entities.
- Certain entities pay more, and certain entities pay little to no fees.

**RESPONSE:** It is not clear how Reliant believes NERC's funding mechanism will adversely affect the fairness of its standards development process.

The funding of each Regional Reliability Council is different. Some, like MAAC, are funded by all members through a FERC-approved tariff schedule that is part of the PJM Operating Agreement. In other Regions, the fees are part equal shares and part pro-rata based on load served. In ERCOT, where Reliant is a Retail Electric Provider, all funding is provided by load-serving entities, including Reliant itself.

There is currently no registration fee associated with joining an Industry Segment or with participating in the Organization Standards Development Process. NERC delayed establishing a registration fee for the first year to encourage participation and to collect data for establishing the costs associated with developing and maintaining standards. NERC has also taken steps to establish electronic voting and other systems to reduce the costs associated with participation in meetings. These steps were designed to make the new Organization Standards Development Process as inclusive as possible.

#### **Comments on Section IV – Information Regarding Standards Activities**

Nearly every standard proposed in the NERC “List of Candidate American National Standards” that is intended to regulate behavior of industry participants to ensure a reliable electric grid has underpinnings of economic preference. Any reliability requirement, or limit, will invariably provide economic benefits and advantages to some parties, and economic harm and disadvantages to others. Few, if any, reliability requirements are independent of an economic outcome. Therefore NERC's process to develop a reliability standard must fairly weigh the needs of all stakeholders who may be impacted from a reliability perspective and an economic/market perspective.

**RESPONSE:** Reliant is correct that any reliability requirement, or limit, will have economic consequences, just as limiting the number of passengers on airplanes or safe distances between planes limits how much money airlines can make. It does not follow, however, that reliability standards developed through the NERC standards development process will have “underpinnings of economic preference.” By establishing a common set of reliability rules for all users and operators of interconnected bulk power systems throughout North America, NERC will assure fairness and transparency in wholesale electricity markets with regard to these

reliability requirements. As stated earlier, NERC's Market Interface Principles were established for this very reason. And, as also stated earlier, the many opportunities for participation in this process provide safeguards against establishing standards that adversely impact any segment of the industry.

Reliant is not challenging the need for reliability-focused standards to be proposed by some organization such as NERC to safeguard the reliability of the interconnected North American electric grid. NERC was formed to ensure that the planning and operations of the interconnected North American electric transmission system is reliable and has met that challenge in the past – but not without economic impacts on the industry. Reliant is however, questioning NERC's ability to provide an open, fair and balanced forum for all stakeholders of the wholesale electric industry to represent their interests. Reliant does not contest that there may ultimately be standards focused on grid reliability that will cause economic impacts and impose reliability-based limitations to how stakeholders enable transactions and how the industry will transact business. However, these "reliability" standards must be developed within a process that does not elevate the interests of any one stakeholder or interest (reliability or commercial) over others.

**RESPONSE:** NERC's process, and the Reliability and Market Interface Principles on which its reliability standards will be based, is designed to be fair, open, balanced, and inclusive, and will not give any one market participant competitive advantage over another. In the end, it is the market participants themselves, working through the NERC process, who will determine if and when a reliability standard is needed, and the nature and scope of that standard. NERC's industry-based consensus process is designed to bring all interested parties together in a forum where all voices can be heard, and everyone with an interest can vote.

The *NERC Organization Standards Process Manual*, will not produce standards that are representative of a broad and balanced consensus because it diminishes the voice of those who are concerned that reliability rules may be overly restrictive or advantageous to certain players. The underlying scope of NERC, that is reliability, justifies the decisions of parties that dominate the voting structure. This scope promulgates a bias in assessing the economic vs. reliability impacts of any proposed standard. This bias will detract from the ability for the outcomes at NERC to be fair, balanced and representative of the interests of parties that are concerned about commercial impacts.

**RESPONSE:** NERC disagrees that its Weighted-Segment Voting process is dominated by those with solely reliability interests, or that NERC's scope "justifies the decisions of parties that dominate the voting structure." All participants in the process, whether they are regulated or unregulated, still must function in a business environment where cost is a significant factor. Reliant's argument that transmission entities, load-serving entities, and all others except independent generators and power marketers have no regard for economic consequences of reliability standards ignores the fact that all these entities must be cost conscious and fiscally responsible. The fact that an entity places high value on developing and complying with a common set of reliability standards is not reason to claim that they have no regard for markets or fair process.

### **Overlap - The North American Energy Standards Board (NAESB) ANSI Accredited Standards Development Process**

Reliant believes the NAESB process, that has already received ANSI accreditation, is the appropriate process to develop industry consensus for all wholesale electric standards – from a commercial perspective and a reliability perspective. All interests, reliability or commercial, should have a voice in the NAESB process including NERC professional staff and its volunteer members. NAESB's charter and By-Laws does not preclude its process from undertaking the development of standards that are primarily

for reliability purposes or for commercial purposes, nor does it presume, as NERC does, that any standard must exhibit preferential treatment for reliability.

**RESPONSE:** Reliant's comments purport to address the scope of NERC standards and Reliant's preference for NAESB to develop both reliability and business practice standards, rather than whether NERC should be accredited as an ANSI standards developer.

NERC takes strong exception to Reliant's allegation that NERC presumes that "any standard must exhibit preferential treatment for reliability."

Reliant and several others with similar commercial interests have continued to oppose NERC's long-standing role and responsibility for developing reliability standards, such role being supported by federal, state, and provincial governments, as well as a broad array of industry participants throughout North America.

With the NAESB process, NERC, or any party, is able to submit a reliability standard into the NAESB standards approval process, therefore making standards approval through another ANSI accredited process duplicative and unnecessary. Reliant believes, due to the overlapping and inextricable nature of the reliability and commercial perspectives, that ANSI Accreditation of the NERC Standards Development process will result in accreditation of two standards development forums for standards that impact the same area of the wholesale electric industry. Two organizations accredited to develop standards for the industry, one focused on developing fair and reasonable standards for both reliability and commercial interests, and the other focused only on reliability, will lead to duplicative and even competing standards due to the inextricable impacts between reliability and commerce.

**RESPONSE:** Reliant and others with similar commercial interests filed comments with FERC on March 15, 2002 that argued that all standards, both reliability and business practice standards, should be developed by a single standards development organization, namely NAESB. In its May 16 Order, FERC rejected this argument and instead ordered that the industry form the Wholesale Electric Quadrant of NAESB for the development of wholesale electric business practice standards and electronic communications protocols, that NERC continue to develop reliability standards, and that NERC and NAESB establish an appropriate mechanism to coordinate the development of reliability standards by NERC and business practice standards and communications protocols by NAESB.

## Conclusion

Reliant hopes that ANSI will carefully consider the comments and concerns raised in these comments and deny NERC the accreditation it has sought in its application of May 17, 2002. NERC must not be recognized as having an industry consensus process if it does not significantly reconsider its ability to fairly weigh all perspectives and interests of the wholesale electric industry.

**RESPONSE:** NERC has attempted to include, in its response to Reliant's comments, appropriate background and perspective on the history of the opposition expressed by Reliant and others with similar commercial interests.

The consensus reached in the NERC process was to reject the position advanced by Reliant and several others with similar commercial interests and motivations. These parties sought to strip NERC of its role and responsibility for developing reliability standards, and instead have a Wholesale Electric Quadrant of NAESB, which to date has not been formed, develop all standards. As one commenter noted:

“There is a fundamental difference between reliability standards and business practices that supports different processes in their adoption, and, in particular, a different role for the NERC Board. Maintaining the reliability of the integrated bulk electric system is of paramount public importance. NERC’s primary mission has been and should continue to be reliability. If a major reliability problem occurs, NERC and its Board will be held responsible, not a consensus sector voting process. While uniform business practices are clearly important for the market, business practices are not imbued with the same overriding public interest as reliability standards.”

Another commenter stated, “Reliability should not be left solely to the marketplace. Independent standards for reliability are needed and should be developed outside of the marketplace.”

Finally, the National Association of Regulatory Utility Commissioners, whose members have responsibility for the price and reliability of electric supply to end-use customers in their respective states, commented, “Any model for the development of wholesale electric standards ...should have as its paramount goal the assurance that the bulk power delivery system will operate safely and reliably notwithstanding the commercial interests of individual market participants.”

The NERC Board, on February 20, 2002, adopted the resolution cited in part above regarding the role of NERC in developing reliability standards. The essence of that resolution was:

*NERC will, through a fair, open, balanced, and inclusive process, continue to set, monitor, and enforce compliance with standards for the reliable operation and planning of interconnected electric grids throughout North America, and NERC will work with other electric industry organizations to create a workable process to coordinate NERC’s standards with the development of related standards.*

In summary, NERC believes that its standards development process is fair, open, balanced, and inclusive and is worthy of accreditation by ANSI.