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Vice President

NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL

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

September 10, 2002

Mr. James T. Thompson
Program Manager, Procedures and Standards Administration
American National Standards Institute
25 West 43rd Street, 4th Floor
New York, New York 10036

Dear Jim:

Response to PSEG's Comments of August 30, 2002

The following is in response to the third set of comments filed by the PSEG Services Corporation (PSEG) on NERC's application for ANSI accreditation of the NERC standards development process.

NERC has made a good faith effort at honestly considering and responding to the three sets of comments submitted during the comment period, as well as the supplemental comments submitted by Reliant Resources and PSEG.

NERC understands that ANSI's Subcommittee on Accreditation is reviewing our application and their ballot response is due Friday, September 13. NERC further understands that the Subcommittee has never received supplemental comments of the nature filed by PSEG, thus it has no precedent on what should be done.

Jim, NERC will leave it to your discretion, considering the status of the review process, and the circumstances under which these most recent supplemental comments by PSEG have been filed, whether to forward this response to the Subcommittee on Accreditation or directly to the Executive Standards Committee when it ballots our accreditation application.

NERC respects the opinions that PSEG continues to express regarding NERC's ANSI accreditation application, but believes that those opinions, for the most part, focus on matters that are outside the scope of NERC's ANSI accreditation application.

With respect to PSEG's specific comments, NERC offers the following responses:

1. NERC disagrees with PSEG's statement that, "The ultimate content of this to-be-negotiated LOI will likely result in changes in some of the material sections of NERC's ANSI accreditation application." NERC and NAESB will develop procedures to coordinate their respective standards development activities with one another. However, the standards development processes used by each organization will not change.
2. PSEG companies continue to differ with NERC regarding the proper allocation of responsibilities between NERC and the NAESB WEQ with regard to the development of reliability standards by NERC and business practice standards and electronic communications protocols by NAESB. First, NERC disagrees with PSEG's statement that the intent of the majority of industry stakeholders is for NAESB to develop all reliability standards with NERC relegated to developing only high-level reliability policies. The NERC filing with the Federal Energy Regulatory Commission on March 15 stated that NERC would develop reliability standards, NAESB would develop business practice standards and electronic communications protocols, and that NERC and NAESB would coordinate their activities to avoid duplication and overlap. That filing was supported by: American Public Power Association, Arizona Public Service Corporation, National Association of State Utility Consumer Advocates, National Rural Electric Cooperative Association, Southern Company Services, Inc., Transmission Access Policy Study Group, Western Area Power Administration, and Wisconsin Electric Power Company. PSEG filed with FERC in support of a contrary position. Continuing this debate with PSEG through responses to its continued comments on NERC's accreditation application is not likely to be productive, and, in NERC's opinion, is beyond the scope of the ANSI accreditation review. Second, NERC continues to cite FERC orders as evidence of the Commission's clear position on their expected roles for NERC and NAESB. Further debate on this point would not seem to change PSEG's opinion. Third, the recently signed NERC-NAESB Letter of Intent states, "NERC and the Wholesale Electric Quadrant of NAESB (WEQ) will work together to ensure the coordinated development of business practice standards and electronic communications protocols (by NAESB) and of reliability standards (by NERC) in a manner that is both efficient and beneficial to the industry and the marketplace as a whole."
3. NERC did not indicate in its response to previous PSEG comments that its drafting teams would be "limited to a few hand-picked individuals" as stated in the most recent PSEG comments. Rather, NERC stated, "The NERC process draws heavily on the process used by the Institute of Electrical and Electronics Engineers (IEEE), which also relies on small teams for drafting proposed standards and an open voting process." Further, NERC did not indicate in its

previous response, as PSEG comments allege, that, "IEEE standards development procedures ... are not completely open and exclude participation by some interested parties on drafting of requests for standards and drafting of standards."

4. PSEG continues to claim that the membership of SAR and standards drafting teams is "exclusionary" and that the limitation on voting participation in these teams is seeking to correct a "perceived" problem that has not yet been demonstrated. First, the small, balanced makeup of drafting teams is, as NERC has responded before, for efficiency and effectiveness, not to exclude participation. Second, as NERC has also responded, anyone may attend and participate in the drafting sessions. PSEG, like every other organization in the electricity industry, has the opportunity to self-nominate to join one or more drafting teams, as explained in NERC's response to PSEG's previous comments. PSEG, like every other organization in the electricity industry, is also entitled to register and vote on the final approval of all NERC reliability standards.
5. PSEG again questions the role of the NERC Board in the standards approval process based in part on a comparison to the role of the NAESB Board. NAESB is a voluntary standards developer. NERC, while a "voluntary" organization, develops standards that the Board adopts, making them mandatory and enforceable through membership obligations in its Bylaws. Currently, NERC relies on peer pressure and mutual self interest to effect compliance with its standards so as to carry out NERC's primary mission of promoting reliability of bulk electric systems throughout North America. Legislation pending in Congress would provide for creation of an independent, industry self-regulatory organization, overseen in the U.S. by FERC, which would have authority to impose sanctions and penalties for non-compliance with NERC reliability standards. Given this, the NERC-NAESB comparison PSEG makes is invalid. Further, it is perfectly appropriate, in NERC's opinion, for the NERC independent Board to have authority to "adopt" reliability standards developed through the NERC standards development process in order to make those standards mandatory and enforceable as provided in the NERC Bylaws.

Jim, we hope this response to PSEG's most recent supplemental comments is helpful, and look forward to responding to any questions or comments raised by ANSI's Subcommittee on Accreditation.

Sincerely,

A handwritten signature in black ink, appearing to read "D. R. N. S." with a stylized flourish at the end.

cc: Gregory Eisenstark, PSEG Services Corporation

Gregory Eisenstark
Assistant General Solicitor

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August 30, 2002

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**Re: North American Electric Reliability Council
Application for ANSI Accreditation as a Standards Developer**

Public Service Electric and Gas Company (“PSE&G”), PSEG Power LLC, and PSEG Energy Resources & Trade LLC (collectively the “PSEG Companies”) are writing to supplement their earlier comments and questions dated June 24 and July 24, 2002 in this matter, in response to the North American Electric Reliability Council’s (“NERC”) responses dated July 22, 2002 and July 29, 2002.

We also wish to note that the North American Energy Standards Board (“NAESB”) Wholesale Electric Quadrant (WEQ) has been formed, with elections of Board and Executive Committee members slated to occur in time for elected members to participate in the September 2002 NAESB Board meeting. Moreover, the Chairman of the NAESB Board and NERC have entered into a preliminary, non-binding letter of intent (LOI) with respect to coordination between the two organizations. The LOI contemplates that a detailed agreement will be negotiated between NERC and the new NAESB WEQ as soon as practicable. The ultimate content of this to be negotiated LOI will likely result in changes in some of the material sections of NERC’s ANSI accreditation application. The PSEG Companies also continue to differ with NERC in its stated interpretation of the relevant FERC Orders and the intent of the majority of industry stakeholders in allocating responsibilities between NERC and the NAESB WEQ.

In its response of July 22, 2002 (at page 10), NERC claims that its determination that its Standards Authorization Request drafting teams and the Standards Drafting Teams membership will be limited to a few-hand picked individuals, and not open to all interested parties, is based “on the process used by the Institute of Electrical and Electronics Engineers (IEEE), which also relies on small teams for drafting proposed standards and an open voting process.” The PSEG Companies have conducted a diligent search of the relevant standards development documentation on the IEEE website and has not been able to find any indication in the various governing documents that such a limitation exists or is allowed. We therefore ask that NERC provide specific examples of ANSI-accredited IEEE standards development procedures that are not completely open and exclude participation by some interested parties on drafting of requests for standards and drafting of standards.

In its July 29, 2002 response, NERC asserts that a limitation on voting membership on the drafting teams is necessary to avoid a given interest from stacking the deck by sending a “busload” of people to a meeting to vote. NERC seems to be attempting to cure a perceived deficiency that has not been demonstrated to exist. NERC should consider the need for a limitation if, and only if, its worst fears are realized in actual experience. A large turnout would likely be an indication of the substantial importance of that proposed standard to a particular interest group, and not a concerted effort by the group to bias the result. As NERC correctly points out, all interested parties will ultimately vote upon the drafts. That should be the method to ensure the drafting method was fair, not an exclusionary limit on voting participation.

In its July 22, 2002 response to the PSEG comments (at page 13), NERC attempts to explain NERC Board authority to set-aside standards that have been through the complete process and been approved by the necessary percentage in the ratification vote of the general membership balloting pool. NERC states that disapproval of an approved standard by the NERC Board “just means that NERC has not made that standard mandatory and enforceable.” NERC underestimates the message that its Board would send industry participants by failing to approve a standard. The NERC Board’s action would amount to a de facto disapproval. Any entity that wanted to disregard observation of a standard would be armed with a compelling argument that the NERC Board did not approve it when other entities object. The standard would be weakened in status. The role of the NERC Board should be to ensure that the entire process through which a standard is developed meets the ANSI requirements, and intervene early on if it does not. Rejecting a standard at the eleventh hour is an indication that the Board was asleep at the switch. The PSEG Companies continue to assert that once a standard has been developed and approved in an ANSI-accredited process no small group – including NERC’s independent Board – should have de facto veto power over that standard. Any party, including NERC’s Board if it so chooses, should at that point address its concerns to the Federal Energy Regulatory Commission once the adopted standard is filed. The NAESB Board, for example, does not have a role in evaluating or approving standards; instead all NAESB developed standards are filed with FERC in which proceeding any party can choose to participate with attendant due process rights including appeal of FERC decisions to the federal courts.

Thank you for the opportunity to comment on the NERC application. The PSEG Companies respectfully request that NERC and the ANSI accreditation committees take note and address these continuing concerns.

Very truly yours,

Gregory Eisenstark

Assistant General Solicitor
On Behalf of the PSEG Companies