

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Standards for Business Practices and  
Communications Protocols for Public  
Utilities

Docket No. RM05-5-000

**SUPPLEMENTAL COMMENTS OF THE  
TRANSMISSION ACCESS POLICY STUDY GROUP**

The Transmission Access Policy Study Group (“TAPS”) briefly supplements its July 1, 2005 Comments on the May 9, 2005 Notice of Proposed Rulemaking (“NOPR”) on the proposed incorporation by reference of certain standards promulgated by the North American Energy Standards Board (“NAESB”) Wholesale Electric Quadrant (“WEQ”). Specifically, these Supplemental Comments address NAESB’s February 17, 2006 “Progress Report,” which was never noticed for comment, and describe how recent developments confirm the need for the Commission to address the fundamental comparability issue implicit in the proposed standard for inadvertent energy payback. At minimum, in acting in this docket, the Commission must take care to avoid prejudging or otherwise prejudging an issue that has been raised in the Order 888 Reform Notice of Inquiry (“NOI”) proceeding and which will be raised in the upcoming proceeding regarding NERC’s proposed reliability standards.

TAPS’ Initial Comments in this rulemaking stressed the significant comparability concerns raised by NAESB’s proposed continuation of the “return-in-kind” standard for inadvertent energy exchange between balancing authorities/control areas, while non-control-area utilities remain subject to \$100/MWh charges for energy imbalance. NAESB’s February 17, 2006 Progress Report (at 2-3) recommends no change to the

commercial business practices related to the inadvertent interchange payback, and cites in support the Wholesale Electric Quadrant Executive Committee's ("WEQ EC") November 29, 2005 approval of the Inadvertent Interchange Payback Task Force ("IIPTF") Report. On November 29, 2005, the WEQ EC modified the draft report by the IIPTF, which had been deliberating for more than two years, to make clear that it recommended retaining the return-in-kind regimen for control areas simply because of lack of consensus on this competitively charged issue.<sup>1</sup> The IIPTF Report's recommendation now reads:<sup>2</sup>

The IIPTF reviewed numerous possible solutions to the settlement of Inadvertent Interchange and determined that, at this time, no consensus can be reached regarding alternatives to the NAESB Version 0 standard.

Although NAESB's Status Report (at 3) attempts to characterize the absence of consensus as due to "significant implementation hurdles," the conclusion of the long-deliberated report highlights the inability of the industry to address, by consensus, practices that confer significant competitive advantages on certain market participants at the expense of others. This inability is further highlighted in correspondence between TAPS, NERC and NAESB.<sup>3</sup>

For the reasons discussed in our initial comments and in greater detail in TAPS comments in the Order 888 Reform NOI proceeding,<sup>4</sup> the non-comparable, penal

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<sup>1</sup> See December 3, 2005 Final Minutes of the November 29, 2005 WEQ meeting, along with the redlined IIPTF Recommendation and Attachment (collectively the "IIPTF Report"), available at [http://www.naesb.org/weq/weq\\_ec.asp](http://www.naesb.org/weq/weq_ec.asp).

<sup>2</sup> *Id.* at 1.

<sup>3</sup> See July 22, 2005 letter from Roy Thilly to NERC and NAESB; NERC's August 9, 2005 response, and Mr. Thilly's August 29, 2005 reply, which are included in Attachment A to NAESB's Status Report.

<sup>4</sup> See TAPS November 22, 2005 Comments in Docket No. RM05-25, at 31-37 and TAPS January 23, 2006 Reply Comments at 8-9.

treatment of non-control-area utility imbalances, as compared to the return-in-kind standard that applies to inadvertent energy among control-area-utilities, is an issue that requires immediate Commission action to remedy discrimination. NAESB's inability to address the issue places it firmly on the Commission's plate for resolution. The Commission cannot lawfully accept business standards that discriminate against non-control area utilities simply because of the "industry's" inability to reach consensus to fix them.

At minimum, because this is an issue in the Order 888 Reform NOI proceeding, and will plainly be an issue when the recently-filed NERC standards are considered, the Commission should make clear that any action in this proceeding does not prejudice or otherwise prejudice action to be taken in connection with Order 888 Reform and the NERC standards.

Respectfully submitted,

*/s/ Cynthia S. Bogorad*

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Robert C. McDiarmid  
Cynthia S. Bogorad

Attorneys for  
the Transmission Access Policy  
Study Group

Law Offices of:  
Spiegel & McDiarmid  
1333 New Hampshire Avenue, NW  
Washington, DC 20036  
(202) 879-4000

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