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VIA ELECTRONIC MAIL:

North American Energy Standards Board
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Southern Company Services, Inc., for itself and on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and its other affiliates (collectively, "Southern"), is pleased to have had the opportunity to participate in the development of the NAESB Data Privacy Task Force's Model Business Practices for Third Party Access to Smart Meter-based Information. Southern is also pleased for the opportunity to now provide its own formal comments on these Model Business Practices.

Southern sees great promise in smart grid technologies and has been deploying them for some time -- with a goal of having deployed 4.4 million smart meters across its geographic footprint. Southern has great appreciation for its relationship with its customers and takes very seriously the security and privacy of the Smart Meter-based Information of its customers.

Southern has provided formal comments in the form of a redline version of the NAESB Model Business Practices accompanying this cover letter. Although this cover letter does not attempt to detail each and every change suggested by Southern in its redlined version, it believes a few major suggestions may warrant explanation and context, and these are provided in these bulleted comments. To the extent you have any questions or concerns about any of Southern's suggestions, please do not hesitate to contact myself or Brandon N. Robinson.

Respectfully submitted,

/s/ Cherry C. Hudgins

Cherry C. Hudgins
Smart Grid Regulatory Manager
Southern Company Services, Inc.

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Southern Company Explanatory Comments

- Document-wide conversion of “Retail Customer’s Smart Meter-Based Information” to “Smart Meter-based Information for a Retail Customer”. Throughout the document, the possessive use of “Retail Customer” was modified to eliminate any policy position with respect to ownership of the data. As discussed throughout the development of these Model Business Practices, the intent is to create a set of voluntary best practices for the industry and not to stake out policy positions on issues such as data ownership. These changes should not otherwise affect or detract from the Model Business Practices as written.
- Document-wide conversion of “Obligations” to “Business Practices” or “Practices”. Similarly, because these are intended to be voluntary model business practices and not mandatory obligations (although recognizing that state commissions may adopt them as mandatory or as voluntary, in their discretion), Southern felt it was inappropriate to use the word “obligation” when referring to these practices. The use of the word “obligation” during the development of these standards was primarily used as a way to divide up practices that apply to Distribution Companies versus those that apply to Third Parties. Southern therefore suggests that the substitution of the words “Business Practices” and “Practices” for “Obligations” better aligns with NAESB’s goals and aims with respect to the development and adoption of these model business practices.
- “With the availability of such granular data” (line 11). Southern added “the availability of” to acknowledge that not all smart grid-related deployments are created the same, and therefore, not all technologies deployed will afford the level of granular detail that would enable such an electricity usage profile to be created. Further, even with technologies capable of producing such granular detail, Distribution Companies may only make such granular detail available in accordance with the customer demands and preferences. Therefore, the creation of such an electricity usage profile will be dependent upon “the availability” of the granular detail as determined by the capabilities of the particular smart grid technologies deployed as well as the particular programs made available to customers by the Distribution Company.
- More precise language with respect to Distribution Company providing utility services. (lines 62-65). As reflected here and elsewhere in the document, the Model Business Practices envision that the practices are not intended to apply to Distribution Company’s use of contracted third party agents in carrying out their utility-related products or services. To avoid any argument about what does or does not constitute a “core” utility service, Southern has deleted the term “core” and replaced with more precise language that still allows flexibility for the Applicable Regulatory Authority to decide which of these products or services would be included within this scope.
- Recognizing the need for some sort of screening process for Third Parties (lines 143-150 (REQ.22.1.7) & lines 208-215 (REQ.22.2.xt)). In this policy arena, there has been much discussion over third party certification, and whether state commissions have jurisdiction over third parties. Various solutions have been proposed, such as the California Public Utilities Commission’s proposed decision suggesting utility tariff provisions that restrict the sharing of data with third parties or limit the registration of third party controlled home area

network (HAN) devices to entities with minimum security and privacy requirements.¹ Southern does not wish to express an opinion at this time whether California's proposed solution is appropriate for implementation by the California Public Utilities Commission or any other state commission. Southern is also sensitive to staffing needs and administrative burdens posed on state commissions around the country. However, Southern does believe that there should be some level of screening by the Applicable Regulatory Authority (whether state commissions, state attorneys general, or other applicable state bodies or agencies) for third parties who will be collecting, using, and disclosing the Smart Meter-based Information of a Retail Customer, just as such activities by Distribution Companies are conducted under state commission oversight and authority. To alleviate the potential administrative burden on the Applicable Regulatory Authority that might be responsible for screening such third parties, Southern has suggested, in principle REQ.22.1.7, that the screening could be limited to a *disapproval*, rather than approval, process. Therefore, as revised by Southern, REQ.22.1.7 states that a Third Party should be an Entity that has not been disapproved or prohibited from receiving Smart Meter-based Information. This also avoids taking a policy position – it would be up to the Applicable Regulatory Authority to decide whether to institute such a disapproval process – but this principle simply envisions that, to the extent one exists, a Third Party should not be an entity that has been disapproved. This same concept has been reflected in Southern's proposed revisions to definition of "Third Party" under Technical Definition REQ.22.2.xt.

- Consideration of costs (lines 160-162 (REQ.22.1.9)). The Executive Summary states that the Applicable Regulatory Authority should consider the costs to the Distribution Company of implementing these voluntary model business practices. The costs to Distribution Companies of implementing all of the measures contained within these Model Business Practices could be significant, and the Applicable Regulatory Authority will need to make important decisions with respect to the balancing of the benefits afforded to customers in implementing some or all of these measures versus their associated costs. Southern therefore thought that this point was worth repeating in the Principles section as well as the Executive Summary, and added this concept as Principle REQ.22.1.9.
- Other various changes. Southern has suggested various other changes to the NAESB Model Business Practices as reflected in the accompanying redline. Without delving into explanation of each one of them, such changes include, but are not limited to: (1) incorporating into several places a standard of reasonableness for both Distribution Companies and Third Parties; (2) when discussing activities subject to the Applicable Regulatory Authority or Governing Documents, incorporating the idea of activities that are *permitted*, as well as required, by state law; and (3) repeating language or concepts already incorporated elsewhere in the document into certain provisions (e.g., "as required by Governing Documents and Applicable Required Authority"), lest they be taken out of context and separated from the rest of the document.

¹ See Proposed Decision of President Peevey, *Decisions Adopting Rules to Protect the Privacy and Security of the Electricity Usage Data of the Customers of Pacific Gas and Electric Company, Southern California Edison, Company, and San Diego Gas & Electric Company*, Agenda ID #10387, Rulemaking 08-12-009 (May 6, 2011).