

OVERVIEW

ELCON's accomplishments over the past year spanned general advocacy as well as responses to specific federal, regional, and state issues. ELCON pursued more robust engagement in coalitions and interfaces with trade association forums, including active involvement in the new Trade Association Roundtable hosted by the Energy Trading Institute, the NERC Trades Forum, and serving as the primary trade association behind the pro-consumer Electricity Reform Project. Devin Hartman, ELCON's president and CEO, joined the advisory board of the Energy Choice Coalition. ELCON also increased media engagement efforts substantially that yielded favorable results.

In the period covered by this Accomplishments Report, ELCON intervened or was actively involved in over two dozen rulemakings, inquiries, court cases, NARUC resolutions, protests, and NERC-related matters. Compared to the prior year, ELCON increased the number and quality of interventions while lowering total intervention costs.

FEDERAL ISSUE RESPONSE

⚡ ELCON REDIRECTS RESILIENCE POLICY

FERC's chief priority over the past two years has been to bolster grid resilience, which has often taken the form of increasing consumer costs to aid uneconomic generators, hardening the grid without a prudency framework, and strengthening costly and sometimes counterproductive cybersecurity standards. The initial effort was the DOE NOPR to subsidize "fuel-secure" generation. Its demise was caused by the resistance of Com. Powelson, whose staff said that ELCON's voice helped provide the crucial safety net they needed to oppose the measure.

FERC and NERC have since pursued more targeted approaches. This winter, ELCON publicly critiqued a severely deficient NERC report on the reliability impact of generator retirements that inadvertently gave political support to bailout attempts. Com. LaFleur, FERC staff, and others in the industry said ELCON's actions avoided public misconceptions of the report and caused NERC to rethink how it approaches hypothetical scenario analysis.

FERC staff informed ELCON that they do not expect meaningful action in FERC's resilience docket, in large part because of concerns ELCON raised in that docket, public statements, op-eds, and in-person FERC meetings. FERC, NERC, and DOE instead are pivoting to a series of surgical approaches to resilience policy, such as bolstering infrastructure security.

ELCON filed comments in the FERC-DOE joint energy infrastructure security docket and DOE resilience docket to convey that expediting cost recovery mechanisms and inflating ROEs in the name of resilience would harm industrial consumers. ELCON called for lowering barriers to self-supply, the most resilient action available, and development of an economic prudency framework for centralized resilience investments before any further action was taken. FERC staff and DOE officials found the comments constructive and have engaged ELCON on how to adopt an economical approach to resilience policy and pursue reductions to barriers of industrial self-supply.

⚡ ELCON LEADS CALL FOR IMPROVING, PROTECTING PURPA

ELCON continued to provide the leading consumer voice for PURPA protections through FERC filings, multiple FERC meetings, Congressional engagement, and coordination with other PURPA proponents over the past year. FERC requested additional insights from ELCON, noting the technical issues are uniquely suited to ELCON's strong suit. ELCON continues to provide technical input on areas prone to reform, such as revising avoided cost methods and using competitive procurement to exempt utilities from PURPA obligations who are outside RTO/ISOs.

ELCON MEMBER BENEFITS



Cost estimates of some resilience policies breached \$17 billion annually, with some industrials identifying tens of millions of dollars in company-specific annual cost impact. FERC's new surgical approach to resilience will likely result in initiatives in the hundreds of millions to single billions in impact. Opportunities to reduce barriers to self-supply may result in major gains in industrial procurement flexibility.

ELCON MEMBER BENEFITS



PURPA is of paramount importance to many industrial CHP operations and increasingly to other forms of self-supply that qualify as QFs. ELCON is the primary group uniting pro-PURPA organizations and providing detailed technical information to steer FERC in a productive direction.

In 2019, it became clear that a broad pro-PURPA coalition was necessary to counteract the utilities' PURPA reform campaign. ELCON has led consumer efforts to coordinate with residential consumer advocates, sympathetic state utility commissioners, trade associations that support PURPA, and the think tank community. This resulted in PURPA reform advocates clarifying the industrial self-supply resources, including CHP, were not the problem. ELCON convinced other pro-PURPA groups, including the Solar Energy Industries Association, to alter their policy platform to include a carve-out for self-supply in the event of PURPA reform.

⚡ ELCON DRIVES CONSUMERS' EFFORTS TO REFORM RTO GOVERNANCE

ELCON has been the primary trade association participating in the Electricity Reform Project (ERP), an aggregator of energy consumer groups, to improve RTO governance. Efforts to-date have included coalition building and position development, followed by FERC and Hill meetings. ELCON helped frame the coalition's first letter, which called on FERC to take action to ensure RTO operations and decision making is transparent, independent of undue influence, and enables fair representation of all stakeholders.

ELCON MEMBER BENEFITS



Deficiencies in RTO governance are the common thread behind many industrial consumer frustrations with market design and transmission practices. Although impossible to monetize, the skew in RTO decisions in favor of generators and especially transmission owners affect reforms with multi-billion-dollar annual costs to load.

The letter and lobbying effort resulted in extensive questions from Members of Congress at FERC's House Oversight Hearing, which FERC commissioners told ELCON afterwards gave them political cover to look into this further. FERC has asked ELCON and ERP to develop more detailed positions and concepts for reform. ERP and ELCON engaged academics and think tanks to accomplish this, including an R Street Institute paper that details problems in RTO governance based on direct input from ELCON and its members.

⚡ ELCON-BACKED COALITION PUSHES TRANSMISSION ROE AND INCENTIVES REFORM

ELCON joined a transmission consumer coalition led by the American Public Power Association in responding to two FERC notices of inquiry regarding transmission incentives and base ROE. APPA and ELCON formed the primary initial positions for the coalition. This reflected ELCON's technical input in key areas, including shortcomings of economic methods for determining transmission benefits (FERC may shift to a new benefits-based approach to reward incentives), problems with expanding incentives for unconventional benefits like resilience and security, why the RTO membership incentive is ineffective, and why improving transmission planning in lieu of increased incentives is the proper route to reduce barriers to low-cost technologies (i.e., projects not built because incumbent transmission owners would rather build higher CapEx conventional transmission to pad rate base).

The coalition filed two sets of initial and two sets of reply comments. The coalition also submitted a letter calling for reform in light of rapidly rising transmission costs. ELCON assisted in getting state industrial groups to sign the letter.

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These proceedings may ultimately change transmission ROEs by hundreds of basis points. Considering roughly \$20B/yr in new transmission projects, a policy shift could easily alter hundreds of millions of dollars in *accumulative* annual transmission costs.

⚡ ELCON ADVOCATES FOR NEW APPROACH TO RELIABILITY POLICY

ELCON is the leading voice for reliability policy reform. This calls for NERC actions to have reliability benefits that justify any added costs, rely on markets instead of standards where applicable, and preserve procurement flexibility throughout the supply chain. ELCON advocated for a shift in cybersecurity standards that emphasizes voluntary information sharing and exempts industrials from burdensome mandatory standards. ELCON pushes the concept of

ELCON MEMBER BENEFITS



Changes in NERC policy have hundreds of thousands to millions of dollars of compliance cost implications for manufacturing facilities that are NERC registered. Changes to NERC's reliability standards cause tens to hundreds of millions of dollars in annual costs to suppliers, which pass a share of these costs onto all Large Consumers. Some standards deter or restrict the ability of Large Consumers to self-supply. NERC directly (via standards) and indirectly (via information sharing) affects bulk system reliability.

letting consumers choose the quality of service reliability they are willing to pay for, rather than the default practice of treating all firm load the same. ELCON stressed that reliability institutions must evolve to reflect dynamic conditions to maintain reliability, which includes better utilization of Large Consumer assets.

ELCON vocalized this agenda in four NERC Board of Trustees and Member Representative Committee meetings, as ELCON represents the Large Consumer

sector on the committee. Before each meeting, ELCON submitted written policy input to the Board and coordinated positions with other sectors to achieve an influential voting bloc. This action has resulted in NERC revisiting its stakeholder governance reform proposal, which will enable better representation of non-utility stakeholders and amplify the influence of Large Consumers. ELCON also submitted comments on NERC's draft Supply Chain Risks Report, NERC's Five-Year Performance Assessment Report, and responses to FERC's 2018 and 2019 reliability policy technical conferences.

ELCON met with Assistant Energy Secretary Bruce Walker and senior staff in FERC's Office of Reliability to detail our agenda. ELCON received especially strong feedback on how to proceed with instituting cost-benefit analysis in reliability standards development, exploring differentiated reliability services, improving NERC governance, and creating a new industrial working group at DOE.

✦ ELCON PROVIDES KEY VOICE IN FERC RULEMAKINGS

ELCON led comments, which the American Forest & Paper Association American Chemistry Council co-signed, in response to a FERC NOPR on transmission rate changes to address accumulated deferred income taxes. The industrial coalition requested FERC to expedite and return full ratepayer refunds resulting from the change in corporate income tax rate.

ELCON provided a unique perspective in FERC's NOPR to refine its horizontal market power requirements for sellers. The final rule supported ELCON's position to streamline the process, shift focus to dynamic market power mitigation, and quoted ELCON's biggest concern that "capacity markets present a fundamental challenge to horizontal market power detection and mitigation." FERC declined ELCON's suggestion to initiate a formal review of RTO/ISO monitoring and market power mitigation practices, but the Chairman's staff said ELCON comments were "very constructive," while FERC's market power assessment staff said they will turn their attention to the issues ELCON raised and requested follow-up from ELCON.

ELCON MEMBER BENEFITS



The change in tax rate from 35% to 21% resulted in substantial potential benefits to ratepayers, but benefits decline with rate adjustment delays or utility requests to shift the funds elsewhere.

Import-constrained capacity market zones have chronic market power that, in some cases, has raised capacity charges to consumers by double-digit percentage points above competitive levels.

REGIONAL ISSUE RESPONSES

ELCON engages in regional affairs that may set national precedent. Highlights of ELCON's regional engagement include:

- ✦ **BOLSTERING TECHNICAL ARGUMENTS AND ADVOCACY AGAINST THE MINIMUM OFFER PRICE RULE (MOPR).** ELCON twice filed in the PJM MOPR case to bolster technical arguments on the record, including why instituting new price controls does not counteract state subsidies efficiently and harms consumers. This augmented efforts of the PJM Industrial Customer Coalition. ELCON joined a trade association letter countering a letter from generators that called for MOPR. A new MOPR in PJM would motivate similar policies in NYISO and ISO-NE. ELCON assisted development of a consulting paper that found a 60% capacity cost increase from MOPR, totaling nearly \$6B, in PJM alone.
- ✦ **LOWERING RTO EXIT FEES.** ELCON twice filed jointly with the Texas Industrial Energy Consumers (TIEC) to remove SPP membership exit fees that can reach \$700,000 to \$1M per company. FERC ruled to remove the fees, which is pending an SPP counterproposal. Either way, this lowers SPP membership hundreds of thousands of dollars per company and solidifies precedent to protect against discriminatory fees in other RTOs.
- ✦ **RIGHT-SIZING TRANSMISSION CHARGES TO INDUSTRIAL FACILITIES.** ELCON aided TIEC in working with SPP stakeholders and FERC staff to remedy uneven and excessive transmission charges to behind-the-meter generation in SPP. This raised the profile of the issue in other RTOs as well.
- ✦ **CLARIFYING WILDFIRE MITIGATION PROTOCOLS AND PROMOTING PROTECTIONS FOR HIGH VALUE LOADS.** Ambiguity in reliability standards and protocols for deenergizing transmission lines to reduce fire risk leaves industrial facilities exposed to damaging and unpredictable service curtailments. ELCON outreach prompted WECC officials to acknowledge that NERC standards do not differentiate between types of load but that ideally load curtailment order should follow the value of end uses, which is now under consideration by utilities.

STATE ISSUE RESPONSES

ELCON aids individual state industrials and advocates on multi-state retail policy trends. Highlights over the past year include:

- ✦ **ELCON BACKED AN INDUSTRIAL ALLIANCE AND ENGAGED STATE COMMISSIONERS TO PASS A NARUC RESOLUTION CALLING FOR PROPER STANDBY RATES FOR CHP.** This provides state industrials with momentum and tools to break down barriers to CHP deployment caused by burdensome, inflexible, unpredictable and opaque standby rates and to have them better reflect the actual costs a CHP system imposes on the grid. ELCON engaged state industrials afterward to provide advocacy or technical assistance.
- ✦ **ELCON SPEAKS TO STATE COMMISSIONERS ABOUT ALIGNING COST-OF-SERVICE PROCUREMENT WITH REGIONAL OPERATING CONDITIONS AND INCORPORATING INDUSTRIAL RESOURCES.** ELCON presented at the 2019 Center for Public Utilities Advisory Council. As grid operations and integrated resource planning become more complex, prudence reviews become more challenging and shortfalls in regional essential reliability services increase. Feedback from state commissioners and industry representatives said ELCON's technical insights were very helpful to think about how to fine-tune procurement processes to lower costs, satisfy a broader suite of reliability services, and better integrate the potential of industrial resources.
- ✦ **ELCON RELEASES FACT SHEETS ON GENERATION POLICY PRINCIPLES AND EFFECTS OF POWER PLANT BAILOUTS.** Multiple state industrial groups said this information helped provided an insightful, authoritative voice in their efforts to promote supply competition and fight bailouts. For example, the Ohio Manufacturers Association said the material was a major help in their legislative efforts and that they would incorporate the materials in their Energy Committee meetings.
- ✦ **ELCON SPEAKS AT INDUSTRY CONFERENCES TO ASSIST STATE INDUSTRIAL GROUPS.** ELCON spoke on issues of important to MISO state industrial groups, including direct market access and better integration of industrial resources into MISO, at the Gulf Coast Power Association on a panel discussion with Entergy Louisiana CEO Philip May. ELCON also spoke at the annual meeting of the Kentucky Industrial Utility Consumers on how federal electricity policy affects industrial consumers.
- ✦ **ELCON PROVIDES TECHNICAL AND NETWORKING ASSISTANCE TO STATE INDUSTRIALS AND ELEVATES THEIR CONCERNS IN NATIONAL FORUMS.** ELCON connected the Industrial Energy Consumers of Pennsylvania with NRG regarding a default retail service subsidy that increased cost for industrial consumers. ELCON also provided technical assistance to the Wisconsin Industrial Energy Group regarding recovery of \$665M in stranded costs for a coal plant. ELCON elevated the cost concerns of the Florida Industrial Power Users Group on grid hardening for weather resilience in filed comments with the Energy Department.
- ✦ **ELCON COORDINATES ADVOCACY WITH TEXAS INDUSTRIAL ENERGY CONSUMERS.** ERCOT is subject to NERC and FERC jurisdiction for reliability purposes. ELCON provides information on NERC and FERC reliability matters to TIEC and coordinates on key actions, including improving NERC's understanding of how ERCOT's market drives reliable behavior and seeking to seat a Texas-market appreciator on NERC's Board of Trustees.
- ✦ **ELCON'S 2018 WORKSHOP PROVIDED A FORUM FOR RETAIL ISSUE IDENTIFICATION AND STATE INDUSTRIAL NETWORKING.** The top theme of the workshop was advancing direct market access. Other issues including opposing generator subsidies, controlling transmission costs, and reducing barriers to industrial self-supply and demand response. This subsequently influenced ELCON's agenda at the national stage on retail policy trends effecting industrials, which helps stymie problematic trends and promote beneficial ones.

MEDIA FEATURES

ELCON was quoted in or contributed to articles in the *Washington Examiner*, *The Hill*, *Politico*, *RTOInsider*, *UtilityDive*, *The Energy Daily*, and S&P Global Platts *Inside FERC*. ELCON also co-authored an op-ed in *UtilityDive* on reforming reliability policy from a consumer perspective. ELCON's technical insights were also shared in Hill staff memos and cited in industry newsletters, such as LiveWire Compliance.