ELCON REPORT

The Electricity Consumers Resource Council Founded in 1976

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Fall Workshop Speakers Criticize DOE Plan to Subsidize Coal and Nuclear Plants

Bashing the DOE NOPR that subsidizes coal and nuclear plants was the dominant theme of ELCON's Fall Workshop in Washington, D.C. last month. Speaker after speaker criticized the proposal calling it everything from the "Perry tax" to "distorting and stupid public policy."

The keynote Workshop speakers, Alison Silverstein, an independent consultant and co-author of the DOE Staff Report on Electricity Markets and Reliability (which essentially said the markets are working despite closure of coal plants and increasing solar) and former FERC Commissioner Nora Meade Brownell, were both highly critical of the NOPR.

Saying she told DOE she "only writes about facts" and they hired her "in spite of saying that," Silverstein criticized the cover letter of the report calling it "clearly fictional."

"The only unreality going on here is to people who pay the bills," Silverstein said. She called the NOPR the "Perry tax" and said the estimated costs of the plan were "astronomical, even in Texas they're big numbers." She pointed out that there are "more jobs being lost in retail than coal mines and said "people adapt and we should help them [coal miners] adapt."

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FERC Rejects DOE Subsidy Plan

The Federal Energy Regulatory Commission early in January rejected the Trump Administration's proposal to subsidize nuclear and coal plants by a surprising unanimous order.

The commission — four of whom President Trump nominated — said the proposal failed to show that current electricity markets are not just or reasonable.

Although the commissioners rejected Perry's proposal it did launch a rulemaking that gives ISOs and RTOs 60 days to answer a variety of questions on grid resiliency and what steps, if any, the FERC should take to help ensure resiliency.

"Neither [Perry's] proposed rule nor the record in this proceeding has satisfied the threshold

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statutory requirement of demonstrating that the RTO/ISO are unjust or unreasonable," FERC said.

"While some commentators allege grid resilience or reliability issues due to potential retirement of particular resources, we find that these assertions do not demonstrate the unjustness or unreasonableness of the existing RTO/ISO tariffs. In addition, the extensive comments submitted by the RTOs/ISOs do not point to any past or planned retirements that may be a threat to grid resilience."

As expected the two Democrats on the FERC, Cheryl LaFleur and Rich Glick, strongly opposed the Perry proposal with LaFleur commenting that the proposal "did not make a factual showing of a defined resilience need or allow a market or standards-based solution to solve that need."

Glick noted the irony that the greenhouse gas coal plants emit actually are exacerbating the "intensity and frequency of these extreme weather events."

Chairman Kevin McIntyre and Commissioner Robert Powelson did not write accompanying statements.

However, Commissioner Neil Chatterjee, a supporter of the plan and former aid to Kentucky Senator and Majority Leader Mitch McConnell, made clear he viewed the resiliency review as insufficient.

"I believe that the record compiled in this proceeding speaks to the prudence of considering, as soon as practicable, whether interim measures may be needed to avoid near-term bulk power system resilience challenges that could result from the rapid, unprecedented changes to our generation resource mix," Chatterjee said in a separate statement.

***Neither [Perry's] proposed rule nor the record in this proceeding has satisfied the threshold statutory requirement of demonstrating that the RTO/ISO are unjust or unreasonable* – FERC on DOE NOPR**

ELCON President and CEO John Hughes said that "FERC did the right thing by not going along with this costly bailout of some coal and nuclear plants. "

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Silverstein said the coal plants were built on the "hope of higher demand" and that it "didn't work out." She said what has happened to the industry in the last few years is proof that "wholesale competition works."

Silverstein called the proposal "a stunning contamination" of markets.

Saying that the NOPR is "not fact based" and "facts to not support the conclusion," Brownell said the proposal "simply doesn't do what it said it was going to do."

Brownell noted that the age of the coal plants that were closed was between 35 – 70 years. "These guys were master class but they should have been in a nursing home."

Brownell said DOE needs to bring in technical experts and "take a holistic view and figure out what we need to invest in."

"It's more important to protect competition rather than specific competitors," she said. She said the proposal is a “favor for friends” and that it “won’t survive a good court challenge.”

“This is an uneconomic solution to a problem that doesn’t exists,” she said.

Thad Hill, president and chief executive officer of the Calpine Corporation, an independent power producer which is the largest generator of electricity from natural gas and geothermal resources, also was critical of the proposed rule.

Nora Meade Brownell and Alison Silverstein

“All I ask is to lose my capital on a level playing field,” Hill said.

Hill took issue with the information contained in the NOPR pointing out that during Hurricane Harvey natural gas fired plants continued in operation while coal plants were shut down because of wet coal. He also pointed out that nuclear power plants were off during Hurricane Irma.

“Competition is working and markets are more diverse than ever before,” Hill said. But he was critical of the organized markets calling on them to “open their books.”

He was particularly critical of the Midcontinent Independent System Operator (MISO). “MISO is effectively a lost cause. It’s not a merchant market.”

He said the good news is that the “new FERC is going to be constructive. The new commissioners believe in markets.”

Brad Jones, the president and chief executive officer of the New York Independent System Operator (NYISO), said that ISOs “sit at the center of an incredibly changing market. There are extraordinary issues coming together” such as the growing number of renewables and emerging energy storage options. He said since NYISO was formed there has been a savings of $8 billion and a significant reduction in SOx and NOx.

Jones said the markets “are doing what they should be doing – pricing some generation out of the market. We need to allow units to exit the markets.”

Jones also said “we need to come to an appropriate definition of resiliency” pointing out that it “will be different for each region” and it will “depend on how it is defined.”

Cliff Hamal, managing director and principal, Navigant Economics, was also very critical of the NOPR.

“Everyone knows that some public policies are stupid, especially the DOE subsidies,” Hamal said.

He said it was in the public interest to take actions to reduce carbon emissions through renewables, demand-side management, and nuclear. He said nuclear “is a zero emission resource and we should be careful about shutting them down.”

Competition “has enormous benefits” and he said the “job of markets is to accommodate what consumers want to achieve.” However, Hamal was critical of capacity markets saying they “would not exist in a perfectly competitive market.”

He said market design options should be “evaluated on the basis of providing the electric service customers what they want at the lowest cost” and warned about what he called the “theory of second best.”

"In choosing between market design alternatives, if a truly competitive alternative is not available, it is wrong to conclude that the option that looks like a competitive market will achieve the best outcomes."

Hamal does support a carbon tax. "A carbon tax would be great. I'm 100 percent for it but it won't happen."

The former President of NARUC and current Vice Chair of the Montana Public Service Commission Travis Kavulla called the DOE NOPR "distorting and stupid" and said he was a "little disappointed that the DOE upfront deciding to wear black."

Cliff Hamal, Travis Kavulla, and Joe Bowring

"You end up fighting subsidies with more and more subsidies," Kavulla said.

He said the answer to the panel topic "Is Accommodation Possible Without Destroying the Competitive Wholesale Electric Markets" is "maybe."

In many jurisdictions including California "least cost supply is no longer policy" and he said this policy is the "single biggest threat to U.S. markets."

Saying he preferred markets to cost of service regulations, Joe Bowring, the president of Monitoring Analytics, the independent market monitor for PJM, said any interference with competition, such as with subsidies, is a threat to the market.

Bowring said "you should only have markets when they are self-sustaining," such as PJM. He said the California ISO is not.

"The problem in a nutshell is competition. Competition is tough. It sometimes drives competitors out of markets."

Bowring said not all nuclear and coal plants are uneconomic but warned against subsidies.

"Subsidies are contagious," he said, pointing to what is happening in Illinois, New Jersey and Pennsylvania.

Bowring went on to say that if carbon emission is a problem it should be dealt with "across a broad footprint, not just a state."

Ellen Nowak, chair of the Public Service Commission of Wisconsin and next in line to be NARUC president, gave a brief history of transmission planning beginning in 1996 with open access transmission service and concluding with electric storage and the NOPR on Grid Resiliency Pricing.

Nowak pointed out that the federal government, states and the regional transmission operators all have some say on transmission. "There is a lot of overlap creating a lot of billable hours for attorneys," Nowak said.

"How does a state take unilateral action without harming neighbors," she said. "This is a real struggle for us and most consumers are unaware it is happening."

Concerning the DOE NOPR, Nowak said it is "not needed in MISO. We take care of our own." However, Nowak said participating with MISO is time consuming and she is constantly asking the question – "Is this a good deal for the ratepayers in Wisconsin?"

The newly elected NARUC President and Connecticut Public Utility Commissioner John Betkoski said that NARUC is working on PURPA reform and wants to insure that states "continue to have an important role in PURPA."

Commissioners John Betkoski and Ellen Nowak

He said NARUC is also working on cybersecurity issues and said commissions have to "represent the consumers because they're paying the bill."

Betksoki said technology – such as energy storage – is changing more rapidly than regulation.

"Things are continually changing," he said. "It's a real challenge for us."

ELCON Works to Stop DOE NOPR

Since the DOE NOPR was proposed in October, ELCON has been leading efforts to oppose it.

In October ELCON urged the Federal Energy Regulatory Commission (FERC) to terminate the Department of Energy Notice of Proposed Rulemaking (DOE NOPR) to prop up unprofitable coal and nuclear plants calling it a "radical departure from the competitive markets" that would result in a "substantial loss of U.S. manufacturing capacity and jobs." Joining ELCON in the comments were the American Chemistry Council (ACC), American Forest & Paper Association (AF&PA), American Iron and Steel Institute (AISI), and a number of state industrial energy groups.

"The U.S. manufacturing community strongly oppose the DOE NOPR and urges the FERC to terminate this proceeding," ELCON said in the comments. "If implemented, the Proposal would override the market's ability to select the most efficient units, increase the electricity costs by many millions of dollars for untold numbers of businesses and consumers, and result in substantial loss of U.S. manufacturing capacity and jobs."

"The federal government should not pick winners and losers in the energy markets and must certainly not treat U.S. manufacturing jobs as inferior to the jobs at uneconomic power plants. The proposal would subsidize coal and nuclear generation and their jobs, putting at risk a far larger number of U.S. manufacturing jobs that face considerable pressure from foreign competition."

The comments called the fundamental premise of the proposal – that retirement of coal and nuclear generation currently is an imminent threat to the reliability and resiliency of the electric grid – "unfounded" and said the "gradual retirement of old, uneconomic generation units is an ongoing process that reflects the proper functioning of competitive markets."

In December, ELCON sent a letter to the Congress urging oversight hearings to review the "impact [the NOPR] would have on competitive wholesale electricity markets and the damage it would do to U.S. manufacturers and other consumers" and "force U.S. manufacturers to pay billions of dollars in groundless subsidies" to obsolete plants.

Also, working with the Affordable Energy Coalition, a letter from ELCON President & CEO Hughes opposing the NOPR was published in the *Columbus Dispatch*, the hometown of one of the few utilities would benefit from it.

FERC Finally In Full Force

With the addition of Chair Kevin McIntyre and Richard Glick the FERC, for the first time in over a year, has a full complement of commissioners.

Prior to joining the Commission, McIntyre was the co-leader of the global energy practice at the law firm Jones Day, where he practiced law for most of his nearly 30-year legal career.

Before joining the Commission, Glick was general counsel for the Democrats on the Senate Energy and Natural Resources Committee. He has served as a senior policy advisor to U.S. Energy Secretary Bill Richardson, and was legislative director and chief counsel to U.S. Senator Dale Bumpers of Arkansas.

ELCON Opposes Efforts to Abolish Demand Charges

ELCON's John Hughes spoke at a recent plenary session of the Harvard Electricity Policy Group in opposition to efforts to abolish demand charges in regulated rate designs.

Proponents of the elimination of demand charges argue that fixed costs are unfairly allocated to low load factor customers and with the advent of smart meters fixed charges can be adequately recovered with dynamic pricing.

Hughes counter argued that increasing volumetric charges was an attempt to force high load factor industrial customers to subsidize renewable energy resources such as roof-top photovoltaics. He reminded the audience that ELCON was founded in the 1970s for the expressed purpose to oppose shifting fixed charges into energy charges resulting in cross-subsidization.

He said that changes to the industry's resource mix does not change the fact that instantaneous customer demands drive the sizing of the utility system. Even if customers generate a portion of their own energy needs, they still place demands on the utility system, either when they require power or when they deliver power into the utility system.

Without demand charges, customers with low load factors can impose substantial fixed costs on the utility system and avoid paying fully for those capacity costs because their usage is so low. Getting the rate design right also eliminates the need for kludgy revenue reconciliation measures such as revenue decoupling.

Hughes concluded his remarks by reminding the audience that the grid does not exist so consumers are subservient to the financial needs of obsolete or ascending/emerging resources.

ELCON Honors President Hughes

ELCON President and CEO John Hughes celebrated 30 years of service to ELCON at the Fall Workshop. Hughes, who came to ELCON from Niagara Mohawk Power Corporation, first served as the Director of Technical Affairs.

In that capacity, he managed ELCON's interventions at FERC, DOE, EPA, and state PUCs, and in testimony before Congress. He is the lead author of ELCON position papers and technical documents on all facets of the electric industry. Hughes was appointed Vice President – Technical Affairs in 2004. He became President and CEO in October 2015.

"John has been a tireless advocate for industrial consumers for 30 years," ELCON Chair Michelle D'Antuono said.

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