ELCON REPORT

The Electricity Consumers Resource Council Founded in 1976

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ELCON Tells NERC Stress Test Unrealistic, Not Economically Plausible

In comments filed in December ELCON told the North American Electric Reliability Corporation the "stress test" released that month was based on an unrealistic scenario and not economically plausible. The test was designed to determine if new power plant projects now seeking to interconnect with the grid would provide sufficient generation to enable a region to maintain its NERC-recommended power reserve margin even if hit with a high level of plant retirements within five years.

"American manufacturers appreciate the North American Electric Reliability Corporation's attention to retiring coal and nuclear plants," ELCON President and CEO Devin Hartman said. "However, we are disappointed that NERC's generation retirement scenario is not economically plausible. The report's finding of potential capacity shortfalls in four assessment areas could only result from massive political interventions."

"Policymakers and regulators should not interpret this study as justifying interventions to artificially retain unprofitable power plants, as these actions deter the economic transition in the power generation fleet, undermine innovation, and raise costs to America's businesses and families," he said.

"Manufacturers are very sensitive to grid reliability issues and believe current industry practices are well positioned to procure sufficient amount of capacity as coal and nuclear plants retire. We encourage NERC to evaluate factors affecting the performance, not the total amount, of that capacity."

This study is the latest in a series of grid reliability studies -- including some done by PJM and ISO-NE -- that have been criticized by state officials and some green groups as exaggerating risks posed by coal and nuclear retirements and their replacement by gas-fired plants and renewables.

Hartman New ELCON CEO

R Street Institute Electricity Policy Manager Devin Hartman has succeeded John Hughes as ELCON's CEO and President.

Prior to his work at the R Street Institute, Hartman was an Energy Industry Analyst at the Federal Energy Regulatory Commission where he analyzed the economics of wholesale electricity markets and exchanged market analyses and insights with independent market monitors of the organized wholesale electricity markets.

"We're in an unprecedented era of technological change," Hartman said. "I'm looking forward to ensuring the voices of large industrial users of electricity are at the forefront of that transformation."

Inside

President's Column……………………..……….………………2

ELCON Fall Workshop…….……………………….……………..3

ELCON Urges QF Deployment…………….…………………..4

President's Column

As ELCON enters its 43rd year, the need for industrial representation remains as strong as ever. Unprecedented challenges face consumers, from power plant bailouts to RTO accountability problems to anti-competitive market reforms. Meanwhile, opportunities exist to harness emerging technologies with potential to dramatically improve the cost and performance of electricity service – if the regulatory climate permits it. As the industry continues to evolve, so will ELCON's stances and leadership, while our guiding principles remain steadfast.

I am honored that you have selected me to lead ELCON through the next era of electricity policy. My first goal is to earn your trust, which starts with listening. To that aim, I have conducted one-on-one outreach to all members. We will follow this shortly with an online survey that ensures ELCON firmly understands your corporate position, interests, and preferences. From there, we can strategically position ELCON to maximize the value proposition to our members.

As the industry continues to evolve, so will ELCON's stances and leadership, while our guiding principles remain steadfast.

Maximizing value requires aligning ELCON's policy positions with new evidence and steering our advocacy toward high priority areas. Lessons learned from this decade confirm benefits of electricity competition and consumer choice but reveal detailed implementation problems. Pursuing better practices in market design and competitive transmission policy would save industrials billions annually. However, in the near-term we need to play heavy defense, as the greatest cost threats to consumers are grid resilience policy and out-of-market interventions. To guide our agenda, ELCON will review recent evidence through technical committees, webinars, and workshops to refine our generation, reliability/resilience, and transmission policy stances.

Contemporary electricity policy spans the technocratic and political realms. ELCON provides a unique value proposition by blending technical expertise with public affairs savvy. We will explore creative pathways to share our insights with you and to advocate effectively.

New partnerships, especially with unconventional allies, will amplify ELCON's ability to manage Hill perceptions, influence FERC's agenda, and keep NERC on track. Leveraging relationships is critical to protecting PURPA, improving grid governance, and pivoting the environmental agenda toward competition and choice and away from mandates and subsidies. We'll also refine targeted engagement with NAESB, DOE, and EPA to address advocacy voids as needed, especially given utility influences in other trade associations.

I also want to revitalize ELCON's role as a thought leader in retail policy. Our recent victory on standby rate design at NARUC is a great start. Various parties have expressed interest in ELCON serving as "connective tissue" across states, such as requests from state industrial groups to provide information and guidance on expanding direct access and regulatory treatment of premature plant closures.

Internally, ELCON is modernizing operations to provide better service and lower costs. I want to ensure our practices are transparent and that accountability mechanisms encourage prudent management. This is especially important as the organization manages the leadership transition.

My goal is for all members to feel enthusiastic about ELCON engagement and to act as proud ambassadors of the organization. I look forward to working with you in the years ahead.

Sincerely,
Devin Hartman
ELCON President and CEO

ELCON Fall Workshop Examines Rapidly Changing Power Grid

Two former chairmen of the Federal Energy Regulatory Commission told ELCON members gathered at the Fall Workshop in November in Washington that the energy industry is going thru a period of dramatic change but consumers have benefited from it.

While early competition was "rocky, significant savings have come from competitive retail and wholesale markets," said Pat Wood, who served as chair of FERC from 2001-2005. And, he said, the "electric industry has changed a hell of a lot since I left the FERC." Still, Wood said "fifty percent of the time I look into the mirror and think did I create a monster?" He thanked industrial customers for "having my back."

Former FERC Chairs Bay and Wood

Norman Bay, who served as chair from 2014-2017, said the "energy industry is going thru a period of dramatic change. As chair I worked to enable the industry to adapt to it and make sure rates remained just and reasonable."

Wood was particularly critical of the bailouts of some utilities the administration has been pushing. "State bailouts, as odious as they are, are allowed under the law," he said. But, Wood said, "old cars need to be junked. These are not just laws of economics, but laws of common sense."

Bay was critical of the capacity markets in PJM, pointing out that they have been redesigned three times in four years. "Most revenue ought to come out of the energy markets, not capacity," he said. "If you have the courage of your convictions you should support an energy market."

"If you started over, what would your market design be? You should probably look to ERCOT," Bay said.

Most revenue ought to come out of energy markets, not capacity. If you have the courage of your convictions you should support an energy market.

Norman Bay

Jim Robb, newly appointed President and CEO of the North American Electric Reliability Corporation, said his job is to "bring people together to solve tough problems" and that in his former job he "spent a lot of time working with large energy users in the West."

He said the four priorities for NERC are to 1) become risk based and risk focused, 2) retire some old standards, 3) consider new standards for things like cold weather preparation and inverters, and 4) structural reorganization and efficiency. He said the "industry have evolved at a snail's pace but the pace of change now is extraordinary. We need to keep our eyes 10-15 years down the road."

Commissioner John Rosales of the Illinois Commerce Commission said he agreed with many of the principles in the letter ELCON filed with FERC last spring urging the review of the design of organized wholesale electricity markets and laying out five principles to guide those market designs.

"In reviewing those principles, ELCON and Illinois agree on many things," he said. "Respect state and locally governed utility policies. Don't make customers pay twice for capacity. Continue to allow bilateral contracts. Ensure that wholesale markets benefit customers and reduce barriers to entry and exit."

Rosales also said he agrees that PJM's capacity construct is "unnecessarily and inherently

Commissioner Rosales

flawed" and pointed out that they are "not truly a market at all – too many features are administratively determined, such as price caps."

Kathleen Spees, a principal in the Brattle Group, said sarcastically there is "always some reason a plant is special and should not be retired." She said "if we immediately went to completely clean energy resources, we would have blackouts." She also said that "baseload itself is kind of an outdated concept."

Jim Clarkson, president of Resource Supply Management, said the nuclear problem in South Carolina and Georgia are due to federal and state policies and that "it's a bad situation and it's getting worse." He said state legislators in South Carolina consider Santee Cooper "their own little pet project" and "shake down utilities for campaign contributions." He said the legislature protects the local utilities by finding ways to "do the least damage to the guilty party."

Layne Brown, senior reliability and market interface specialist with the Western Electricity Coordinating Council, said "nobody had in their forecast the amount of solar in the West." He said Washington and Oregon are "right behind California on renewable requirements" and predicted natural gas will become more important.

ELCON Urges FERC to Encourage Industrial QF Deployment

In supplemental comments filed in November, ELCON encouraged the Federal Energy Regulatory Commission to "take active steps to encourage industrial QF deployment – particularly industrial CHP deployment – given the stagnation in CHP deployment that has occurred over the past 10 years."

The American Forest & Paper Association joined ELCON in the comments as FERC considers changes to the Public Utilities Regulatory Policies Act of 1978.

Any problem that may exist with PURPA need only to be addressed in those three states by those three states. Those states have the tools they need to address the issue.

ELCON's comments pointed out that the unprecedented buildout of solar photovoltaic and onshore wind resources is not relying on PURPA to support project financing and interconnection. Rather, ELCON said that only in North Carolina, Idaho and Utah is where PURPA has made a material contribution to the buildout.

"Any problem that may exist with PURPA need only to be addressed in those three states by those three states. Those states have the tools they need to address the issue," ELCON commented.

"We recommend that, if FERC chooses to act, the Commission should provide states with better guidance on avoided cost calculations. Estimating avoided cost is no more challenging than setting customer rates on a forward-looking basis," ELCON said.

ELCON Files Amicus Brief Opposing ZEC Programs

ELCON along with the PJM Industrial Coalition, American Forest and Paper Association and the Illinois Industrial Energy Consumers ("Industrial Customers") in February filed an amicus brief supporting petitions by the Electric Power Supply Association and NRG Energy to overturn lower court decisions that upheld the Illinois and New York Zero Emissions Credits (ZECs) program.

ZEC programs interfere with and distort prices in the competitive wholesale markets, leading to long-term increases in electricity costs for consumers.

The filing said "Industrial Customers generally support the federally regulated wholesale markets that were designed to ensure competitive supply and demand dynamics and procure least-cost generation resources." But the brief points out that "in addition to the near-term negative impact of ZEC charges on customers, ZEC programs interfere with and distort prices in the competitive wholesale markets, leading to long-term increases in electricity costs for consumers.

Because energy is one of the top expenditures for the Industrial Customers, "significant increases in electricity costs impact the viability and competitiveness of the Industrial Customers' businesses. The economic ramifications of ZEC programs may limit operations and even lead to downsizing, closures, or relocations."

The brief went on to say that "the ZEC programs in Illinois and New York provide colossal subsidies to keep nuclear plants in the energy and capacity markets, even though certain nuclear plants would likely be forced to shut down if they were subject only to market forces and acted rationally in response to those market forces."

The brief concluded by pointing out that "healthy markets and least-cost energy supplies for consumers require quality market design and minimal out-of-market interventions. Massive subsidies like ZECs are inconsistent with market principles because they distort price signals and create an uneven playing field among competitors by shifting risk away from the ZEC-benefitting nuclear plants to the rest of the market."

ELCON Urges FERC to Rule On Excess Deferred Taxes

ELCON filed comments in January urging the Federal Energy Regulatory Commission to issue a final rule on public utility transmission rate changes to address the accumulated deferred income taxes changes brought on by the Tax Cut and Jobs Act of 2017. The American Chemistry Council and the American Forest & Paper Association joined on the Comments.

"Industrial customers seek the Commission's prompt issuance of a final rule, which already is delayed, and further Commission actions are necessary for full and timely return of ratepayer monies to utility customers, including interest charges to account for delays that already have occurred and to establish an incentive against further delays," ELCON comments said.

ELCON said "ensuring that ratepayers receive the full benefits of the tax cut is essential in order for the public utility transmission formula to be just and reasonable and not unduly discriminatory or preferential."

ELCON Tells FERC Markets Exist To Meet Consumers' Needs

In a letter cosigned by the American Public Power Association, Large Public Power Council, National Rural Electric Cooperative Association and the Natural Resource Defense Council, ELCON told the Federal Energy Regulatory Commission that "the one fundamental truth about markets: they exist to meet consumers' needs."

The letter was in response to a request by a group of merchant owners and developers of generation in a letter sent on December 6 asking the FERC to disregard its recognition in its June 2018 order that state policy goals ought to be accommodated.

"We support competitive wholesale electricity markets, and we also recognize that this is a time of significant change and re-examination of the role of these markets in a transforming power system," ELCON and others wrote. "We disagree with the claims made in the December 6 letter and offer a vision of competitive wholesale power markets that would continue to attract investment and benefit customers.

"Wholesale market rules should respect state and locally governed utility policies and resource choices without making customers pay twice for the same service. While it is clearly the Commission's responsibility to determine that the rate for wholesale power sales is just and reasonable, the Commission and the courts have long held that a market-based rate where supply and demand meet can be just and reasonable if market power is absent or mitigated.

"No buyer-side market power has been demonstrated by any of the parties in this investigation. "Accommodating" state and local utility policies by forcing customers to face the risk of paying once for the capacity obtained pursuant to state and local policies and again for resources allowed to clear in wholesale markets does not result in just and reasonable rates. It will deter states and utilities from joining or remaining in FERC-jurisdictional electricity markets, and therefore harms competition.

"For true market competition to occur, wholesale customers and suppliers should be able to come together and transact as they choose through bilateral contracts.

"Accommodating" state and local utility policies by forcing customers to face the risk of paying once for the capacity obtained pursuant to state and local policies and again for resources allowed to clear in wholesale markets does not result in just and reasonable rates.

"It is not the RTO/ISO's job to second-guess the resource and contracting decisions of load-serving entities and eligible wholesale electric customers to buy or self-supply the types of resources and services they select, and for their chosen length of time. Nor should the RTO/ISOs continue to shift the rules in a manner that serves only to increase revenues for one set of sellers."

ELCON

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For More Information Contact:

1101 K Street, NW
Suite 700
Washington DC 20005
Voice: 202.682.1390
www.elcon.org