

# ELCON REPORT

ELECTRICITY CONSUMERS RESOURCE COUNCIL

Number One

2015

**The Electricity Consumers Resource Council (ELCON) is the national association of large industrial electricity consumers. Attached is the latest edition of *ELCON Report*. Issues addressed include:**

- Concern Continues About BES Definition (page 1)
- What's Hot – Demand Response and the CPP (page 2)
- Kudos to SCOTUS for Taking on Demand Response (page 4)
- FERC's NOPR on Frequency Response Draws Praise (page 4)
- Industrials should be Concerned About EPA Rule (page 5)

## DIALOG CONTINUES ON BES DEFINITION

**E**LCON members continued to voice their concern about how activities undertaken by the North American Electric Reliability Corporation (NERC), including the new definition of the Bulk Electric System (BES) and the newly developed Critical Infrastructure Protection

(CIP) program. Several NERC staff and others active in the NERC drafting effort joined ELCON at its Seminar for a frank and productive discussion.

When NERC's drafting team first attempted to re-work the definition – a process in which ELCON Vice President John Hughes was extremely active as the only representative of industrial consumers – the fear was that large manufacturing facilities might get dragged into the BES definition and be forced to register with NERC due to the level at which they took power off the grid. The new definition as developed attempts to deal with those concerns, but the fears of ELCON members are still not entirely quashed.

Rebecca Michael, NERC's Senior Director of Reliability outlined the various criteria, inclusions and exceptions that comprise the new BES. In the question-and-answer period, several ELCON companies voiced their worries about the burdens that registration with



NERC's Rebecca Michael

NERC would present. She sought to ensure that the treatment of manufacturing facilities was a “fair process.”

As Maggy Powell of Exelon and Felek Abbas of NERC detailed, the CIP process is an ongoing saga at NERC. It is designed to secure and protect the critical electricity infrastructure in North America. Grid security is of critical importance to ELCON members, but, similar to the BES definition, ELCON does not believe that most industrial facilities need to be subject to CIP requirements.



**Maggy Powell and Felek Abbas**

Also as part of the Seminar on NERC, Patrick Brown from the Canadian Electricity Association described how Canadian provinces inter-relate to NERC and NERC standards. The situation, he said, is not entirely parallel to the US because regulation is done on a province-by-province basis and “most provinces have only a handful of utilities and IPPs.” He added that very few industrials are affected.



**Patrick Brown**



**John Hughes**

John Hughes said that “for the most part, industrial users will not be affected by the new BES definition. NERC staff understand what facilities need to be

registered in order to protect the grid. We – ELCON – accomplished most of what we wanted to accomplish. As the process moves forward, we hope that NERC continues to utilize the risk-based approach that we believe makes the most sense.”

## **CLEAN POWER PLAN AND DEMAND RESPONSE HOT TOPICS AT WORKSHOP**

**E**LCON’s Spring Workshop centered on hot topics in electricity markets, and clearly the Administration’s Clean Power Plan (also known as the CPP and the 111(d) rule) and Demand Response were the leading issues.



**FERC Commissioner Phil Moeller**

As keynote speaker FERC Commissioner Phil Moeller noted, “controversy comes naturally to FERC.” He said that the CPP was promulgated by the Environmental Protection Agency with little input from FERC, and that “EPA will decide FERC’s role.” He added that he had concerns about grid reliability being maintained since new infrastructure would be required and “building pipes and wires is very challenging,” questioning whether sufficient facilities could be added by 2020.

John Moura, who handles reliability assessments for NERC, said that the changes in the resource mix resulting from the CPP would “transform the grid.” In addition, he said that in order to meet the 80 percent emission reduction mandates for 2020, “we’re going to need more pipeline capacity.”



NERC’s John Moura

Moura allowed as how NERC disagrees with some of the assumptions EPA used to justify the CPP. One example, he said, is that EPA assumes there will be ten times more energy efficiency (EE) in 2020 than exists today; NERC expects much less.

He also noted a NERC/EPA difference on the amount of new transmission needed to accommodate the new generation from non-coal generators. NERC’s assessment concludes that at least 7,000 miles of new transmission need to be installed by 2022, adding that it can take up to 15 years to build a new 500 kV line.

NERC is reserving judgment on any specific recommendations. As Moura said, the final rule is not yet out – he wanted to know “what will it say?”

Bruce Edelston, a long-time utility advocate who is now president of the Electric Markets Research Foundation, described other problems with the implementation of the 111(d) rule. His studies of the various RTOs have shown that reserve margins are “decreasing in every region.” As he put it, “short-term markets do not provide incentives for long-term planning.”



Bruce Edelston

In the drive for a reduced-carbon generation base, different conclusions can be reached depending on the assumptions used.

Rob Gramlich of the American Wind Energy Association asserted that “even without tax subsidies, wind can be competitive.” But Charles Frank of the Brookings Institute said that his studies have emphasized that there is a need to determine the “net benefits” of using different fuels for electricity generation. His analysis showed that natural gas has the highest net benefits and solar has the lowest. But Gramlich responded that with different assumptions, “wind is most favorable.”



Charles Frank and Rob Gramlich



Left to right: David Patton, Bruce Campbell and John Shelk

John Shelk, president of the Electric Power Supply Association (EPSA) which represents Independent Power Producers and brought the lawsuit which resulted in a DC Circuit Court vacating FERC’s Order 745 on Demand Response (DR), denied that his organization was opposed to Demand Response. He questioned FERC’s formula for compensation (full LMP on a 24/7 basis) but said that “there will be a role for Demand Response,” adding that it will be different in each Organized Market.

David Patton, who is the Market Monitor in several of the Organized Markets, took a similar tack. “Demand Response is essential,” he declared, but quickly noted that FERC’s compensation proposal was “misguided” because it subsidized DR and cost consumers money. Bruce Campbell, who represented the Advance Energy Management Alliance, a pro-Demand Response coalition in which ELCON participates, said that in order to maximize DR it is necessary that “participants are paid for their participation.” He defended Order 745 and cited FERC’s plan as one which would best encourage DR.

And former FERC Commissioner Marc Spitzer noted that deciding energy policy issues was no different than deciding other issues. Spitzer, who won several elections in Arizona, observed that there is no longer any middle ground in the decision making process. Quite simply, he said, “the electorate is polarized.”



Marc Spitzer

## ELCON APPLAUDS SUPREME COURT DECISION ON DEMAND RESPONSE

ELCON applauded the Supreme Court decision to grant *certiorari* in the case of FERC v. EPSA on Demand Response. The Court’s acceptance of the case means that oral arguments will be held this fall.



The appeal to the Supreme Court was necessary when the DC Circuit Court ruled that FERC’s Order 745 on Demand Response – which stipulated that Demand Response participants should be compensated at the

full LMP (Locational Marginal Price) on a 24/7 basis – (1) was an overreach of FERC’s authority because it intruded into retail markets and (2) the compensation was too remunerative for participants.

ELCON had been a prime driver behind the promulgation of Order 745, and many ELCON members are active participants in Demand Response programs. ELCON President John Anderson lauded the Supreme Court’s decision to review the Circuit Court holding, noting that by utilizing Demand Response “we can have an electricity delivery system that is both more efficient, more environmentally favorable and, at the same time, is less costly to all consumers, large and small.”

ELCON has long been an active proponent of Demand Response and filed a brief with other groups urging the Supreme Court to accept the appeal. As a member of the pro-Demand Response Advanced Energy Management Alliance, ELCON will continue to play a leadership role on the issue.

## ELCON SUPPORTS FERC’S NOPR ON FREQUENCY RESPONSE SERVICE

“It’s a technical issue, but it’s important,” said ELCON’s Technical Vice President John Hughes describing ELCON’s support for FERC’s proposed rule on allowing the sale of primary frequency response at market-based rates.

ELCON filed comments stating unequivocally that “it supports the NOPR.” ELCON’s comments noted that the Proposed Rule “is an appropriate Commission market-based response” to a recent NERC Reliability Standard which requires Balancing Authority “to maintain a minimum frequency response obligation.”

As FERC stated in its announcement of the Proposed Rule, “primary frequency response involves the autonomous, automatic and rapid response of a generator or other resource to change its output to rapidly dampen large changes in frequency” which for reliability purposes must be roughly 60 Hertz.

Balancing Authorities can generally use their own resources to meet NERC’s new Standard, but ELCON pointed out in its comments that “there are numerous sources of supply, as most generators can provide primary frequency service” and “NERC’s new Reliability Standard will promote demand.”

“The availability of primary frequency response service at market-based rates will be especially important in those regions with horizontal market power,” stated Hughes. “By allowing new suppliers to participate in those markets we should see a more competitive, more efficient marketplace, and lower prices.”

## **CLEAN POWER PLAN NEEDS ATTENTION FROM INDUSTRIALS**

**E**LCON President John Anderson identified the Administration’s Clean Power Plan (also known as the CPP or the “111(d) rule”) as a “top concern” for industrial electricity users.

Speaking to the Kentucky Industrial Utility Customers (KIUC), Anderson reviewed the CPP’s requirement that each State achieve a 30 percent reduction in CO<sub>2</sub> emissions by 2030. Although the rule is not yet finalized – EPA has stated that a final rule will be forthcoming sometime this summer – the plan set forth includes four “building blocks”: (1) heat rate improvements, (2) environmental dispatch, (3) zero or low-emission resources, and (4) demand side energy management.

Anderson took issue with EPA’s announced analysis that electric bills will decline by roughly nine percent due primarily to energy efficiency. He cited a study done by the National Economic Research Associates (NERA) concluding that there would be a “double digit rate increase in 43 States.”

ELCON has been active in pointing out flaws and concerns with the CPP in a number of areas. One of ELCON’s primary areas of interest is the legality of the rule – does EPA, in fact, have the statutory authority to require States to virtually restructure the power industry? The second area of focus is the impact on electricity prices, jobs, and the overall economy – if the NERA’s estimates are correct, American manufacturers could be severely disadvantaged. And the third major area of concern is the impact on grid reliability – the addition of new, non-polluting generation sources will require considerable new infrastructure, mostly new transmission lines. Whether those lines can be built in time is an open question.

ELCON has filed comments, individually and with others, raising these points with the EPA. Anderson was not optimistic about Congress being able to halt the CPP, noting that even if legislation were passed it would be vetoed by the President. He was hopeful that logic would prevail, but refused to predict the eventual outcome – as he told the KIUC, “there is no crystal ball.”



**For information on ELCON:  
The Electricity Consumers  
Resource Council  
1101 K Street, NW, Suite 700  
Washington, DC 20005  
202-682-1390 / [www.elcon.org](http://www.elcon.org)**