

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

National Action Plan on Demand
Response

Docket No. AD09-10-000

Written Comments of the
Electricity Consumers Resource Council
(ELCON)

The Electricity Consumers Resource Council appreciates the opportunity to sponsor a speaker at the November 19-20, 2009 Staff Technical Conference and to offer these written comments on the October 28, 2009 report, Possible elements of A National Action Plan on Demand Response (Discussion Draft).

ELCON is the national association representing large industrial consumers of electricity. ELCON member companies produce a wide range of products from virtually every segment of the manufacturing community. ELCON members operate hundreds of major facilities and are consumers of electricity in the footprints of all ISOs and RTOs in North America that are potentially affected by a National Action Plan on Demand Response. Most ELCON members have facilities in multiple wholesale electric markets.

The Discussion Draft is one step in the Commission's efforts to comply with three directives of Congress in the Energy Independence and Security Act of 2007 (EISA) to:

1. Prepare a national assessment of the potential for demand response nationwide, and in each state, that can be achieved within 5 and 10 years;
2. Make specific policy recommendations in a national assessment of demand response potential that if implemented can achieve the estimated potential; and

3. Develop a National Action Plan on Demand Response.

The first two directives were completed by FERC in the June 2009 release of the report A National Assessment of Demand Response Potential (Assessments Report). The focus of the Discussion Draft (following the conclusions of the June 2009 Assessments Report) seems to be the identification of elements for promoting dynamic pricing of residential load. ELCON believes there may be tremendous potential for reducing the contribution to peak loads of residential class consumption and that the strategies and activities described in the Discussion Draft may encourage greater participation. However the concept needs extensive testing and demonstration, as well as buy-in by state and local officials, before any substantial investments are committed for enabling technologies. As an over-arching comment, we believe that greater attention should be focused on deploying high-value dispatchable industrial demand response that does not require substantial new investments or radical transformations of mass-market consumer behavior. We do not believe that the full potential for industrial demand response has been reached. As stated in the Discussion Draft, industrial demand response providers already have the infrastructure in place to participate. However, full participation remains hindered by regulatory barriers and the market power of entities that benefit from a lack of price competition.

ELCON companies are interested in demand response because it is environmentally responsible, it reduces the need for new generation and transmission facilities, and it improves system reliability. But we are also interested in keeping electricity rates reasonable so we can continue manufacturing in the U.S. As energy prices increase due to carbon legislation or related regulations, energy-intensive manufacturers must learn to operate differently and learn to be more flexible in their consumption of energy. That does not, however, come without cost.

Large industrials offer the most cost effective loads for all types of demand response services (e.g., reserves, ancillary services and emergency services). Industrial demand response is dispatchable and provides a resource comparable (or better) in

firmness to generation. If adequately compensated, industrials can potentially deliver large amounts of demand response while state and local regulators resolve the issues associated with encouraging demand response from retail pricing programs of residential class customers. Those issues may not be resolved for many years. As such, industrial demand response can act as a bridge to get to the more comprehensive scenarios envisioned in the June 2009 Assessments Report.

ELCON member companies participate, or try to participate, in the demand response programs of all ISOs and RTOs, and with many vertically integrated utilities in regions of the country not served by an ISO or RTO. Alcoa, for example, is participating in several markets: (1) it is the only Type 2 demand response currently participating in MISO, (2) it participates in the NYISO capacity programs and is evaluating participation in regulation service, and (3) it participates in varying degrees with other system operators.¹

To date, industrial participation in such demand response programs, though severely limited by unnecessary rules and inadequate compensation, is providing commensurate benefits to the system operators. However, ELCON members have had to expend an enormous amount of resources and time in order to participate. It is very difficult to navigate the rules and take the time to sit at the table while the rules are established. Few if any industrials can commit the resources required. Removing barriers and balancing the requirements will attract more industrial participation, while using existing enabling technologies.

We are concerned with the emphasis placed on mandatory dynamic pricing as a mechanism for achieving the “maximum” amount of demand response. Residential price responsiveness is notoriously fickle. Residential demand response does not lend

¹ Alcoa’s deployment of Type 2 (“Dispatchable”) demand response in the MISO market is a classic “glass half-full, half-empty” situation. The fact that it is the only industrial load in a heavily industrialized region of the country participating as a Type 2 load is indicative of the burden placed on loads with fast response times to simulate generation-like behavior. Dispatch quality demand response is accepted by other market operators without the need to act like a generator.

itself to being an energy/load management tool as it does for a large manufacturer. Residential demand response is going to be perceived as a sacrifice because on most utility systems it will have to target popular family activities in late afternoon and early evening hours. Certainly a major intent of the proposed national communications program is to overcome that perception. We fully expect that as the economy recovers the demand for larger living spaces and new appliances and services will return.

States and local governments should decide how best and aggressively to market optional pricing schemes to mass-market retail electric consumers. Dynamic pricing must not be a substitute for the prudent planning and operation of a utility's supply mix. ELCON is troubled that dynamic pricing may be yet another regulatory policy for shifting planning and operational risk to utility customers. If regulators' expectations for price responsiveness are not met, there may be a temptation to assume that prices/rates are not high enough and they will impose artificial measures that raise costs for all consumers.

The remainder of these comments addresses several issues posed in the Discussion Draft or by FERC staff during the November 19 conference: (1) elements missing from the National Action Plan; (2) the need for (or not) and proposed use of a national coalition; (3) technical assistance to states; and (4) tools and materials to support demand response.

1. Elements Missing from the National Action Plan

The Discussion Draft does not detail a strategy for securing the most cost effective, high-value demand response—the dispatchable loads of large energy intensive industrials. This sector provides a large single source of response, has a low cost to implement, and can be put into action rapidly. It has none of the risk associated with eliciting a passive price response. Large industrials already have expertise in load and energy management, and on-site generation. There is minimal need for a communication plan or technical assistance to states. There is still a great deal of untapped demand response in this sector and a continued effort to eliminate barriers to

load curtailment and load management utilizing existing infrastructure should not be ignored.

What is needed is the removal of existing barriers to full deployment of industrial demand response. The Commission made some attempts to do so in Order No. 719 but did not go far enough because too much discretion for implementation was delegated to ISOs/RTOs. The barriers that remain include:

- Equal Access - Loads should have equal opportunities to provide all Electricity Market products such as Energy, Capacity and Ancillary Services;
- Compensation - Loads that deliver Electricity Market products equal to those provided by generation should receive compensation equal to that received by generation, i.e. the full LMP;
- RTO Stakeholder Process - Loads (i.e., the demand side) do not have sufficient votes to move rules that facilitate load participation in the markets. Loads pay 100% of the bills, but get a small percentage of the vote; and
- Lack of Uniform Rules/Procedures - The physics of the grid do not change from region to region, although the products and opportunities for load participation can differ significantly from one region to another. The lack of demand response rule uniformity among regions effectively increases costs to all load by perpetuation of barriers and/or arbitrage opportunities.² RTOs and utilities should adopt reasonably uniform rules for metering,

² Such arbitrage opportunities can be put in context with Alcoa's situation as the sole Type 2 provider in MISO. Given that there is minimal load participation in the MISO spinning reserves market, generators can offer all their generation into the energy markets (Day Ahead and by default the Real Time market) and effectively set the price of spinning reserves. The markets (DA, RT and spin) clear in a short duration (i.e., market "knowledge" increases) and price trends emerge quickly over the course of a few days. By shifting their product from one market to another, the price of spin can be set to what the generators "agree" to make it. And as far as MISO operators are concerned, the demand curve never moves. By having load participation, there is an economic value (i.e., cost vs. price) put to spin that is missing. For this reason, spinning reserves costs less in PJM than MISO.

communications, settlement and billing to optimize the efficiency at which demand response is deployed and minimize barriers to further participation.

The Discussion Draft also does not sufficiently propose strategies and activities for engaging the entities with a direct commercial interest in demand response, such as demand response service providers, brokers and marketers, and equipment and software vendors. These entities should have a larger role in implementing a National Action Plan.

2. Need for and Use of a National Coalition

ELCON questions the value of a national coalition to spearhead a national communications program. Absent congressional authorization, coalitions are not accountable to any agency or organization and tend to be dominated by entities with the greatest political or commercial interest in the outcome. The consumer side has less time or inclination to devote to such coalitions. Coalitions almost always form for the purpose of collective action, and it is unreasonable to assume that supply-side interests (e.g., generators) and consumer interests share the same perspective on demand response.

Coalitions already exist for advancing various aspects of demand response. They primarily lobby for the interests of utilities and equipment and software vendors. If the Commission deems a coalition as an essential element of the National Action Plan, it makes sense to recycle one or more of the existing coalitions (and some have offered to do so) since the members of existing coalitions will inevitably dominate any new coalition. However, these coalitions represent only the views of its members, and their views must not be treated as representative of all stakeholders. We believe it is neither possible nor practical to establish a coalition that can articulate the consensus views of all industry stakeholders on an issue such as demand response.

Even if, for the sake of argument, a national coalition is established that is balanced among all stakeholders, it is nearly impossible for such a group to reach consensus on a timely basis. We fear that forcing a broad stakeholder process within a

“coalition” can easily become a roadblock to progress and defeat the purpose of any communications program. From our consumer perspective, we believe that such a coalition would be a dangerous entity to task with developing rules, protocols or metrics associated with demand response. These matters can only be properly vetted by formal adjudication by the appropriate regulatory bodies.

Finally, if a new coalition is formed, it should be assured that consumer interests dominate. Demand response is a consumer-based tool, and it should not be beholden to traditional industry interests and prejudices.

3. Technical Assistance to States

The Discussion Draft seeks comment on the need to provide a venue for federal, state, and local leaders, as well as key stakeholders, to discuss carrying out the National Action Plan. ELCON believes that a relevant national forum already exists in the form of the NARUC-FERC Interactive Demand Response Collaborative. This group could be used to help implement the National Action Plan, or provide advice on how to do so. The group should decide how frequently to meet. Participation should probably be limited to state and federal regulators.

ELCON supports the need for informational and educational sessions for state and local policymakers and regulators on the broader issue of demand response, but not a major effort to sell only the alleged merits of dynamic pricing. These efforts should be provided on an on-going basis, because the average tenure of a utility regulator is relatively short and new regulators are not always elected or appointed with the requisite technical expertise. We also support using existing regional organizations to fulfill this activity.

There is a long history of federal assistance to states on various regulatory matters, especially the development of tools and materials. The US Department of Energy (DOE) is usually the provider of such resources. ELCON supports the formation of a demand response assistance program to help states adjudicate voluntary tariffs not just for dynamic pricing but all forms of demand response. Existing funding

mechanisms at DOE are a suitable model for providing such assistance, provided that there are no pre-conditions attached to accepting such assistance. DOE has also provided funding for prospective innovations in the energy field. Innovations associated with demand response should be part of this mission. Needless to say, it is also necessary that Congress is willing to provide funding.

The Discussion Draft proposes to develop a “panel of demand response experts” that would be used to enhance the “knowledge, skills, and attitudes of stakeholders regarding demand response programs, technologies, markets, statutes and/or ordinances, benefits and economics.” We believe that numerous experts on demand response and dynamic pricing already exist, and they have authored an enormous library of written resources on the subject matter. It is important that a single government agency or political administration not have the authority to decide who the experts are or what the experts’ message should be.

4. Tools and Material Related to Demand Response

ELCON supports the development of tools and processes for demonstrating the value and benefits of the full range of voluntary demand response measures. The emphasis should be on improving existing programs and maximizing the deployment of low-cost, relatively low-tech infrastructure. This activity should be a high priority in the National Action Plan.

ELCON supports the development of consistent, flexible guidelines and protocols for demand response across the 48 states with the objective being that industrial demand response providers have the same opportunities in different regions. Traditional forms of demand response such as load curtailment that can be implemented with existing technologies should be targeted first. The guidelines and protocols should be enforced by FERC in wholesale markets and by state and local regulators in retail markets. ELCON is not convinced that NAESB is the appropriate venue for developing standards. This should be a high priority in the National Action Plan.

ELCON supports pilot programs for non-traditional forms of demand response to test the merits of such measures. This should be a medium priority in the National Action Plan.

In conclusion, ELCON applauds the attention being given to demand response as part of the solution for achieving a least-cost utility resource mix. We believe industrials have more to offer with high-value dispatchable demand response -- with the proper incentives, industrials can act as a bridge to the future where all consumers have the opportunity to participate. Dynamic pricing is not the only solution. We are wary of establishing a new national coalition and its ability to produce unbiased solutions in an expeditious manner.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C.: December 4, 2009

/s/ W. RICHARD BIDSTRUP
W. Richard Bidstrup