



ELCON: THE ADVOCATE FOR MANUFACTURERS WITH ON-SITE GENERATION

ELCON was created in 1976, when several manufacturers watched as Congress began to draft a comprehensive energy package that eventually became the Public Utility Regulatory Policies Act (PURPA). During the legislative process, they realized that congressional action could impact their operations directly. In order to best influence Congress, these manufacturers decided to start a new association representing their interests as both large electricity consumers and on-site generators. For over thirty years, ELCON has been the major advocate for industrial facilities that have on-site – or behind-the-meter – generation. ELCON has performed that function before Congress, as an intervener as FERC, as a participant in the North American Electric Reliability Council (NERC), in the “Organized Markets,” and other forums as appropriate.

Before Congress

In the early 1980s, investor owned utilities began their efforts to repeal Section 210 of PURPA, guaranteeing that utilities must buy power from industrial cogenerators and must sell those cogenerators back-up, stand-by and maintenance power at just and reasonable rates. ELCON was a consistent voice opposing the utilities, and testified to the virtues of PURPA on numerous occasions.

When Congress began consideration of what eventually became the Energy Policy Act of 2005 (EPAct05), ELCON helped to organize a coalition of ELCON members and others, primarily in the chemical, paper and oil refinery industries, opposing repeal of Section 210. The ultimate result was compromise language making repeal of Section 210 contingent upon FERC finding that competitive markets existed for the sale of cogenerated power (sometimes called Section 210(m)).

ELCON was also supportive of the provisions in Energy Independence and Security Act of 2007 providing for incentives for the capture of waste heat to produce electricity at industrial facilities, and ELCON has worked with EPA and DOE on the ongoing implementation of that program.

ELCON continues to promote Combined Heat and Power (CHP) before Congress. As recently as February 2009 ELCON President John Anderson raised the issue in his testimony before the House Subcommittee on Energy and the Environment.

Before FERC

In 2006, as FERC began its deliberations to implement Section 210(m), ELCON and ELCON members met with each of the FERC Commissioners and the senior staff working on this issue. ELCON strongly opposed FERC’s original proposed rule, which held that utilities operating in of the four FERC-approved Organized Markets *de facto* deserved to be relieved of their PURPA obligations

ELCON did not believe that the proposed rule was consistent with congressional intent, and, working with others who had helped draft Section 210(m), ELCON succeeded in having several of the congressional sponsors of the amendment write to the FERC commissioners, expressing their disagreement with FERC’s interpretation.

Later in the year, FERC issued a final rule stating that, while any utility in a FERC-approved Organized Market could be relieved of its PURPA obligations upon petition, it was only a “rebuttable presumption” and

any cogenerator who believed it did not have access to a competitive wholesale market could challenge that finding. ELCON called these changes a “significant improvement.”

As recently as April 2009, ELCON raised the PURPA/cogeneration issue with FERC Chairman Jon Wellinghoff when he addressed ELCON’s Spring Workshop. Chairman Wellinghoff responded that he understood that FERC’s rule did not encourage cogeneration and that he might consider a review of the issue.

Before NERC

As part of EPAct05, FERC was directed to name a national Electric Reliability Organization to develop and enforce mandatory reliability standards for the bulk power system. Early in 2007, FERC named the North American Electric Reliability Corporation (NERC) to fill that role.

One of NERC’s first tasks was to figure out which facilities would be subject to its standards. The statute had imprecise language, so NERC began to develop a Compliance Registry. In the early stages of preparing the Registry, there was disagreement within NERC, as some staff wanted to include virtually every facility – utility and non-utility – that generated any electricity. Obviously, that would have included hundreds, and possibly thousands, of industrial facilities with on-site, behind-the-meter generation. At some of these facilities the manufacturer also owns small amounts of transmission, raising the possibility that it could be listed as both a generator and transmission owner, making it subject to many burdensome standards that, in reality, are drafted to affect utilities.

ELCON staff serve on a number of NERC committees and task forces, and they pressed to ensure that only industrial facilities whose generation and transmission could have a “material impact” on the grid were included on the Compliance Registry.

There were many test cases. One ELCON member found itself listed on the Registry, even though it had no generation. ELCON helped negotiate its removal. Several small industrial facilities in Florida were listed, and, after ELCON’s objection and intervention at FERC, the registration requirement for those facilities was withdrawn.

ELCON continues to assist its members who find their facilities listed on the Compliance Registry.

Before the Public

ELCON, ELCON members, and ELCON staff raise the issue of behind-the-meter generation, and the related issue of Demand Response, in a variety of forums. ELCON President John Anderson has included the issue in his presentations to the National Association Regulatory Utility Commissioners (NARUC). ELCON Vice President Marc Yacker helped maintain a generally favorable position taken by the National Association of Manufacturers when the NAM Energy Committee was asked to reconsider its support of CHP. And ELCON has pressed PJM to retain its program to encourage Demand Response, recognizing that many facilities rely on their on-site generation when they draw less power from the grid during periods of peak demand.

Conclusion

Over half of ELCON’s members have some sort of on-site generation. How that generation is treated – by Congress, by FERC, by NERC and by the Organized Markets – is vitally important to those members. That is why issues involving behind-the-meter generation are an integral part of ELCON’s day-to-day operations.