



## Electricity Markets In Transition What ELCON Is Doing

For years, energy managers for large manufacturing companies realized that purchasing electricity was different from other purchasing functions. While other commodities – from paper clips to the largest production equipment – were purchased on a competitive basis, buying electrical power was still done in a marketplace subject to strict local and federal regulation.

In the early 1990's, several manufacturers, primarily operating under the aegis of ELCON, the national association of large industrial end users of electricity, began to advocate more competitive wholesale and retail electricity markets. Before Congress, FERC, and state legislatures, ELCON and ELCON members pushed for markets where electricity consumers could choose from whom to buy power – a choice that would be based on price, reliability, and other factors that end users sought from power suppliers.

That objective has been partially achieved. At the retail level, over twenty states allow some sort of customer choice, though in reality the ability to choose has often been hampered by political decisions including price freezes, the imposition of additional costs for the recovery of utilities' stranded costs, or other anti-consumer provisions. Partially for these reasons, most states there is a dearth of non-utility energy suppliers offering to sell power. Competitive wholesale markets are proceeding in many regions but, without customer choice, the benefits are often not realized by consumers.

The market is in transition and likely to remain there for a considerable period of time. What should an energy manager do?

In fact, this so-called "transition" phase has made it even more necessary for electricity consumers – and industrial end users in particular – to take an activist role at FERC and before Congress. The effort to achieve competitive – and less costly – markets is not over. There are a plethora of sub-issues being debated that will affect the way electricity is bought and sold – issues that ultimately also affect the price consumers will pay.

### AT FERC

**Standard Market Design:** Consistent, "standard" rules throughout the nation generally make it easier to buy and sell power. But some rules, such as a reliance on locational marginal pricing (LMP), work to the detriment of large buyers. *ELCON's Objective* -- Work to keep the process going, but oppose inclusion of anti-consumer provisions.

**RTO Development:** A non-discriminatory transmission grid is the lynchpin for wholesale and retail competition. The formation of large, independent RTOs (and ISOs) will make for a more open transmission grid. *ELCON's Objective* – Support RTO development that is consistent with more open markets.

**Demand Response:** Too often the concept that an MWh of reduced demand is equivalent to an MWh of increased supply is forgotten when the electricity is taxed at near capacity. Many (certainly not all) industrial facilities are capable of reducing consumption during times of peak demand.

***ELCON's Objective*** – Treat – and compensate – reductions in electricity consumption at a rate comparable to rates accorded increased power generation.

**Behind-the-Meter Regulation:** In several proceedings, FERC, state commissions and RTOs have attempted to regulate, in one form or another, on-site generation operated in conjunction with an industrial facility. Such regulation includes assessing fees (for RTO operation or other purposes) on a facility's gross load, rather than on that part of the load reliant on grid operation. ***ELCON's Objective*** – Ensure that FERC, state commissions and RTOs do not regulate or assess fees based on a company's total load if such load includes on-site, "behind-the-meter" generation.

## **BEFORE CONGRESS**

**Market Power/PUHCA:** Utilities have sought to repeal the Public Utility Holding Company Act (PUHCA) almost since its enactment in 1935. Yet PUHCA, the only federal consumer protection statute for electricity users, has survived. Its repeal would likely result in an increase in utility mergers and diversifications, reducing the number of competitors, increasing the potential for market power abuse, and potentially increasing prices by allowing a utility to use revenue from its power sales to fund or subsidize expansion into other, non-core business pursuits. ***ELCON's Objective*** – Oppose PUHCA repeal until competitive markets are in place. At the very least, insist on strong consumer protection language on market power abuse if PUHCA is repealed.

**Transmission Incentives:** Utilities have claimed that legislatively mandated incentive rates are necessary to encourage them to build new transmission or upgrade existing facilities. Similarly, they have been pushing for legislation to mandate that FERC utilize "participant funding" for all new transmission, even though such an inflexible approach might actually retard the building of new transmission. ***ELCON's Objective*** – Rates of return (for transmission and other projects) should be commensurate with the risk at hand. For low-risk transmission expansions, especially in areas of under capacity, no incentive should be needed. In addition, to hamstring FERC in its analysis of funding allocation for new transmission projects cannot possibly result in more, lower priced transmission. ELCON opposes mandated incentive rates and mandated participant funding.

**Renewable Portfolio Standard:** Environmentalists and others have continuously proposed that each supplier of electricity use a legislatively mandated percentage of power from renewable energy sources (definitions vary). Since renewable energy at present is more costly than conventionally produced power, such an imposition would raise rates for end users. While many states have renewable energy requirements, Congress has not yet enacted such a mandate. ***ELCON's Objective*** – Continue to oppose mandated renewable energy standards as non-economic and anti-competitive.

**Cogeneration/PURPA:** Since the enactment of the Public Utility Regulatory Policies Act (PURPA) in 1978, utilities have objected to the provisions requiring them to buy cogenerated power (and power from other alternative power producers) and supply power to cogenerators for back-up purposes. Many ELCON members produce power on-site and, absent competitive markets, need the PURPA guarantees in order to have equal footing in dealing with utilities. ***ELCON's Objective*** – Maintain the PURPA guarantees now in place until there are truly competitive wholesale and retail markets. Such favorable language was passed by the House and Senate in 2003 (this language was not enacted into law, thus allowing the guarantees in present law to remain in place).