UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Electricity Market Design and Structure	Docket No. RM01-12-000

Comments of The Electricity Consumers Resource Council On Options for Resolving Rate and Transition Issues in Standardized Transmission Service and Wholesale Electric Market Design

The Electricity Consumers Resource Council (ELCON) respectfully submit these preliminary comments on issues identified in the Commission's working paper, *Options for Resolving Rate and Transition Issues in Standardized Transmission Service and Wholesale Electric Market Design*, issued April 10, 2002.

The issues in the paper generally involve embedded cost recovery under the proposed new Network Access Service, as well as transition issues involved in moving to one tariff for all service. Specifically, the issues discussed in this paper are:

- The manner in which embedded costs of the transmission system will be recovered;
- The transition of customers under existing contracts to the new service;
- The manner in which transmission rights will be allocated among customers; and
- Long-term generation adequacy.

1. Manner in Which Embedded Costs of the Transmission System Will be Allocated

The Commission proposes to blend network, firm point-to-point, and non-firm point-to-point service into a new Network Access Service that could be purchased by load serving entities as well as non-load serving entities. LMP is proposed to manage congestion. An access charge would be used to recover the embedded costs of the system. However, Network Access Service would differ from the existing pro forma services in that both current point-to-point and network customers would receive the same service. This may necessitate a change in the methodology for recovery of embedded costs.

There are three main issues in designing the access charge, each with several options. Each of these issues is a separate question and the preference for a particular option on one question should not determine the preference on another option.

(1.) *Who pays the access charge for deliveries within the transmission provider's system?*

Option 1: Access charge applies to anyone that schedules deliveries within the transmission provider's system, whether it be an import, service between a receipt and delivery node in the system, or purchases of power by load from the energy markets.

Option 2: Access charge is paid only by customers that take power off the grid.

Option 3: Payment of access charges and the receipt of Transmission Rights, or the auction revenues from those rights, would be linked together.

ELCON Position: ELCON supports Option 2, *i.e.,* the access charge is paid based on the location of the load because this option minimizes the potential for rate pancaking. This option also facilitates license-plate rates as a transition mechanism.

(2.) *Should the access charge apply to exports and wheel throughs?*

Option 1: The access charge would apply to these transactions.

Option 2: The access charge would not apply to these transactions.

Option 3: The access charge would not apply to individual transactions, but there would be an annual revenue adjustment.

Option 4: A lower access charge would apply to exports and wheel throughs than for deliveries within the transmission provider's system.

ELCON Position: ELCON supports Option 2 because is also avoids so-called rate pancaking. This position assumes that large, competitive regional markets have been established and they really do work for the benefit of customers. The elimination of rate pancaking promotes long-distant wheels and adds to market liquidity. We oppose Option 1, a form of so-called "participant funding," because it will (1) perpetuate rate pancaking, and (2) create an entry barrier to new generation and thus protect incumbent generating assets from competition. The fact that some new merchant generators may have located new facilities "in the wrong places" reflects the absence of a credible region planning process that RTOs are intended to correct. Options 3 and 4 also perpetuate rate pancaking.

(3.) *Is the charge billed based on peak load or actual usage?*

Option 1: Use monthly peak load for billing the access charge.

Option 2: Use annual peak load for billing the access charge.

Option 3: Bill the access charge for each MWh used.

ELCON Position: ELCON generally supports Option 1 because it best reflects the principle of cost causation, and unlike Option 3, sends a strong economic signal to shift load from peak to off-peak hours and thus maximize the utilization of the system.

2. Transition of Customers Under Existing Wholesale Contracts and Bundled Retail Customer Load to Transmission Service Under the Revised Pro Form Tariff

When a standard market design is implemented, there will need to be a transition process in place so that most, if not all, of the transmission provider's customers will be taking service under the new standard market design tariff. The standard market design will apply both to service within an RTO as well as service on systems that are not part of an RTO. A transition process will be needed in both cases.

Option 1: All service occurs under an open access transmission tariff at the time standard market design is implemented.

Option 2: Convert all customers taking bundled retail service upon implementation of standard market design and provide strong incentives for customers under existing contracts to convert.

Option 3: Allow regional variations.

ELCON Position: ELCON supports Option 2 because it would place all customers taking bundled retail service under the same revised tariff as other users of the system not otherwise taking service under existing wholesale contracts. ELCON does not support the abrogation of contracts. The Commission should, however, encourage those customers to convert to service under the revised tariff à la Order No. 636.

However, ELCON is concerned that the approach used in Order No. 636 in natural gas industry restructuring may not apply to the electric industry because of the central role of congestion management in the Standard Market Design (SMD). The implementation of an LMP-based congestion management regime will produce significant cost shifts and this will likely discourage the conversion of physical rights under existing contracts into financial rights

under the SMD. If that is the case, we believe that the SMD may fail as a platform for a competitive electricity industry because a liquid and robust secondary market for transmission rights will not emerge as long as those contracts are in effect.

3. Allocation of Transmission Rights Among Customers

There are two related issues associated with the allocation of transmission rights, each with multiple options:

(1.) *Should historical customers get the initial Transmission Rights?*

Option 1: Convert existing customers' usage to the initial Transmission Rights.

Option 2: Give all customers that pay access charges the same rights to Transmission Rights.

ELCON Position: ELCON supports Option 1 because it best preserves the rights of existing customers (loads).

(2.) *If existing customers are given the initial conversion rights, how should Transmission Rights be allocated?*

Option 1: Assign rights based on existing contract rights and historical usage.

Option 2: Auction Transmission Rights and assign the auction revenues based on existing contract rights.

Option 3: Partial allocation and auction.

Option 4: Allow regional variation.

ELCON Position: ELCON generally supports Option 1 with an important distinction for unbundled and bundled retail loads. Specifically, ELCON supports giving unbundled retail customers the right of first refusal for the allocation of transmission rights based on historical usage. If they choose to decline, the transmission rights would be auctioned (as would transmission rights associated with bundled retail loads). In either case, the congestion revenues return to the loads. Even if loads are guaranteed transmission rights under Option 2 (by bidding high in the auction), this approach is superior to Option 2 because it eliminates potential cash-flow problems if the crediting of auction revenues lags the auction payment.

4. Long-Term Generation Adequacy

There are several different approaches that could be used to design the forward-looking supply obligation. The SMD would apply to transmission systems that are part of an RTO as well as to transmission systems that have not joined an RTO. The options below address whether the same approaches should be used in both instances, or whether different approaches should be used.

> *Option 1: Rely on energy prices and information on projected supply/demand situation.*
>
> *Option 2: Require a regional supply obligation.*
>
> *Option 3: Require a regional capacity obligation.*
>
> *Option 4: Impose a supply obligation on load serving entities only if projected reserves fall below a trigger level.*
>
> *Option 5: Capacity obligations for operating reserves only - forward reserves contracts.*

ELCON Position: ELCON supports Option 1. However, this presumes a liquid and robust forward market for *delivered* generation at competitive prices. Unfortunately, there is no evidence that a SMD based on a centralized bid-based market will deliver this outcome. We note that Option 1 implicitly retains state authority to set reserve requirements on jurisdictional load serving entities.

ELCON opposes Option 2 because the outcome of any multi-state compact on a "regional supply obligation" is likely to reflect the wishes of the most risk-averse state within the region, and this may impose an undue economic burden on all consumers within the region. ELCON takes a strong position in opposition to installed capacity requirements or variants thereof (Options 3, 4 and 5). There is almost universal agreement (the exception being the views of generators) that capacity markets do not seem to work or, at least, there is no evidence from anywhere here or abroad that they can be made to work. They are simply a mechanism for generators to charge twice or more for the same electricity.

Respectfully Submitted,

John A. Anderson

Dr. John A. Anderson
Executive Director
Electricity Consumers Resource Council
1333 H Street, N.W., West Tower, Suite 800
Washington, DC 20005
Voice: 202-682-1390
Email: janderson@elcon.org
jhughes@elcon.org

Dated: May 1, 2002