

**UNITES STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Conference of RTO Interregional
Coordination

Docket No. PL01-5-000

**Reply Comments of
The Electricity Consumers Resource Council
(ELCON)**

Once again ELCON compliments the Commission for hosting the June 19 technical conference on Function 8 “seams” issues. With the possible exception of “independence,” no issue is more important for ensuring that RTOs are properly structured and implemented. These reply comments address the opinions of several speakers at the conference and other parties wishing to preserve the status quo or oppose the Commission adopting a more activist role in guiding industry efforts toward greater interregional coordination.

A. Existing Collaborative Processes are Ill-Suited to Resolving Seams Problems

Most of the organizations represented in the first panel believe that ongoing collaborative processes are adequately addressing Function 8 and that FERC need not interfere with those processes. ELCON strongly disagrees.

An original intent of the December 15, 2000 Motion to Convene a Technical Conference on Interregional Coordination was to highlight the fact that there exists no

guidelines for proper compliance with Function 8.¹ Hence any existing collaborative process is groping in the dark. Seams problems (especially within the Eastern Interconnection) will never be resolved without some greater level of coordination among those disparate efforts.

Existing collaborative processes are also not sufficiently inclusive to represent broad industry (or regional) consensus. The pace and substance of these so-called collaborative processes are dictated almost exclusively by transmission owners and, therefore, the outcome of these efforts will almost surely advantage the transmission owners and their commercial interests to the disadvantage of other market participants.

What should be done and who should do it? Seams problems are created by existing FERC regulations and NERC operating policies that are inconsistent with the operating and commercial practices implemented on a unilateral basis by each existing ISO or soon to be implemented by new RTOs. Seams problems are also created by deference—that is, FERC or NERC deference of its authority to ISOs and RTOs, and to some extent, NERC deference to Regional Reliability Councils. FERC rules and regulations, NERC operating policies, and ISO/RTO operating and commercial practices must be rewritten and standardized. Ideally, both FERC and NERC should jointly resolve seams issue. But as a practical matter, only FERC is capable of taking action to ensure that commercially significant seams problems are eliminated. As discussed below, NERC is presently incapable of providing the forum and process for the development of industry consensus standards.

¹ Joint Motion of Electricity Consumers Resource Council (ELCON), Electric Power Supply Association, Enron Power Marketing, Inc., Reliant Energy Power Generation, Inc., and Dynegy Inc. to Convene a Technical Conference on Interregional Coordination, Docket No. RM99-2-000, December 15, 2000.

B. FERC Should Provide Industry Guidance on the Development of Consensus Commercial Practices

An issue that many parties at the conference addressed was the competition between NERC and GISB to provide the forum and process for the development of industry consensus commercial practices. Commercial practices with potential reliability consequences are presently developed by NERC. NERC is owned and funded by ten autonomous Regional Reliability Councils (RRCs) with different governance structures. Representation on each of the three NERC standing committees is evenly divided between Transmission Providers (TPs) and Transmission Customers (TCs). TPs are exclusively utilities. Some TCs are also utilities or utility affiliates. Hence, NERC's voting structure is biased in favor of the TPs.

The Transmission Providers have a mindset that is generally anti-market and anti-competition. In part, this results from the fact that transmission engineers of utilities in "open" states are under-represented compared with their peers from utilities in "closed" states. In many "open" states, transmission is under the operational control of an ISO which replaced several utilities. This has prevented NERC from championing the cause of fair and non-discriminatory commercial practices. The TPs have successfully vetoed efforts to remove the commercial advantage associated with certain NERC Operating Policies. This has fueled interest by many market participants to seek an alternative forum for the development of commercial practices (e.g., the Energy Industry Standards Board proposal by GISB).

ELCON believes that FERC has jurisdiction over any commercial practice involving the operation or use of the interstate transmission system. It is critically important that to extent FERC continues to rely on the "industry" to develop consensus

commercial practices, that FERC articulate the basic and fundamental requirements for reaching such a consensus. The main difference between the NERC and GISB models is voting structure. GISB is clearly a more open industry process with balanced representation by industry segments. NERC is not. However, it may be easier to change NERC's voting structure than to create a new organization.

FERC can do one of several things. It could establish minimum requirements for reaching consensus commercial practices and let industry participants decide which forum to host this effort (i.e., NERC or GISB). FERC could also direct NERC to change its voting structure. Or FERC could endorse GISB as the appropriate forum for the future development of electric industry commercial practices.

Respectfully submitted,

The Electricity Consumers Resource Council

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