

# ELCON *PRESS RELEASE*

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## ***ELCON ASKS FERC FOR REHEARING ON RELIABILITY ORGANIZATION ORDER***

ELCON today requested that FERC reconsider the Commission's Order establishing the National Electric Reliability Corporation (NERC) as the statutorily directed Electric Reliability Organization (ERO).

ELCON based its request on the assertion that an agency such as FERC "must not subdelegate its ultimate regulatory authority without specifying objective criteria to guide the private entity." Moreover, ELCON noted that "FERC improperly continues to defer resolution of the key threshold issue – the definition of the jurisdiction term 'user' of the bulk power system."

John Anderson, ELCON's President, explained that "FERC has named NERC the national electric reliability organization – that was no surprise. But FERC cannot abrogate its own responsibilities by giving NERC total discretion to decide who is subject to the registration requirements of NERC's Compliance Registry. As it stands, every manufacturing facility in the country may be exposed to these requirements."

ELCON's filing stated that "FERC's delegation of authority to NERC to implement an interim bulk power user registration requirement violates the subdelegation doctrine due to the lack of pre-established objective criteria." It goes on to say that "the problem is FERC's failure either to articulate objective criteria or to require that NERC adopt pre-established objective criteria."

ELCON is particularly concerned that many manufacturing facilities will unwittingly be included in NERC's Compliance Registry and thus be subject to a multitude of burdensome requirements regarding worker training, site inspection, and, possibly, even the security of internal corporate email systems. In fact some manufacturing facilities have already been notified that they are on NERC's Compliance Registry.

ELCON's request urged FERC to "adopt a definition of user that excludes entities unlikely to have a material impact on reliability." In addition, the filing noted that manufacturing facilities are retail customers, subject to state regulation. The statute states "facilities used in the local distribution of electricity energy" are excluded from the definition of the bulk-power system. Therefore, ELCON concludes that "the statute does not apply to users only of local distribution facilities" such as industrial customers.

"Reliability of the grid is of paramount importance to industrial customers – after all, America's manufacturers suffered billions of dollars in lost sales and lost product during the August 2003 blackout," said Anderson. "We do not want a repeat of that event. But FERC and NERC need to focus their attention and resources on those entities that can have a real impact – a material impact – on the grid. FERC's July Order will not accomplish that. That is why we are asking FERC to re-examine the issue and make a new determination."

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ELCON, established in 1976, is the national association of large industrial users of electricity from virtually every manufacturing sector. ELCON members seek a reliable supply of electricity at competitive prices and have long supported federal and state efforts to achieve that objective. More information about ELCON, including a copy of this filing, is available at ELCON's website, [www.elcon.org](http://www.elcon.org).