

# ELCON PRESS RELEASE

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## *ELCON SEES “MUCH TO COMMEND” IN FERC’S PROPOSED RULE ON MARKET-BASED RATES*

“Market power abuse – the ability of one or several market participants to unfairly manipulate price to the detriment of consumers and other market participants – is by far the greatest problem consumers face when dealing with the electricity markets,” stated John Anderson, president of the Electricity Consumers Resource Council (ELCON), commenting on FERC’s proposed rule on the ability of utilities to offer market-based rates for electricity in wholesale markets. “Today’s electricity markets are in various stages – mostly unsettled -- of restructuring, but market power abuse continues to be a problem, and in some regions, the potential for abuse has gotten worse.”

In comments filed at FERC yesterday, ELCON noted that “there is much to commend” in FERC’s proposed rule. But ELCON observed that there is a “crisis of confidence” among electricity consumers and recommended to FERC “that the Final Rule in this proceeding not be used to defend markets that have failed to benefit end-use consumers, but be part of a larger effort to take stock of the flawed markets and to begin a process that restores confidence in them.”

ELCON’s comments reflected special concern over “hybrid” markets that combine both regulated and unregulated features in the same region. FERC’s proposed rule might be beneficial in either regulated or fully competitive markets, ELCON stated, but in a hybrid market “the ability of large utility holding companies to have one foot in ‘competition’ and another in ‘regulation’ creates a myriad of potential problems that are not easily solved.” Among the solutions ELCON offered for such utilities operating in several markets was that FERC suspend the “right of any seller that can exercise market power to sell at market-based rates in all markets it can access.” In its comments on FERC’s proposals, ELCON also recommended:

- The Commission’s test for generation market power should eliminate any benefit of the doubt now given to sellers. ELCON said that present policy shifts “the burden of proof to potential victims” which it believes is unfair.
- The Open Access Transmission Tariff (as modified) “should not be presumed to adequately mitigate transmission market power.” Rather, ELCON requested that “transmission market power be the subject of a new rulemaking.”
- The proposed rules would prohibit sales between a franchised public utility and any of its non-regulated affiliates without first receiving FERC approval. ELCON pointed out that affiliate power sales can have an adverse impact on “captive customers” – which it defined as “any end-users that do not have real competitive opportunities.” In addition ELCON supported FERC’s proposal to require a uniform Code of Conduct to govern interaffiliate power sales.

“Industrial electricity users are generally pleased that FERC recognizes the severe problems that exist in today’s electricity markets,” Anderson said. “These problems won’t be solved overnight, but FERC has taken several positive steps.”

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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).