

ELCON PRESS RELEASE

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ELCON SAYS: FERC'S PROPOSED PURPA RULE INCONSISTENT WITH STATUTE

“Last year’s Energy Policy Act established specific criteria that must be met for utilities to be relieved of their purchase and sale obligations under PURPA. Those criteria are not being met anywhere in America – not in Organized Markets, not in non-Organized Markets. Therefore the mandatory purchase and sale obligations that utilities have faced under PURPA should continue to exist,” said John Anderson, president of the Electricity Consumers Resource Council (ELCON) in response to FERC’s proposed rule on the Public Utility Regulatory Policies Act (PURPA) released yesterday.

“FERC is taking an Alice-in-Wonderland approach to this issue,” continued Anderson, “where words mean what FERC wants them to mean, nothing more, nothing less. Unfortunately what FERC is proposing is inconsistent with the statute and with Congressional intent.”

Many ELCON members cogenerate, noted Anderson, and own Qualifying Facilities (QFs) under PURPA, often selling power generated on-site to utilities. “The electricity generated on-site by America’s manufacturers is produced more efficiently than that produced by utilities and is much more beneficial from an environmental perspective. This was why the original PURPA required FERC to ‘encourage cogeneration’ – and that provision was not changed by the 2005 Act. This proposed rule would in fact discourage cogeneration, and I don’t see how FERC can argue to the contrary. This proposed rule runs counter to statute, good policy, and common sense.”

Anderson also stated that “when the language to amend PURPA was considered, and first approved, in the 107th Congress, there was debate about whether any of the markets then in operation – and that certainly included PJM – met the criteria imposed by the new language. It was generally agreed that no market then operating fully met the new standards, and I don’t see what has changed”

Anderson emphasized that ELCON agrees with the statute’s intent that PURPA obligations will not be necessary when truly competitive wholesale and retail markets are established. “The obligation of a utility to purchase power is necessary until there are competitive wholesale markets,” he explained, “and Congress did its best to define competitive markets. It stated that each market must include several features, and I don’t see any market that meets all of them as the new law requires. And each utility’s obligation to provide back-up and maintenance power is contingent on a having supplier options in the retail market. Even the states that are attempting customer choice have not achieved that. And most of the states in MISO have not even passed legislation purporting to allow open access in retail markets.

“FERC has promoted each of the Organized Markets, and it now has a vested interest in demonstrating their benefits,” said Anderson. “But cogenerators know that, without the original PURPA guarantees, cogeneration will be discouraged. FERC can travel to Wonderland and proclaim the competitive benefits of these Markets, because that is the only way FERC’s proposed rule on PURPA and cogeneration makes any sense at all. But those of us in the real world know differently.”

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ELCON, established in 1976, is the national association of large industrial users of electricity from virtually every manufacturing sector. Many ELCON members are also cogenerators. 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 is available at ELCON’s website, www.elcon.org.