

***ELCON's Comments on the Development of  
NAESB's Wholesale Electric Quadrant  
April 25, 2002***

The Electricity Consumers Resource Council (ELCON)<sup>1</sup> offers the following comments on the establishment of segments for the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB).

***Summary of Comments:***

ELCON believes that the definition of segments is one of the most important aspects of establishing the WEQ. All standards in the future will be approved by segment votes. In fact, the composition of the leadership of NAESB (the Executive Committee and the Board) will be structured according to the segments. Further, once defined, it is very difficult to change segments.

ELCON points out that, ultimately, end-use customers pay ***ALL*** of the costs of any standard-setting organization. Thus, they should have a sizable proportion of the vote. ELCON believes that the segments in both the "strawman" initially proposed at the organizational meeting and in the "strawman" of proposed procedures circulated on May 22<sup>nd</sup> are seriously flawed. Unfortunately, the segments included in the two "strawmen" relegate end-users to a small minority of the total vote.

ELCON believes that several steps must be taken to remedy the situation. ***First***, participants at the next meeting should reconsider the segment composition. ***Second***, at a minimum, the following segment composition should be voted on at the next meeting: (1) producers and sellers; (2) transporters and distributors; (3) end-use customers; and (4) service providers, public interest groups, and other entities or individuals not otherwise eligible for membership in another segment. ***Third***, no segment definition should actually be implemented and utilized prior to an approval by the quadrant utilizing segment voting.

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<sup>1</sup> **ELCON** is the association of large industrial consumers of electricity. ELCON members have facilities in most of the fifty states and in many foreign countries. These companies represent nearly every sector of the manufacturing community. Our member companies consume at retail almost six percent of all of the electricity in the United States. These companies require an adequate and reliable supply of electricity at competitive prices.

### ***Background:***

NAESB held an organizational meeting for the WEQ on April 5<sup>th</sup> in Houston. The purpose of the meeting was to agree on the segments to be used in voting and governance.

Roughly 100 folks attended the meeting.<sup>2</sup> However, attendees included only three end-use customers or their representatives (ELCON, ExxonMobil, and NASUCA), one cooperative representative (NRECA), no one from public power, and two regulatory staff (Iowa and New York). Utilities, IPPs, marketers and other suppliers comprised the vast majority of the attendees.

A “strawman” segment proposal was presented. Participants were informed that a two-thirds positive vote of those entities present would established the segments.

### ***Meeting Concerns and Discussions:***

Immediate concern was expressed regarding both the process and the procedures. Complaints included: lack of notice of the meeting (many only heard of the meeting three days prior to the meeting); failure to distribute meeting materials in a timely manner (only three days prior to the meeting); biased voting procedures (those with extensive resources stack the vote); and the author of the “strawman” was self-selected and not representative (yet, his selection gave him the power of the pen to the detriment of others).

The meeting participants first reviewed the segments from the other NAESB quadrants. Specifically, these are: Wholesale Gas Quadrant (WGQ): (5 segments) producers, pipelines, distributors, end-users, and services; and Retail Gas Quadrant (RGQ) and Retail Electric Quadrant (REQ): (4 segments each) suppliers, distributors, service providers, and end-users.

The participants then were presented the “strawman” proposal for the WEQ. This composition included 5 segments: transmission, generation, marketers/brokers, distribution/LSE, and customers. However, the “customers” segment was defined as: “Any entity that is eligible to receive electric energy at wholesale and entities that represent customer interests including trade organizations, local, state, federal, provincial, etc. regulators, and other companies or individuals not otherwise eligible for membership in another segment.”

ELCON strongly opposed the segments proposed in the “strawman” since: (1) customers pay all of the bills and thus should have far more than 20% of the vote,<sup>3</sup> (2) the composition of the segments should be similar to the other quadrants (the other quadrants

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<sup>2</sup> There were 93 registrants – with a few “no shows” and a few registrations at the door.

<sup>3</sup> ELCON believes that a 50 – 50 split of customers and load is the only fair segment compromise – and that would be a compromise. Even that fails to recognize that end-use customers pay 100% of the bills.

have “end-users” as a segment without a lot of extraneous other participants), and (3) the proposed definition of the segment includes many entities other than end-use customers. During questions, Rae McQuade, NAESB’s Executive Director, stated that sector definitions in the WEQ should “look like” those in the other 3 quadrants. ELCON certainly agrees.

Given the opposition, participants then decided to consider segment compositions from other organizations. NERC’s 9-segment and the Electronic Scheduling Collaborative (ESC) 6-segment models were reviewed. Many marketers and IPPs expressed strong support for the ESC’s model although there was little support for NERC’s model. It was asserted, but challenged, that the ESC’s segment composition has been established and is proven. The ESC’s segments are: transmission owners; ISOs/RTOs/RROs; generators; brokers/aggregators/marketers; TDUs/LSEs; and end-use customers.

Extensive debate followed. Following persistence from participants in the ESC, a vote was taken. The vote was 34 in favor and 16 in opposition of using the ESC segments. All of the end-use customers voted against the proposed segment composition. It was announced that the vote carries (although a one vote switch would have resulted in a failure) and the ESC’s segment composition would be used in the WEQ.

Immediately following lunch, it was announced that the vote should be taken again. The voting rules had not been clearly stated. There could be only one vote from each corporate entity present. Duplicate votes must be eliminated. However, concern was expressed that many people had left the meeting for the day. It would be unfair to take a re-vote. After discussion, a re-vote was taken. The vote was 35 in favor and 17 opposed.<sup>4</sup> Once again, all end-use customers voted against the proposed segment composition. However, once again the vote carries (although, again, a one vote switch would have resulted in a failure).

The group insisted that the proposed segments be posted on the NAESB web site for comment. There would be a review of the decision at the next meeting of the WEG.

***Draft “Strawman” of Proposed Procedures for the WEQ:***

A draft “strawman” outlining proposed procedures for the WEQ was circulated on May 22, 2002. ELCON generally supports the provisions outlined in this “strawman” – with one significant exception. This “strawman” includes the basic six segments “approved” at the April 5<sup>th</sup> organizational meeting in Houston and strongly opposed by ELCON and other end-use customers, but also includes “regulators” in the “End-Use Consumption/Customer Interest” segment. This proposal thus means that end-use customers actually will have less than one-sixth of the total vote.

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<sup>4</sup> It is interesting to note that even though many participants had left the meeting and duplicate votes were supposedly eliminated (although not verified), there were more total votes in the second balloting than in the first.

***ELCON's Comments:***

ELCON recognizes that the WEQ has to start somewhere to define segments. It is impossible to take a segment vote prior to the definition of segments.

However, ELCON also recognizes that the definition of segments is one of the most important aspects of establishing the quadrant. All standards in the future will be approved by segment votes. In fact, the composition of the leadership of NAESB (the Executive Committee and the Board) will be structured according to the segments. Further, once defined, it is very difficult to change segments.

ELCON makes several observations regarding the ESC's (and now, tentatively, the WEQ's) segments:<sup>5</sup>

- ❑ The ESC's segments have **not** been proven. They have been in existence for only a very short time. Very few, if any, votes have been taken in the ESC using these particular segments.
- ❑ There was far from unanimous support for the use of the ESC's segment composition. Almost exactly one-third of those voting – in two separate votes – opposed the use of these segments. In fact, *if only one person had changed their vote on either occasion, the vote would not have passed.*
- ❑ The participants did not have the opportunity to vote on any other option. Clearly, there was little support for the original “strawman.” However, the participants were not even given the opportunity to vote on the other options that were being discussed, much less offer additional options.
- ❑ *The segments selected do not look like those agreed upon by the other three quadrants.* Two of the other quadrants (the REQ and the RGQ) have only four segments. The WGQ has only 5 quadrants. A standards-setting organization should have a standard set of quadrants.

ELCON believes strongly that ultimately they pay **ALL** of the costs of any standard-setting organization. Thus, they should have a sizable proportion of the vote. Relegating end-use customers to less than 17% of the total vote assures that customers views can, and in our view will, be voted down on a regular basis, even though they are the ones that pay. In fact, as noted above, ELCON believes strongly that end-use customers should receive at least 50% of the vote. Such a segment composition would result in balance between supply and load. Without such a composition, these customers believe that suppliers will always be able to out-vote the load on issues of importance to the load.

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<sup>5</sup> These thoughts on the ESC's segments are not new. ELCON filed formal comments regarding the ESC's Constitution and Bylaws on December 11, 2001.

***ELCON's Recommendations:***

With the above in mind, ELCON recommends the following:

1. The process by which the segments were selected should be re-evaluated and refined prior to the next meeting. Participants at the next meeting should be presented with alternative segment models in advance of the meeting. They should have the opportunity to vote on each of the options – not on just one.
2. ELCON strongly recommends a four-segment composition including:
  - Producers and sellers
  - Transporters and distributors
  - End-use customers (and only end-use customers)
  - Service providers, public interest groups, and other entities or individuals not otherwise eligible for membership in another segment.<sup>6</sup>

Specific sub-segment definitions should be considered for each segment (for example, relating to transmission dependent entities).<sup>7</sup>

There should be a direct vote on this recommended segment composition at the May 8<sup>th</sup> and 9<sup>th</sup> meeting of the WEQ.

3. At an absolute minimum, no segment definition should actually be implemented and utilized prior to an approval by the quadrant utilizing segment voting. That is, the segment composition should not be declared official prior to receiving a two-thirds vote of the entire quadrant including at least a 40% positive vote from each segment.

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<sup>6</sup> The definitions of each segment should be as similar as possible to the definitions used by the other three NAESB quadrants.

<sup>7</sup> Specific sub-segments could include: (1) Producers and sellers -- with no operational control over significant transmission facilities: divided equally (one-third each): merchant generation companies; not-for-profit wholesale generation companies; and state or municipally regulated utility generation; (2) Transporters and distributors -- load serving entities (LSEs), transmission dependent utilities (TDUs), and others owning and operating "wires": divided equally (one-third each): LSEs (traditional utilities); TDUs; and all others (transcos, RTOs, ISOs, etc.); (3) End-use customers (and only end-use customers): and (4) Service providers, public interest groups, and other entities or individuals not otherwise eligible for membership in another segment -- including regulators.