



ELECTION TECHNOLOGY COUNCIL

*Working Together for Secure and Accurate Elections*

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**For Immediate Release**

**ELECTION INDUSTRY TRADE GROUP SEEKS REFORM OF REGULATORY PROCESS**

***Issues report entitled “Broken: The Regulatory Process and the Voting Industry” which calls for substantive policy changes***

**Houston, TX – June 17, 2008** – The Election Technology Council, an industry trade association representing providers of over 90% of the voting systems used in the United States, today issued a bleak assessment of the current state of the federal regulatory process administered by the United States Election Assistance Commission (EAC) and called for significant reforms to better serve election officials and voters. Since February 2007, no voting system has achieved federal certification through the EAC. Since 2002, the standards have not changed, only the certifying agency.

“The industry is participating in and financing a process that remains indefinite in both time and money,” said David Beirne, Executive Director of the ETC.

The industry’s assessment describes a new federal agency that finds itself a victim of its own decisions which have effectively shut the regulated industry out and left it without a voice in the process.

Among the key problems identified:

1. The EAC has yet to recognize the voting industry as a regulated industry. As a regulated industry, certain due process requirements should be afforded to industry providers during the EAC’s policy setting and certification efforts. Since the voting industry currently finances federal certification of its products, decisions made by the EAC that are not subjected to full due process could deprive voting system providers of property and potentially lead to violations of the U.S. Constitution’s Fifth Amendment.

**ETC Recommendation:** The EAC needs to clearly identify itself as a rulemaking agency when it comes to the adoption of rules and regulations governing its certification program and ensure due process rights are afforded to the industry.

2. EAC policies prohibiting informal communications, combined with the lack of industry representation throughout the voting system standards development process, are contrary

to standard agency practices and the requirements of the Federal Advisory Committee Act (FACA). In tandem, these practices remove the industry's voice from the process and position the EAC in an adversarial role with the industry it intends to regulate.

**ETC Recommendation:** The EAC's process for the creation of voting system standards lacks any industry representation. In order to achieve compliance with the "fair balance" requirement under the FACA, the EAC should appoint a representative from the industry as soon as possible.

3. Continued delays in federal certification and spiraling certification costs may lead to market failures for current industry providers. In addition, these circumstances will likely lead to a market consolidation and stifle future product innovation.

**ETC Recommendation:** The industry is incurring the financial penalties stemming from a lack of agency readiness with its certification program. The EAC should take steps to bring the industry into the process to make sure that a greater understanding of market economics is incorporated into its policy-making.

Under the Help America Vote Act of 2002, the EAC is charged with adopting federal voting system standards. Both the federal standards and the federal certification process remain voluntary for each of the states. An estimated 40 states require some level of testing or certification against federal voting system standards. "In such a voluntary framework, the EAC would be better served by working with industry in its efforts to develop robust voting solutions. We respect the hard work and commitment of the EAC in grappling with these difficult issues, and we look forward to working cooperatively with the Commission in every way we can. However, the system cannot sustain itself in its current form without substantial reform," Beirne added.

The full report issued by the Election Technology Council is available here:

<http://www.electiontech.org/documents/ETC-BROKEN.pdf>

#### **About the Election Technology Council ([www.electiontech.org](http://www.electiontech.org))**

The Election Technology Council (ETC) consists of companies that offer voting system technology hardware products, software and services to support the electoral process. The ETC represents manufacturers of the voting equipment used by over 90% of the population in the United States. These companies have organized as an industry association in 2003 to work together to address common issues facing the industry. Membership in the ETC is open to any company in the election systems marketplace. Current members of the Election Technology Council include Election Systems & Software, Hart InterCivic, Premier Election Solutions and Sequoia Voting Systems.

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