

Certification of Public Utility Companies



NARUC Energy Regulatory Partnership Program

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and
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by

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What is Certification?

- ❖ Certification, which is also called licensing, is permission to undertake a regulated activity
- ❖ Certification requirements restrict entry into the market and impose conditions on the provision of services



Purposes of Certification (1 of 3)

- ❖ Protect consumers -- assure service quality by screening out unqualified companies
 - Technical competence
 - Financial responsibility
- ❖ Protect the health and safety of the public



Purposes of Certification (2 of 3)

- ❖ Create a framework for regulating the activity
 - Certification can to some extent replace (or be replaced by) generic rules in the regulation of the activity
 - Primary reliance on certification – most of the conditions of operation are included in each company's certificate
 - Primary reliance on rules - most conditions are in rules of general applicability, supplemented by decisions in specific cases



Purposes of Certification (3 of 3)

- ❖ Keep track of who is conducting the activity
- ❖ Controlling entry into the market, because monopoly (or a system of minimum rates) is thought to be preferable or in order to protect scarce resources
- ❖ Impose specified duties and obligations on the company
- ❖ Establish a contractual relationship between the government and the company



Vermont Statutory Requirements

- ❖ To receive a Certificate of Public Good (“CPG”), the Board must find that the company will “promote the general good of the state”
- ❖ The Board has “employed numerous criteria in determining whether to grant or modify a CPG, but the statute only sets out one standard — whether the CPG promotes the general good and on what terms and conditions. The criteria . . . are considerations that enter into this single determination rather than necessary components.”



Criteria that the Board has employed for issuing a CPG (1 of 2)

- ❖ Technical competence: knowledge, experience, and ability
- ❖ Management competence
- ❖ Financially stability
- ❖ Business reputation
- ❖ Quality of facilities
 - Assurances/adequacy of supply
- ❖ Rate of capital investment



Criteria that the Board has employed for issuing a CPG (2 of 2)

- ❖ Service quality and customer service
- ❖ Service offerings
- ❖ Rates and conditions of service
- ❖ Availability of service to maximum number of customers
- ❖ Commitment to construction and in-service schedule
- ❖ Legal authority
- ❖ Affiliate interests



The Certification Process

- ❖ Company files petition
- ❖ Department of Public Service represents interests of the people of the state
- ❖ Board provides notice and opportunity for hearing
- ❖ Typical Board contested-case procedures apply



Contested-case Procedures

- ❖ Prehearing conference
- ❖ Intervention
- ❖ Public hearing
- ❖ Written testimony filed in advance
- ❖ Discovery
- ❖ Evidentiary hearing
- ❖ Briefs
- ❖ Decision
 - If Hearing Officer, proposed decision with opportunity for parties to present comments and arguments to Board
- ❖ Appeal



Public Involvement

- ❖ Public advocate
- ❖ Public notice
- ❖ Public hearings
- ❖ Evidentiary hearings open to public, but only the formal parties can participate
- ❖ Written comments from the public
- ❖ Public Records Act



Public Access to Information

- ❖ Board records are open to public inspection, with narrow exceptions
- ❖ Company must provide a detailed explanation for any information that it wishes to be kept confidential
 - Typically, if Company provides that explanation, Board treats as confidential unless confidentiality claim is challenged
 - If confidentiality challenged, Board makes determination on whether to keep confidential; appeal to courts



Revocation of a Certificate of Public Good

- ❖ Board may amend or revoke “for good cause”
- ❖ Notice and opportunity for hearing
- ❖ Typical Board contested-case procedures apply



Licensing competitive electric providers

The following section summarizes practices related to licensing competitive electric providers that are common among the states that offer retail choice in energy supply.



Why are states are promoting competition, and what role do PUCs play?

Retail access to competitive electricity suppliers is intended to allow customers to buy electricity at the lowest price, and subscribe to competitive service offerings that may not be available under traditional regulation. This is a change from a fully-regulated industry to a market-based industry.

To protect the public, competitive suppliers must be licensed before they can offer service to customers. This presentation will describe the evaluation criteria, the processes, and the work undertaken by Public Utility Commissions (PUCs) to license and oversee suppliers in a competitive market.



Authority of PUCs

State legislatures authorize their PUCs to develop rules requiring entities that operate as competitive electricity providers to obtain a license from the PUC.

Vermont's legislature has not authorized retail providers to compete. Therefore, we have researched information for this presentation from states that do offer such competition.



Overview of Requirements

The PUCs in states that offer retail choice create licensing requirements that competitive suppliers must meet. Requirements common to these states include:

- ❖ Identifying to whom the requirements apply
- ❖ Instructing what the supplier must submit for a license
- ❖ Application procedures and filing requirements
- ❖ Informational reporting requirements
- ❖ Sanctions and enforcement provisions
- ❖ Provisions for customer protection





Summary of Retail Choice Actions by State*

Jurisdiction	Start Date	Status
1 Rhode Island	January 1998	Transition extended to 2009.
2 Massachusetts	March 1998	Transition period ends March 2005.
3 Arizona	January 1999	Retail choice available but future uncertain.
4 Pennsylvania	January 1999	POLR generation service remains available from the utility under capped regulated rates.
5 New York	July 1999	Standard offer prices for utilities have been extended as initial standard offer terms end.
6 Delaware	October 1999	Retail choice active for large customers.
7 Illinois	October 1999	A "Post-2006 Initiative" is looking at the end of the transition period on December 31, 2006.
8 New Jersey	November 1999	Market fully open. Transition period ended on August 1, 2003.
9 Connecticut	January 2000	Standard Offer recently extended through 2006.
10 Maine	March 2000	Comp. suppliers provide Standard Offer service.
11 Maryland	July 2000	Standard offer rates end between 2002 and 2008 depending on the utility.
12 Ohio	January 2001	Extensions to standard offer prices pending.
13 New Hampshire	May 2001	Transition service pricing extends through February 2006.
14 Virginia	January 2002	2004 legislation extends rate cap.
15 District of Columbia	January 2002	Retail choice active for large customers.
16 Michigan	January 2002	Retail choice active for large customers.
17 Texas	January 2002	Customers shifted to utility retail affiliates.
18 Oregon	March 2002	Choice for industrial customers only.
19 Nevada	N/A	Suspended in 2001.
20 California	March 1998	Suspended in 2001.
21 Arkansas	N/A	Legislation repealed.
22 Oklahoma	N/A	Suspended.
23 Montana	N/A	2003 legislation suspended choice.
24 New Mexico	N/A	Suspended to 2007.

* Data is from Retail Choice Study for Belmont MA Electricity Supply Study Committee conducted by La Capra Associates 20 June 2, 2004



Common Application and Licensing Requirements Among States that License Competitive Providers

- ❖ Financial Capability
- ❖ Binding Interconnection Arrangements
- ❖ Disclosure of Pending Actions
- ❖ Renewable Resource Portfolio
- ❖ Disclosure of Affiliates
- ❖ Informational Reporting and Filing
- ❖ Registration with State Tax Assessor
- ❖ Consumer Protection Provisions
- ❖ Confidentiality of Consumer Information



Work the PUCs in Retail Choice States Must Do During the Licensing Process:

- Application and Filing Process
- Approval Process
- License renewals and revocations



Work the PUCs in retail choice states must do concerning sanctions and enforcement

- ❖ Entities that operate as competitive electricity providers without first obtaining a license from the PUC are subject to financial penalty, and the PUC may deny the license.
- ❖ The PUC may impose administrative penalties.
- ❖ The PUC may require restitution for violation of rules.
- ❖ The PUC may investigate service matters.
- ❖ The PUC shall resolve disputes between competitive suppliers and retail consumers.
- ❖ The PUC may apply to the Superior Court to enforce orders or action taken pursuant to its legislated authority to issue rules governing licensing of competitive suppliers.