
Regulatory Overview of NYS Public Service Commission and New York's Energy Sector

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Market Structure

Controlling Factors

Organization

Topics

- New York State Facts
- Controlling Factors
- Regulatory Organization
- Regulatory Models
- Decision Making Process
- Stakeholders
- Funding
- Competitive Electric Markets

NYS Facts

- Population ~ 18 Million
- Electric customers ~ 6.5 Million
- Regulated traditional electric utilities: 6; in addition, some government controlled and some municipal entities
- Highly concentrated population areas (NY City) as well as rural areas in the State

NYS Facts (2)

- Electric peak load: summer: ~32,000+ MW
- Electric capacity ~38,000 MW +
- Installed Capacity Reserve requirement: 18%
- NY is a highly fuel diverse state:
 - *Hydro: 15%, Nuclear: 14%, Coal: 10%, Gas;15%, Oil/Gas: 35%, Oil: 10%, Other:1%*
 - *Most proposed new generation is, however, natural gas fired*
- Import capability from neighboring states/Canada

NYS Market Structure

- Historically, vertically integrated electric utilities were fully regulated – these utilities owned both electric Generation (Gen) and Transmission and Distribution (T&D) assets
- In the last several years, industry restructured; functions separated
- Utilities divested generation
- Wholesale electric competitive markets in place now; for the most part, commodity price decided by competitive forces
- New York Independent System Operator controls grid and runs wholesale market
- Retail competition also progressing
- T&D for the most part is still regulated

Controlling Factors

Controlling Factors

- Laws (Federal, State)
- Regulations
- Tariffs
- Operating Procedures

Controlling Factors *(cont'd)*

- State Laws govern
 - *Installation of new generation (Article X-currently expired)*
 - *Installation of new transmission lines (Article VII)*
 - *Rates*
 - *Service Quality*
 - *Consumer protections*
 - *Transfer of utility property*
 - *Issuance of new stock, debt*
 - *Powers of PSC*
- New laws or changes to existing laws have to be enacted by State legislature and approved by the Governor
- Laws provide PSC broad latitude in regulating utilities

Regulatory Organization

Role of the Public Service Commission

- Regulates electric, gas, water, steam, cable and telecommunications utilities.
- Broad mandate to ensure safe and reliable service at reasonable rates and with the least adverse impact on the environment.
- Principal powers of the Commission cover:
 - *rates, service and financial regulation*
 - *the prescription of accounting systems*
 - *the issuance of certificates and permits authorizing various services and the extension, expansion and abandonment of facilities*

Body of the Public Service Commission

- Consists of five members
 - *appointed by the Governor to six year terms*
 - *confirmed by State Senate*
 - *Bipartisan by law*
 - *Upon certification as to the need, can be expanded to seven members*
- Chairman designated by Governor
 - *acts as chief executive of Department of Public Service (the Staff to the Public Service Commission)*

Department of Public Service

- The Department (DPS) provides the staff resources for the Commission
- Consists of about 500+ employees, including accountants, engineers, financial analysts, economists, environmental specialists, consumer representatives, attorneys, administrative law judges and support staff
- DPS offices are located in Albany, Buffalo, New York City and Syracuse
- Staff members are also on site at most major electric, gas and telephone utilities

Department of Public Service Offices

- Executive Office
- Office of the Secretary
- Office of Administration
- Office of General Counsel
- Office of Public Affairs
- Office of Gas and Water
- Office of Economic Development and Policy Coordination
- Office of Hearings and Alternative Dispute Resolution
- Office of Electricity and Environment
- Office of Accounting and Finance
- Office of Retail Market Development
- Office of Regulatory Economics
- Office of Consumer Services
- Office of Telecommunications

Range of Staff's Responsibilities

- Represents public interest in all Commission proceedings, including rates/tariff issues
- Sets service and operating standards for utilities
- Administers regulations issued by the Commission
- Receives, investigates & resolves complaints
 - *billing*
 - *service*
 - *other utility practices*
- Audits utilities'
 - *accounting practices*
 - *management functions*
 - *day to day operations*

Range of Staff's Responsibilities *(cont'd)*

- Represents Commission in court proceedings
- Advises Commission on all decisions...
 - *rate determinations*
 - *utility financings*
 - *certificates of environmental compatibility & public need*
 - *certificates of public convenience and necessity*
- Maintains active role in State and Federal proceedings
 - *development & implementation of State Policies*
 - *expert testimony in proceedings before State or Federal entities*
 - *participation in national regulatory organizations (NARUC)*
- Implements the Commissions policies to develop competitive markets *(major staff emphasis)*

Vision Statement

The provision of safe, adequate, and reliable gas and electric service at just and reasonable prices is the primary goal. Competitive markets, where feasible, are the preferred means of promoting efficient energy services, and are well suited to deliver just and reasonable prices, while also providing customers with the benefit of greater choice, value and innovation. Regulatory involvement will be tailored to reflect the competitiveness of the market.

Transparency of the Commission's Activities and Relations with Stakeholders

Decision Making Processes Vehicles

- Commission Sessions
- Hearings
- Paper Proceedings
- Collaborative Forums

Commission Sessions

- Held at least once in a month or more as needed
- Sessions including the agenda are noticed at least a week ahead of schedule
- There has to be a quorum of Commissioners
- The sessions are held in public and the discussion and voting on items by the Commissioners is done in public

Commission Sessions *(cont'd)*

- Only the Commissioners and senior Commission staff speak at the sessions; others are not allowed to speak
- PSC staff or Judges prepare session items for Commissioners consideration and distribute them at least 10 days ahead of session. They are inter-office memoranda and are not made public. After the session, they may be made public as is or with some changes. Some items result in special Orders and Opinions of the Commission (rate cases, policy items etc).

Hearings

- Public Statement Hearings
- Evidentiary Hearings
- Legislative Hearings

Public Statement Hearings

- Held in the context of rate cases and major policy proceedings
- At least a few are held in the affected territories, giving an opportunity for the general public to come and make their views known.
- Typically they are conducted by the ALJ assigned to the case. The Judge explains the process for the case.
- Typically at least one Commissioner attends the hearings.

Public Statement Hearings *(cont'd)*

- The comments of public are transcribed and made a part of the official record in the case.
- The Judge summarizes the comments from the public in his analysis to the Commission
- The Judge and the PSC incorporate the comments in their decision making.

Evidentiary Hearings

- Are typically held in the context of rate cases or other proceedings
- Witnesses are deposed before the Judge; all the official parties to the Case can cross examine the witness.
- The hearings are transcribed and become a part of the official record.

Legislative Hearings

- Are held typically for very major policy proceedings
- Parties are given time to address the Commissioners at a public Commission session to explain their views and positions
- Senior members of the parties typically address the Commission
- Commissioners ask the parties questions directly
- Hearing transcribed and becomes part of official record

Paper Proceedings

- There may be no PSH or evidentiary hearings
- Most of the record is developed based on paper submissions by the parties in a given case
- Staff or Judge summarize views of the parties and make recommendation to the Commission
- Parties may or not meet at all during the course of the proceeding

Collaborative Forums

- This process is becoming more the norm for dealing with issues
- Less adversarial process; parties openly express their views in a collaborative process
- Forums are facilitated by an ALJ or Staff or professional facilitators
- Attempts are made to find common ground for all the parties and resolve conflicts amicably; evidentiary hearings possible on issues where agreement cannot be reached

Collaborative Forums *(cont'd)*

- Parties are less intimidated by the process
- Easier for parties with less sophistication in the regulatory process to participate and make their views known
- Sometimes it could be a tedious, frustrating and time consuming process, however.
- Work to reach consensus; if this can't be achieved, may be converted to a consultative process

Stakeholders

- Utilities
- Consumer Groups
 - *Residential, Industrial, Commercial*
 - *Low-Income*
- Environmental Groups
- Community Groups (*Public Interest, Senior citizens, etc*)
- Competitors
 - *Generators*
 - *Wholesale and Retail marketers*
- Other government agencies

Funding Sources

- PSC: primarily through assessment on utilities, some money from federal funds
- Consumer Groups:
 - *Residential: primarily assessment on utilities*
 - *Industrial/Commercial: trade organizations*
 - *Low-Income: public interest groups: State and Charitable organizations*
- Environmental Groups: consumer groups and charitable organizations
- Competitors: Trade organizations; cost of doing business