
Authority, Norms, and Legal Framework for a Regulatory Body

including

Relationships with other Government Entities

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Authority, Norms, and Legal Framework

- Requirements of Law
- Regulations
- Tariffs
- Operating Procedures
- Relationships with other Government Entities

Requirements of Law

- State laws govern
 - *Oversight powers of PSC (Public Service Law)*
 - *Environmental Reviews*
 - Siting of new major generation facilities
 - Siting of new major transmission lines
 - *Rate Setting*
 - *Service Quality/Reliability/Safety Oversight*
 - *Consumer protections*
 - *Transfer of utility property*
 - *Issuance of new stock, debt*
- New laws or changes to existing laws have to be passed by the State legislature and passed into law by the Governor.
- Laws provide PSC broad latitude in regulating utilities.

Requirements of Law

Oversight Powers of PSC

- The Commission is charged by law (*Public Service Law*) with responsibility for setting rates and ensuring that adequate service is provided by New York's utilities.
- The Commission also exercises jurisdiction over the siting of major gas and electric transmission facilities and has responsibility for ensuring the safety of natural gas and liquid petroleum pipelines.
- The Chair of the PSC is also the Chair of the New York State Board on Siting of Electric Generation and the Environment.

Requirements of Law

Environmental Reviews – Siting of New Major Generation Facilities

- “One stop shopping” concept.
- Siting Board created.
 - *Public Service Commission Chairman*
 - *Department of Environmental Conservation Commissioner*
 - *Empire State Development Commissioner*
 - *Department of Health Commissioner*
 - *New York State Energy Research and Development Authority President*
 - *Two residents of project community appointed by Governor*
- Funding by the applicant or intervenor groups.
- Thorough environmental analysis required.
- Fuel mix, adequacy of fuel availability studied.
- Impact on communities, jobs, economic development, etc. studied.

Requirements of Law

Environmental Reviews – Siting of New Major Generation Facilities (cont'd)

- A very public process is carried out.
- Significant amount of outreach and education to the affected communities.
- Hearing process including evidentiary hearings, if needed.
- Judge makes recommendation.
- Siting Board makes final decision.
- Participants usually include elected officials from the municipalities where the facility is to be located.
- State agencies, such as the Department of Public Service and the Department of Environmental Conservation typically provide expert witnesses in the proceedings.

Requirements of Law

Environmental Reviews – Siting of New Major Transmission Lines

- One stop shopping.
- PSC makes decisions.
- Comprehensive environmental and need analysis required.
- A very public process is carried out.
- Hearing process including evidentiary hearings, if needed.
- Judge makes recommendation.
- Commission makes final decision.
- Participants usually include elected officials from the municipalities where the facility is to be located.
- State agencies, such as the Department of Public Service and the Department of Environmental Conservation, typically provide expert witnesses in the proceedings.

Requirements of Law

Rate Setting

- Rates have to be “Just and Reasonable”; term not easily well defined or quantified; room for discretion by the PSC.
- Cannot “unduly” discriminate for or against customers or customer groups.
- There can, however, be price differences that can be justified on a rational basis: *time of use, season of use, volume of use, purpose of use, class of use, etc.*
- Any changes to rates have to go through a public process before they are adopted.
- All interested persons, organizations, and governmental entities are welcome to participate in the proceedings.
- Participation typically by the Consumer Protection Board, the Attorney General’s Office, and elected officials advocating on behalf of constituents.
- Department staff represents the public interest in rate proceedings.

Requirements of Law

Service Quality/Reliability/Safety Oversight

- Service has to be "Safe and Adequate"; term not easily well defined or quantified; room for discretion by the PSC.
- Reliability, safety, and the well being of customers are of paramount importance; the economic vitality of the State is at stake.
- Utility customer service, safety and reliability are under intense scrutiny; utility is accountable for its actions in a very public way.
- Courteous, prompt and effective customer service is expected by customers; utilities cannot afford to have angry customers; politicians will not hesitate to get involved.
- All interested persons, organizations, and governmental organizations are welcome to participate in proceedings.

Requirements of Law

Service Quality/Reliability/Safety Oversight (cont'd)

- Federal Nuclear Regulatory Commission (NRC) has oversight responsibility for nuclear issues.
- Federal and State Labor Laws govern safety of utility workers.
- Bulk system operations and reliability are primarily the responsibility of the NY Independent System Operator based on guidelines established by state and National Reliability Councils.
- The Federal Energy Regulatory Commission and the PSC share regulatory authority over the NY ISO.

Requirements of Law

Consumer Protections

- All customers should be provided service by the utility; there are minor exceptions.
- Utilities have to follow several steps before they terminate service to a customer.
- Cold weather termination rules exist (*cannot terminate heating customers during winter*).
- Third Party Notification available.
- Customer Deposit requirements have been established to balance the risks involved.
- The Consumer Protection Board, the Attorney General's office, and elected public officials advocate on behalf of their constituents.

Requirements of Law

Consumer Protections (cont'd)

- Generation market power that might impact rates is monitored by the Federal Department of Justice, the Federal Energy Regulatory Commission, the Attorney General, and the PSC.
- Budget Billing (*levelized payments*) is available to customers.
- Deferred Payment Agreements available (*based on financial hardship of customer*).
- Utility metering requirements established to ensure accurate measurements.
- Utility billing requirements established to ensure that customers are able to understand their bills.
- Detailed customer notification requirements established to ensure utilities communicate effectively with customers.
- Commission addresses customer complaints.

Requirements of Law

Transfer of Utility Property

- Commission needs to approve transfer (sale) of major utility assets to other entities.

Issuance of New Securities

- Commission needs to approve utility issuance of new stock and bonds.

Creation of new entities/mergers

- Need Commission approval.

Regulations

- Commission regulations implement the laws – they amplify and set parameters.
- Any new regulations or changes to regulations have to go through a public process.
- The Governor's Office of Regulatory Reform reviews rules issued by the Commission, and any interested person or organization may comment on proposed rules and regulations.

Tariffs

- Tariffs, in effect, are contracts between the utility and its customers.
- Tariffs carry out the intent of the Commission regulations.
- Tariffs provide
 - *General information on how to sign up for service*
 - What information is needed from the customer
 - What the connection/disconnection, deposit, DPA, payment policies of the utilities are
 - *Specific price, service information by service class*

Tariffs

- New tariffs and changes to existing tariffs have to be approved by the Commission.
- Utility tariff changes are issued for public comment.
- Commission staff analyses the tariff changes and comments from the public, and makes recommendations to the Commission for its consideration.
- All interested parties and governmental authorities are welcome to comment on tariff changes.

Operating Procedures

- Some terms of contracts are not worth putting in tariffs, as changes can be frequent and modifications for tariffs take time.
- Operating procedures are not necessarily subject to Commission approval.
- Staff reviews the procedures as needed.

Relationships with other Government Entities

- Department of Public Service
 - *State agency established by legislation (Public Service Law).*
 - *Public Service Commission established within the Department*
 - No less than three commissioners nor more than five (for cause, can increase to seven commissioners).
 - Commission required by law to ensure that utilities provide safe and adequate service to consumers at just and reasonable rates.
 - Commission issues Order to carry out its responsibilities.
 - *Commissioners hold staggered, six-year terms.*
 - *Commissioners appointed by Governor and confirmed by Senate after hearings.*
 - *No more than a simple majority of the commissioners can be from one political party.*
 - *Department provides independent recommendations and advice to Commission and enforces its Orders and Regulations.*
 - *Department staff serve as Staff of the Commission.*

Relationships with other Government Entities

➤ Governor

- *Sets overall state policies.*
- *Provides guidance to Department on state policies.*
- *Nominates commissioners and Chairman of Commission.*

➤ Legislature

- *Provides enabling laws authorizing Commission and Department and granting powers.*
- *Provides budget for Department.*
- *Confirms (or rejects) nominees for commissioners.*
- *Legislators often intervene in Commission proceedings.*

Relationships with other Government Entities

- FERC (Federal Energy Regulatory Commission)
 - *Regulatory jurisdiction over wholesale electricity and natural gas transactions.*
 - *Regulatory jurisdiction over ISO operations.*
 - Operation of bulk electric transmission system.
 - Operation of wholesale electricity market.

(Note: The Commission also has jurisdiction over the NYISO with regard to safety and reliability, approval of financing, and transfer of ISO assets. In addition, the Department has specific rights under the ISO tariffs. The Department's staff participates on many ISO committees, and task forces.)
 - *Siting Authority for interstate bulk gas transmission lines (but not electric.)*
 - *Commission often intervenes in FERC proceedings.*
 - Proceedings affecting New York State directly.
 - Proceedings that could impact New York State indirectly.
 - *Commission staff works with FERC staff on issues of common interest.*

Relationships with other Government Entities

- DEC (Department of Environmental Conservation)
 - *Regulatory jurisdiction over state environmental issues.*
 - Except that Siting Board issues permits for major power plants, subject to existing substantive DEC rules.
 - Except that Commission issues permits for major transmission lines, subject to existing substantive DEC rules.
 - *Commission intervenes in DEC proceedings that could impact expansion and/or operation of electric and gas facilities.*
 - *Commission staff works with DEC staff on issues of common interest.*
- NYSERDA (New York State Energy Research and Development Authority)
 - *Supports programs to develop new, innovative products and services that can be manufactured or commercialized in New York to help New Yorkers solve their energy and environmental problems.*
 - *Administers energy programs developed by Commission*
 - Systems Benefit Charge Program
 - Renewable Portfolio Standards program (Central Procurement Component)
 - *Works with Department staff on issues of common interest.*