

CONSUMER PROTECTION FOR COMPETITIVE UTILITY MARKETS

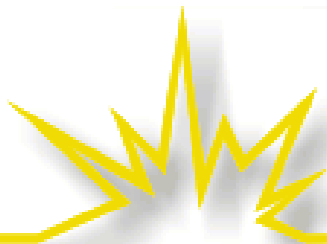
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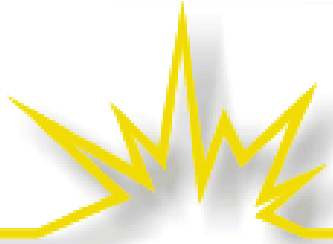
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INTRODUCTION

Alexander, Barbara, Retail Electric Competition: A Blueprint for Consumer Protection, to be published by the U.S. Department of Energy, November, 1998.

Alexander, Barbara, The Transition to Local Telecommunications Competition: A New Challenge for Consumer Protection, Public Counsel Section, Washington Attorney General, October, 1997.

Available at

<http://www.wa.gov/ago/utility/alexander.html>

Alexander, Barbara, "How to Construct a Service Quality Index", The Electricity Journal, April, 1996.



NEW REGULATORY BARGAIN

**A. A NEW ROLE FOR THE REGULATOR:
CONSUMER EDUCATION, CONSUMER
PROTECTION AND UNIVERSAL SERVICE
PROGRAMS**

**B. REGULATING THE MONOPOLY DISTRIBUTION
COMPANY; PUBLIC PURPOSE PROGRAMS**

C. REGULATION OF COMPETITIVE SUPPLIERS

D. JURISDICTION AND ENFORCEMENT ISSUES



FEDERAL-STATE JURISDICTION OVER THE SALE OF ELECTRICITY

- FEDERAL JURISDICTION OVER WHOLESALE TRANSACTIONS: FERC; Transmission Rates
- FEDERAL JURISDICTION OVER INTERSTATE COMMERCE MEANS THAT CONGRESS COULD PREEMPT STATE REGULATION OVER RETAIL SALES, BUT THIS IS UNLIKELY



FEDERAL-STATE JURISDICTION OVER THE SALE OF ELECTRICITY *(continued)*

- State Jurisdiction Over Distribution Utilities and the Retail Sale of Electricity to End-use Consumers
 - Distribution Rates
 - Sale of Generation
 - Contract Terms



FEDERAL-STATE JURISDICTION OVER THE SALE OF ELECTRICITY *(continued)*

- HISTORICAL ROLE OF UTILITY TARIFF; REGULATES RATES AND TERMS AND CONDITIONS, A FORM OF MASTER CONTRACT BETWEEN MONOPOLY AND CONSUMERS
- DIRECT ACCESS CHANGES SALE OF ELECTRICITY TO BILATERAL CONTRACT



CONSUMER EDUCATION: THE STATE ROLE

- **PURPOSE/OBJECTIVE**
- **IMPLEMENTATION AND
COORDINATION**
- **FUNDING**
- **MASS MEDIA**
- **COMMUNITY-BASED
ORGANIZATIONS:
LOW-INCOME, ELDERLY,
NON-ENGLISH SPEAKING**



STATE ROUNDUP: EDUCATION EFFORTS

- CALIFORNIA: \$90 M
CONSUMER EDUCATION PLAN
- PENNSYLVANIA: \$5 PER
CUSTOMER OVER 4 YEARS
- NEW HAMPSHIRE: \$1.7 M
COMPREHENSIVE EDUCATION
PLAN
- MAINE: \$1.6 M EDUCATION
PLAN



SURVEY AND FOCUS GROUP RESULTS

- SURVEYS CONDUCTED BY MAINE PUC AND NEW HAMPSHIRE COMMISSION
- FOCUS GROUP RESEARCH BY REGULATORY ASSISTANCE PROJECT IN NEW ENGLAND, OHIO, COLORADO, CALIFORNIA, WASHINGTON AND TEXAS
- Holt, Edward, "Information Consumers Want in Electricity Choice: Summary of Focus Group Research", Dec., 1997



WHAT THE RESEARCH TELLS US

- CONSUMERS WANT A UNIFORM PRICE DISCLOSURE MATRIX
- CONSUMERS ARE INTERESTED IN MANY ATTRIBUTES OF SUPPLIERS
- CONSUMERS WANT TO HEAR FROM GOVERNMENT; DO NOT TRUST UTILITIES OR SUPPLIERS FOR NEUTRAL INFORMATION
- CONSUMERS CONFUSED ABOUT MARKET STRUCTURE.



PRICE AND CONTRACT TERM DISCLOSURE MODELS

- **TRUTH IN LENDING ACT**
 - **UNIFORM DISCLOSURE OF INTEREST RATE AS ANNUAL PERCENTAGE RATE**
 - **ALL CREDITORS**
 - **MARKETING AND TIME-OF-SALE DISCLOSURES**
 - **VARIABLE RATE DISCLOSURES**



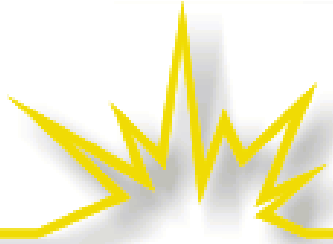
ELECTRICITY FACTS LABEL

- **PRICE AND KEY
PRICE-RELATED TERMS**
- **SUPPLY MIX**
- **EMISSIONS**
- **LABOR (MA LAW)**



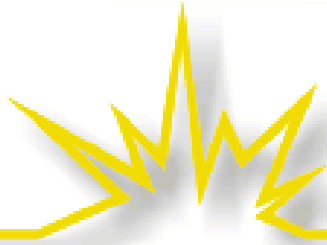
TERMS OF SERVICE DISCLOSURES

- KEY PRICE DISCLOSURES
- ITEMIZATION OF ALL SERVICES
- OTHER FEES: LATE FEES; RETURNED CHECK FEE; EARLY CANCELLATION PENALTY
- DEPOSIT; INTEREST RATE; RETURN POLICY
- COLLECTION POLICIES
- RIGHT OF RESCISSION AND HOW TO EXERCISE RIGHT
- HOW TO CONTACT; DISPUTE POLICY



MONTHLY BILL

- AT THIS POINT THE CUSTOMER IS CONTRACTUALLY BOUND
- THE ACTUAL PRICE PER KWH PAID BY THE CUSTOMER FOR THE MOST RECENT BILLING PERIOD FOR THE GENERATION PORTION OF THE BILL
- ITEMIZATION OF PRODUCTS AND FEES
- NOTICE OF PRICE CHANGES OR CONTRACT RENEWAL



DISTRIBUTION COMPANY

- **RIGHT OF ACCESS**
- **RELIABILITY; SERVICE QUALITY**
- **CODE OF CONDUCT ("Just a minute please while I transfer you to our electric sales department")**
- **ROLE IN DEFAULT OR BASIC SERVICE**
- **COLLECTION POLICIES**
- **UNIVERSAL SERVICE**
- **PRIVACY OF CUSTOMER INFORMATION**
- **METERING AND BILLING SERVICES**



DISTRIBUTION COMPANY: POWER TO DISCONNECT

- **NO STATE ALLOWS A COMPETITIVE SUPPLIER TO DISCONNECT OR THREATEN DISCONNECTION FOR FAILURE TO PAY UNREGULATED CHARGES**
- **DISTRIBUTION UTILITIES CAN DISCONNECT ONLY FOR REGULATED CHARGES, INCLUDING DEFAULT SERVICE**



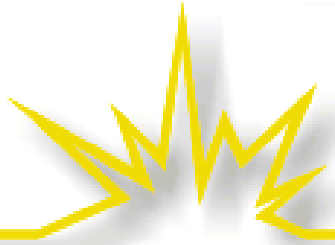
SERVICE QUALITY AND RELIABILITY

- ALTERNATIVE REGULATORY APPROACHES:
 - UNIFORM RULES
 - ALTERNATIVE RATE REGULATION (PBR) AND SERVICE QUALITY INDEX
- STATE RELIABILITY RULES: CA; PA; IL
- ESTABLISH MEANINGFUL PENALTIES IN EVENT OF DETERIORATION.



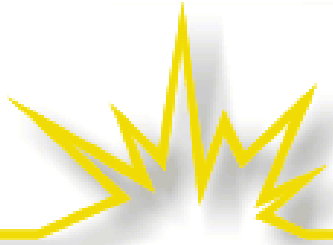
DEFAULT OR BASIC SERVICE

- PURPOSE OF THIS SERVICE:
 - CHOOSE NOT TO CHOOSE
 - UNABLE TO CHOOSE
- UNIVERSAL SERVICE IMPLICATIONS
- CRUCIAL TO DEVELOPMENT OF COMPETITIVE
- MARKET; THESE CUSTOMERS WILL BE
- OBTAINED WITHOUT EXTRA COST
- CURRENT TREND: USE OF COMPETITIVE BID



UNIVERSAL SERVICE

- POLICIES, PROGRAMS AND SERVICES:
- CREDIT AND COLLECTION POLICIES
 - PAYMENT ARRANGEMENTS
 - DISCONNECTION; WINTER RULES
- TARGETED ENERGY MANAGEMENT
- UNCOLLECTIBLE EXPENSE
- CREDIT AND COLLECTION EXPENSES
- DISCOUNT RATES; ARREARS FORGIVENESS



UNIVERSAL SERVICES

- ALL OF THE STATE ELECTRIC RESTRUCTURING
- LEGISLATION TO DATE HAS CALLED FOR EITHER
- THE CONTINUATION OR CREATION OF A UNIVERSAL
- SERVICE PROGRAM:
 - CALIFORNIA
 - RHODE ISLAND
 - NEW HAMPSHIRE
 - PENNSYLVANIA
 - MONTANA
 - MAINE
 - NEVADA
 - OKLAHOMA
 - ILLINOIS
 - CONNECTICUT



UNIVERSAL SERVICE PROGRAMS: LINK TO RETAIL COMPETITION

- **ELECTRICITY IS USED BY
VIRTUALLY ALL HOUSEHOLDS**
- **BASIC NECESSITY OF LIFE: TEXAS
HEAT WAVE**
- **COSTS PER HOUSEHOLD FOR
ENERGY ARE DOMINATED BY
ELECTRICITY**
- **NATURAL GAS IS DOMINANT
HEATING FUEL**



UNIVERSAL SERVICE PROGRAMS: LINK TO RETAIL COMPETITION *(continued)*

- LACK OF MARKET POWER BY LOW INCOME CUSTOMERS
- INCREASE IN PRICE VOLATILITY AND COST ALLOCATION FOR AT LEAST GENERATION PORTION OF THE BILL
- EROSION OF CONSUMER PROTECTIONS



UNIVERSAL SERVICE PROGRAMS: LINK TO RETAIL COMPETITION *(continued)*

- ROLE OF DISTRIBUTION
COMPANY IN OBLIGATION TO
SERVE
- TELECOMMUNICATIONS
MODEL



STATE UNIVERSAL SERVICE PROGRAMS

➤ CALIFORNIA:

- \$180 M OVER 4 YEARS FOR ENERGY EFFICIENCY, RATE ASSISTANCE, NEEDS ASSESSMENT
- STATEWIDE ADMINISTRATION/PUC OVERSIGHT
- PUBLIC GOODS CHARGE ON DISTRIBUTION BILLS: ABOUT 3 MILLS/KWH



STATE UNIVERSAL SERVICE PROGRAMS *(continued)*

➤ PENNSYLVANIA

- PROGRAMS INCLUDE BOTH BILL PAYMENT ASSISTANCE AND ENERGY MANAGEMENT
- FUNDING THROUGH DISTRIBUTION RATES; REDIRECTION OF COLLECTION EXPENSES
- PER KWH CHARGE FOR RESIDENTIAL RATEPAYERS
- RENEWABLES ENERGY PILOTS



PENNSYLVANIA (CON'T)

- PUC HAS SUBSTANTIALLY INCREASED FUNDING IN EACH UTILITY'S RESTRUCTURING CASE:
 - PECO ENERGY: \$50M programs, of which \$5.6 is energy mgt.; expand to 100,000 customers.
 - PP&L: Rate assistance expanded from \$2M to \$11.7 M; energy mgt. from \$4M to \$4.7M; must include baseload program.



MASSACHUSETTS PROGRAMS

- ELECTRIC RESTRUCTURING
LEGISLATION CODIFIED
EXISTING RATE DISCOUNTS
 - 40% DISCOUNT AT
COMMONWEALTH EDISON (13.8
cents per KWh)
 - 30% DISCOUNT AT BOSTON
EDISON (12.5 cents per KWh)



MASSACHUSETTS PROGRAMS *(continued)*

- ENERGY MGT. SET ASIDE @ 0.25 MILLS/KWH (\$10M) WITH COMMUNITY DELIVERY MANDATE.
- NO CHARGE FOR SWITCH TO DEFAULT SERVICE OR OTHER INVOLUNTARY SWITCH;
- AGGREGATION



NEW HAMPSHIRE PROGRAM

NEW HAMPSHIRE LEGISLATION:

"Programs and mechanisms that enable residential customers with low incomes to manage and afford essential electricity requirements should be included as part of industry restructuring." RSA 374-F:3(V).

ON FEBRUARY 28, 1997, THE N.H. PUC ISSUED ITS FINAL PLAN AND CALLED FOR THE CREATION OF A NEW \$13.2M LOW INCOME ASSISTANCE PROGRAM TO BE DESIGNED BY WORKING GROUP ON THE PIP MODEL.



REGULATION OF COMPETITIVE SUPPLIERS

- STATE JURISDICTION; CONTRACT LAW
- LICENSING; CERTIFICATION:
Barriers to entry vs consumer protection
- BILLING AND METERING
COMPETITION
- UNFAIR TRADE PRACTICES
- REGULATION OF CONTRACT
TERMS
- JURISDICTION AND ENFORCEMENT



CONSUMER PROTECTION REGS FOR COMPETITIVE BUSINESSES

- EQUAL CREDIT OPPORTUNITY ACT
- FAIR DEBT COLLECTION PRACTICES ACT
- FAIR CREDIT REPORTING ACT
- UNFAIR TRADE PRACTICES ACT (STATE AND FEDERAL)
- TELEMARKETING AND CONSUMER FRAUD AND ABUSE PREVENTION ACT
- COOLING OFF RULE



LICENSING/CERTIFICATION

ROLE OF THE PUC/PSC IN BARRIER TO
ENTRY--COMPARABLE TO REGULATION OF
INSURANCE, HEALTH CARE, BANKING INDUSTRIES

STATE DECISIONS:

CALIFORNIA: MINIMAL CRITERIA AT FIRST; THEN
ADOPTION OF MORE EXTENSIVE APPLICATION
REQUIREMENTS AND CONSUMER PROT. RULES

PENNSYLVANIA: MORE SUBSTANTIVE; BONDING



REGULATION OF CONTRACT TERMS

- **RIGHT OF RESCISSION**
- **COLLECTION COSTS**
- **RIGHT TO PAYMENT
ARRANGEMENT; MEDICAL
EMERGENCY**
- **REGULATION OF LATE FEES;
CANCELLATION FEES**
- **MINIMUM/MAXIMUM
CONTRACT TERM**



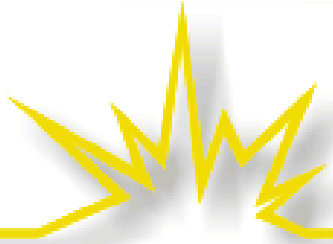
BILLING AND METERING COMPETITION

➤ STATES WHERE COMPETITION
IS SCHEDULED:

- CALIFORNIA (1999)
- MAINE (2002)
- PENNSYLVANIA (PECO-1999)

➤ STATES WHERE OPTION
UNDER EXPLORATION:

- ILLINOIS (NO EARLIER THAN 3
YEARS AFTER COMPETITION)
- MASS (REPORT BY 1/2001)



DISPUTE RESOLUTION

- AVOID CUSTOMER CONFUSION
- ONE-STOP COMPLAINT HANDLING
- COMMISSION JURISDICTION;
COORDINATE WITH ATTORNEY
GENERAL
- ANALYSIS AND IMPACT ON
LICENSING AND
- UNFAIR TRADE PRACTICE RULES



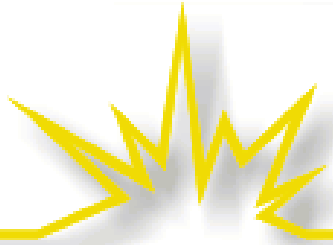
CREDIT AND COLLECTION PRACTICES

- SEVERAL STATES (MA, CT AND PA) REQUIRE COMPETITIVE SUPPLIERS TO COMPLY WITH EXISTING CREDIT RULES APPLICABLE TO UTILITIES
- FEAR OF "REDLINING"
- RELATIONSHIP TO OBLIGATION TO SERVE



CONNECTICUT ANTI-DISCRIMINATION POLICY

- "No electric supplier...shall refuse to provide electric generation services to, or refuse to negotiate to provide such services to any customer because of age, race, creed, color, national origin, ancestry, sex, marital status, sexual orientation, lawful source of income, disability or familial status. No electric supplier shall decline to provide electric generation services to a customer for the sole reason that the customer is located in an economically distressed geographic area or the customer qualifies for hardship status....No electric supplier shall terminate or refuse to reinstate electric generation services except in accordance with the provisions of title 16 of the general statutes." Connecticut, An Act Concerning Electric Restructuring, Public Act No. 98-28, eff. 4/29/98, §29.



CHANGE OF SUPPLIER

- SHOULD WRITTEN AUTHORIZATION BE REQUIRED?
- MOST STATES ARE RELYING ON THIRD PARTY ORAL VERIFICATION
- PROHIBIT USE OF CHECK OR PRIZE OR NEGATIVE OPTION LETTER
- ENFORCEMENT AND PENALTIES
 - FINES
 - LICENSE REVOCATION
 - RESTITUTION FOR CUSTOMER



ENFORCEMENT; ACCESS TO BOOKS AND RECORDS

- ACCESS TO BOOKS AND RECORDS;
REQUIRE
- LOCATION IN THE STATE?
- REASONABLE CAUSE FOR AUDIT;
INVESTIGATION
- STATUTORY AUTHORITY FOR
ADMINISTRATIVE
- FINES, LICENSE REVOCATION
- CALIFORNIA, MAINE: SUBSTANTIAL
INCREASE IN PENALTIES, UP TO \$10,000
PER DAY PER VIOLATION.



CONCLUSION

- THE MOVE TO RETAIL ELECTRIC COMPETITION WILL REQUIRE LEGISLATORS AND POLICY MAKERS TO RETHINK THE FORM OF REGULATION OF THE 100-YEAR OLD MONOPOLY ELECTRIC SUPPLIER.
- THIS NEW FORM OF REGULATION WILL FOCUS LESS ON PRICE AND ENTRY CONTROLS AND MORE ON STATE REGULATION TO PREVENT UNFAIR AND DECEPTIVE PRACTICES.