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A River of Energy Solutions

Approaching and Negotiating With Utilities for Regulated Services

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Topics

- Utility services
- Federal Energy Management Program support and oversight
- Negotiating services and rate agreements
- Managing a utility relationship in dynamic industry times

Examples of Utility Contracts

- Purchase or sale of electricity or natural gas
- Purchase or sale of steam or chilled water
- Contracts for transmission, distribution, or ancillary services
- Contracts involving the construction of infrastructure
- Contracts involving utility services contracts

Regulated Utility Services

- Electric utilities
 - Unbundled distribution service only
 - Bundled service including power supply
 - Other services (e.g., added facilities, standby service)
- Natural gas utilities
 - Unbundled transportation service only
 - Bundled service including commodity
 - Other services (e.g., interruptible service)

Electric Utility Rate Structures

- Unbundled service
 - Customer, facilities, and public benefits charges
 - Distribution system losses
- Bundled service
 - Customer, facilities, and public benefits charges
 - Power supply charges including transmission and ancillary service charges
- Line extension and interconnection rules

Gas Utility Rate Structures

- Unbundled service
 - Customer, facilities, and public benefits charges
 - Distribution system losses
- Bundled service
 - Customer, facilities, and public benefits charges
 - Natural gas supply charges including interstate pipeline transportation charges
- Line extension rules

Utility Regulation

- Investor-owned utilities
 - Regulated by state regulatory commissions
 - Regulated rates and rules (e.g., line extensions, interconnections)
- Cooperatives
 - Rates and rules determined by governing boards
- Municipalities
 - Rates and rules determined by municipal officials

DOE Order 436.1(5)e(6)

“Ensure that sites under their purview provide the DOE Federal Energy Management Program (FEMP) all contracts for utilities services and modifications to such contracts (excluding administrative or incremental funding modifications) prior to execution for review and concurrence by FEMP and the Office of General Counsel (OGC).”

FEMP's Role Under DOE Order 436.1

- Contract review and concurrence
 - Review and concur on contracts for utility services
- Intervention
 - Represent DOE consumer interests in utility proceedings that affect DOE operations by intervening jointly with the OGC

Overview of Contract Negotiations

- Negotiate a contract related to existing regulated utility service
 - Term extension
 - New rate provisions
 - Expanded services and changes in requirements
- Negotiate a contract for new regulated utility service
 - Line extension or interconnection issues
 - Standard or special contract rates, terms and conditions

Four Steps to FEMP Concurrence

1. Notify FEMP early in utility acquisition planning
2. Coordinate with FEMP on utility acquisition plan (UAP) development; assistance with UAP is available
3. Forward FEMP the contract, receive concurrence
4. Finalize utility acquisition contract with CO sign off; copy to FEMP

Overview of the Regulatory Process

- Utility files with state commission for approval to increase rates
- FEMP/OGC analyze impact of utility filing and decide whether to intervene
- DOE participates in the regulatory proceeding
 - Including sponsoring expert testimony
 - Settlement is one possible outcome - “seat-at-the-table”
- State commission issues a final ruling

Utilities' Perspectives On Negotiations

- Standard service typically at commission-approved rates
- Negotiated rates in some situations
 - Very large customers
 - Municipal and cooperative utilities
 - Additional services
- Aversion to regulatory risk
 - Cost-based rates – not subsidized by other customers

Negotiations Example:

Air Force Hydropower Allocation

Wheeling a federal hydropower allocation to an air force base prior to retail wheeling being allowed

- Resolution:
 - Base receives credit for hydropower that it purchases for 2 cents and avoids utility's 4-cent fuel charge
 - Utility's non-fuel revenues don't materially change
- Key to Success: finding a decision maker at the utility that was willing to develop a win-win solution

Negotiations Example:

Expiring Contract Under GSA Areawide

DOE was seeking to replace an expiring electric service agreement under a GSA Areawide; the utility wanted to change several rate provisions

- Resolution:
 - DOE objected to proposed changes because they would increase its costs; utility agreed to defer its proposed changes until its next general rate case
- Key to Success: analyzing the utility's proposal in detail and choosing the forum in which to disagree

Negotiations Example: Expanded Facilities O&M Agreement

DOE was seeking O&M services for a new on-site government-owned substation

- Resolution:
 - Utility agreed to substation specific rate as opposed to its originally proposed and generalized formulaic rate
 - DOE savings were significant
- Key to Success: analyzing the utility's proposal in detail and benchmarking the proposal against other utilities' cost structures

Utilities' Perspectives On Rate Cases

- Get the money, get the money, get the money
- Rate design, or who should pay (i.e., which rate classes), is left to rate experts to argue about
 - In theory, rates by rate class should be cost-based
 - Politics is a factor in terms of which customer classes pay for a rate increase
- Rate design issues will be quickly sacrificed for a settlement on revenue issues

Rate Case Example:

Proposed Transmission Charge

Utility was proposing a new and substantial transmission facilities charge for a DOE facility in a general rate case

- Resolution:
 - DOE intervened in the case and opposed the charge
 - A utility's officer directed a reluctant rates department representative to compromise
- Key to Success: long-standing professional relationship with an officer of the utility

Rate Case Example:

Excessive Distribution Loss Charges

Distribution utility was proposing what DOE believed to be excessive distribution loss factors

- Resolution:
 - DOE intervened in the case and opposed the charge
 - Utility lowered its proposed loss factors by half
- Key to Success: persistent discovery during the case, and an OGC attorney arranging for direct discussions between utility and DOE experts

Utility – Customer Relationships

- They do matter
- Utilities make an effort to manage their relationships with large customers
 - Relationships tend to be with customers' facilities/energy managers
- Customers would benefit if that relationship could be expanded to the management level
 - Primary contacts remain at facilities manager level, but an annual meeting with a utility officer would be ideal

Energy Dynamics – Perspectives

Utilities

- EPA rules
- Early plant retirements
- Aging infrastructure
- Rate relief in financially distressed times with stagnant load growth

Government

- Energy efficiency
- Energy conservation
- Renewable energy
- Sustainability initiatives
- Competition for programs – jobs

Managing Utility Costs

- Become a well-informed utility consumer
- Establish, improve and/or expand relationship with the local utility
 - Provide utility with a good understanding of the challenges that you face as a government customer
 - Show an understanding and interest in utility issues
- Coordinate with FEMP
 - Contract negotiations and regulatory proceeding interventions