

September 3, 2003

TO: SUIS Subcommittee, REQ and RGQ

RE: Supplier Licensing, Meeting in Richmond, VA, September 11, 2003

FM: BARBARA R. ALEXANDER, AGENT, MAINE PUBLIC ADVOCATE

The purpose of this meeting is to initiate discussions concerning the development of model business practices relating to Supplier Licensing. As per the Subcommittee's practice, the section of the Uniform Business Practices Report (2000) relating to Supplier Licensing has been posted on the NAESB website as part of the agenda materials for this meeting to provide background information for this topic.

Every state that has adopted retail electric competition has also adopted a formal licensing rule or order by the state regulatory commission, including detailed regulatory proceedings with timetables and provision for formal intervention where the application is subject to dispute, as well as a formal application form. This practice is not uniform for natural gas competition because many of the states that have such programs do not have formal statutory authority that sets forth the regulatory authority's jurisdiction over competitive suppliers. For those states with formal statutory authority for retail natural gas competition for residential and small commercial customers, such as Pennsylvania and Ohio, formal licensing programs are in existence that are similar to those adopted for the electric competition program. In those states without formal licensing rules for natural gas suppliers, the regulatory authority has in some cases relied upon the certification by the LDC pursuant to the commission's oversight or, in other cases, created a registration program at the state level.

The licensing process is replete with policy issues, many of which are listed in the UBP Suppliers Licensing chapter. I presume the Subcommittee would agree that these matters should not be addressed in our development of model business practices.

The question remains whether there is any benefit to developing business practices for the processing of the licensing application or the contents of the application itself. My preliminary thought is that these matters are set forth in great detail in most of the state licensing or certification regulations. They could not be changed without engaging in a formal change to the regulations in each state.

Another important consideration is that the "parties" at interest in this topic typically do not involve the distribution utilities because they are (supposedly) neutral with respect to the licensing process and, in most state, not involved in any manner unless they intervene or seek to submit evidence that the commission should consider in the licensing process. The entities with the most self-interest in this topic are suppliers and consumer representatives, both of which are in short supply in these Subcommittee deliberations. Of course, state regulators have a significant interest in this topic and have a wealth of information to share about their statutory obligations, licensing regulations, and the licensing process to date and I would certainly support

an effort to get some of those staff folks involved in this process if the Subcommittee decides to continue to work on this topic.

Finally, there are significant issues concerning the financial and technical qualifications associated with competitive energy suppliers that have assumed a growing importance in recent years due to the failure of some suppliers to perform their obligations, the declaration of bankruptcy by some, with adverse consequences on both consumers and, in some cases, utilities who have the obligation to serve. As a result, any document that this Subcommittee might produce on this topic would, from my perspective, have to respond to these developments. At a minimum, I would seek to expand the type or scope of information required by license applicants concerning their technical and financial capabilities compared to the list or level of detail in the UBP Supplier Licensing document. I would also seek some public recognition of how a supplier would be required to meet the licensing authority's requirement for a bond or security interest to protect consumer prepayments, deposits, and billing errors by the supplier. These discussions are likely to be very controversial.

I am willing to defer action on this topic if that is the consensus of those present at the meeting. If there is a desire to attempt to develop business practices that address the application process and the contents of an application, I propose that the Subcommittee first gather existing state licensing rules and application forms (OH, TX, PA, NJ, ME, for starters, and all of which is available on the respective state commission websites) so that the proposals we discuss will be relevant and reflective of existing practices.