

VII. Supplier Licensing

A. INTRODUCTION

In an effort to foster uniformity, it is recommended that the Applicable Regulatory Authority oversee the process for licensing competitive Suppliers and that it should also maintain and make available a complete and updated list of all licensed competitive Suppliers with their current status. This section provides guidelines for implementing the process for obtaining and maintaining a license to provide electric and natural gas services. There may be additional requirements for Supplier participation in a Utility's service territory, managed by the Utility, subject to regulatory oversight, such as creditworthiness, interconnection arrangements, EDI testing, etc. These may or may not be considered an integral part of the licensing process conducted by the Applicable Regulatory Authority.

B. REGULATORY POLICY ISSUES

As described more fully in the Preface, there are a number of regulatory policy issues that affect the business practices addressed in this document. The key policy issues impacting Supplier Licensing practices are identified below, along with implementation issues that were not resolved by the participants. Regulators and other policymakers are encouraged to examine these issues before, or in conjunction with, considering the recommended business practices for a particular jurisdiction.

1. The applicable licensing requirements and parameters.¹
2. Role of the Applicable Regulatory Authority in the licensing process.
3. Details and development of the application process:
 - a. Application form (e.g. contents);
 - b. Processing timeline; and
 - c. Financial and technical requirements,.
4. Availability and maintenance of the master list of all Applicants and their status.
5. Conditions for Maintaining a License:
 - a. Revocation, suspension and penalties; and
 - b. Periodic review and/or renewal.
6. Confidentiality of Information.
7. The need for, and purpose(s) to be served by, financial security provided to the Applicable Regulatory Authority.

¹ This section does not address entities other than Suppliers, such as aggregators and brokers. The Applicable Regulatory Authority may want to consider certification and licensing procedures for these entities as well.

C. APPLICABILITY

1. Where applicable, the licensing process should apply to both electric and natural gas Suppliers. A Supplier should be able to offer both electric and natural gas services through a single license application process.

2. If a license is required, no Supplier shall contract, offer to contract, enroll Customers, or provide energy to retail Customers, without having first obtained the proper license from the Applicable Regulatory Authority.

D. APPLICATION PROCESS

1. Applications should be made on forms developed and made available by the Applicable Regulatory Authority. The application form should be readily available and posted in a downloadable format on the Applicable Regulatory Authority's Web site.

2. The Applicable Regulatory Authority should maintain and update a list of all Applicants and the Applicants' status and post the list on its Web site, if one is available.

3. The Applicable Regulatory Authority should endeavor to adopt a streamlined process, which enables processing of all completed license applications within thirty (30) calendar days. The application process should be electronic, i.e., Web-based, if available.

4. As part of the Applicable Regulatory Authority's review and approval process there should be sufficient opportunity for affected stakeholders to intervene in the process or proceeding.

E. APPLICATION PROCESSING

1. The Applicable Regulatory Authority should notify the Applicant within two weeks of receipt of the application if additional information is required, and if so, should identify the information needed. If additional information is required from the Applicant, the processing period shall begin when all required additional information has been received by the Applicable Regulatory Authority.

2. If a deficiency is found in the Applicant's application, the Applicable Regulatory Authority should notify the Applicant in writing of the deficiency within two weeks of receipt of the application. Applicant would have two (2) weeks upon receipt of the written notice to provide notice of intent and schedule to satisfy the deficiency.

3. The knowing and/or intentional making of false statement(s) on the Application are grounds for denying the Application or, if discovered after a license has been awarded, for revoking any authority granted pursuant to the Application and License. In addition, the application should be subject to applicable regulations and statutes relating to false statements in official documents.

F. APPLICATION REQUIREMENTS

Applications should typically include the following information:

1. IDENTITY OF THE APPLICANT:

- a. the Applicant's legal name, current address, current telephone number, current electronic mail (E-mail) address of Applicant's contact, Web site address (if applicable), and current facsimile number;
- b. any predecessor(s) of the Applicant and other names under which the Applicant has operated within the preceding five (5) years, including name, address, and telephone number; and
- c. the name(s) under which the Applicant has registered with the state to do business with respect to this license.
- d. A description of the business structure and ownership type, including incorporation information (date and state), a list of all corporate officers and directors, or all partners if a partnership, a copy of the business license or certificate of authority to do business in the state (if applicable), state sales tax identification number (if applicable), and federal tax identification number.
- e. Names and addresses of any parent company and Affiliate(s) which are jurisdictional public Utilities, intrastate pipelines, interstate pipelines, municipal Utilities, or cooperatives operating within the state.

2. CONTACT INFORMATION:

- a. name, address, telephone number, e-mail address, and facsimile number of employee designated to receive and respond to Applicable Regulatory Authority requests and who will notify the Applicable Regulatory Authority of any changes to the information provided in the Application;
- b. title, department, address, telephone number, and facsimile number designated for emergencies;
- c. title, department, address, telephone number, e-mail address (if applicable), and facsimile number for the Applicable Regulatory Authority to contact to address Customer complaints;
- d. Applicant's toll-free Customer service telephone number for inquiries from Customers in the State/relevant Utility service area(s); and
- e. Agent for service of Process upon whom process may be served, and address, telephone number, and facsimile number of Agent for service of Process.

3. The Applicant shall provide information to demonstrate financial fitness. The following are the recommended information elements:

- a. Actual (or proposed) organizational structure of the Applicant;
- b. Applicant's publicly available balance sheet and income statement for the most recent fiscal year. Published financial information such as 10Ks and 10Qs will be deemed to satisfy this requirement. If the Applicant does not have published financial information such

as 10Ks and 10Qs, the 10K or 10Q of the Applicant's parent will satisfy this requirement;

c. Evidence of Applicant's credit rating. Applicant may satisfy this requirement by providing information from Dun and Bradstreet credit reports, Robert Morris and Associates financial forms, or other independent financial service reports;

d. At the Applicant's discretion, published parent company financial and credit information;

e. Annual Report, if available;

f. A statement whether the applicant or an Affiliate has filed for bankruptcy within the past 24 months; and

g. At the Applicant's discretion, other financial information. For instance, the Applicant may furnish other creditworthiness/financial information used to demonstrate financial fitness in other states or in other segments of the energy industry.

4. To demonstrate its technical fitness and ability to comply with the Applicable Regulatory Authority's requirements, the Applicant may provide the following information:

a. A statement or demonstration of ability to comply with applicable wholesale market obligations by the Applicant or its agent(s);

b. A statement as to whether the Applicant or its agent has a Federal Energy Regulatory Commission (FERC) Power Marketing License. If applicable, the Power Marketing License number;

c. Documentation of the Applicant's or its agent's membership in regional reliability councils shall be submitted if applicable to the scope and nature of the Applicant's proposed services; and

d. Demonstration of its ability to comply with the Applicable Regulatory Authority's requirements by providing evidence for consideration, including but not limited to, prior regulatory experience, prior business experience in energy or other service-oriented industries, staffing and staff training commitments, agreements, arrangements and contracts for Customer education and information service, Customer satisfaction survey results, and government agency reports. The Applicant shall also provide a list of those states where it is presently licensed, and indicate if it is currently operating in each state where it is approved to do business.

5. The Applicant must provide the following disclosures, as applicable:

a. The denial or revocation of a license in another state;

b. All civil actions that have been concluded within the past 12 months that relate to or arise out of the sale of electricity or natural gas, business fraud, or unfair or deceptive sales practices;

c. All criminal prosecutions or convictions within the past six years that relate to or arise from the sale of electricity or natural gas, business fraud or deceptive sales

practices; and

- d. All felony prosecutions or convictions within the past six years.

G. CONDITIONS FOR MAINTAINING A LICENSE IN GOOD STANDING

1. If there are any material changes to the Applicant's information while the application is pending or if the information changes while the Supplier is operating under license within the state, the Applicant/Supplier must inform the Applicable Regulatory Authority of the material changes within thirty (30) calendar days.

2. Once approved, the license to serve Customers in the state is valid until revoked or suspended by the Applicable Regulatory Authority after notice and opportunity for hearing guarantees are afforded, or until the Supplier chooses to abandon the license. The Applicable Regulatory Authority may also require the Licensee to temporarily halt its activities to prevent further consumer harm while an investigation may proceed.

3. At the discretion of the Applicable Regulatory Authority, if a deficiency is found in the Supplier's maintenance of its license in good standing:

- a. Grant the Supplier thirty (30) calendar days upon receipt of written notice to cure the deficiency or to file a request for an extension to cure the deficiency; or

- b. Take immediate action where harm to consumers may result from continuing activity by a licensee whose financial or technical fitness may be imperiled.

H. CONFIDENTIALITY

The application may contain information that is deemed confidential and which is not subject to public disclosure, unless otherwise required to be disclosed pursuant to other statutory or regulatory provisions. If information must be disclosed, then the confidentiality of the information shall be maintained consistent with the Applicable Regulatory Authority's rules and regulations pertaining to confidentiality.