

Evaluating Tribal Utility Opportunities

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This presentation is specific to electric utilities but applies to many utility services:

- Electric
- Natural Gas
- Propane



- Communications
- Water
- Waste Water



Types of Electric Utilities

Who is in charge and what are their motivations?

Type of Utility	Who Controls	Who (generally) Regulates	Interests
Investor Owned	CEO, Board of Directors	FERC (wholesale) PUC (retail)	For Profit
Cooperative	All members elect leadership	FERC (wholesale) Leadership (retail)	Service to members, meeting their costs
Municipality	City Council	FERC (wholesale) Mayor/Officer (retail)	Service to the public, meeting their costs
District/Other	Governed by Legislation	FERC (wholesale) Appointed (retail)	Service to members, meeting their costs, Depends on legislation
Tribal (Arm of Government, Corporation, Other)	Tribal Government – through resolutions or laws passed. Can institute a Board if desired.	Tribe/Tribal Entity	As stated in the formation documents

Know Tribal Rights and Opportunities

Standard rights and options as utility customers:

- Take advantage of existing rules and tariffs
- Tribal and tribal member participation in public and customer policy processes
- Complaints (formal and informal)
- Request (and fight for) changes in rules and tariffs
- When you pay for it, you can require terms and conditions – negotiate!
- Use the power of being a large customer
- Tribal news publications can inform community
- Open Access rights

Tribal sovereignty affords many strategic options for utility relationships:

- Tribe has regulatory jurisdiction over services – location of services/land type will often affect the level of jurisdiction
- Tribal laws can directly address utility customers and service providers
- Leverage rights of ways/service line agreements
- Power of eminent domain
- Determine your goals, learn your rights, learn the utility's rights, strategize, then implement!
- Tribal provision of utility services

Tribal Utility Formation Steps

1. Clarify the Tribe's **goals and priorities** related to utility services.
 - Goals could include: exercise of sovereignty, cost savings, improved service, establishing a presence in the energy industry, etc. These goals are often mutually exclusive. For example, cost savings will not always also provide improved service.
2. **Analyze loads** to be served by a tribal utility.
 - Understand the Tribe's jurisdiction (often a land-status based review) over each load.
 - Factors to be considered are: size of the loads; electrical nature of the loads; use of the loads by Tribe; the load's current service provider(s); and alternative service providers in the area and operational issues related to the particular loads.
3. Determine potential **power supplier(s)**, including self-supply, market power and contract power.
4. **Analyze distribution facilities** and other physical facilities needed to serve loads.
 - Issues include existing rights of way status, facility age, value and ownership, whether existing facilities also serve loads not under tribal jurisdiction, costs of additional needed facilities, any other likely utility acquisition costs.
5. **Compare the likely rates and utility charges** of a tribal utility with the historical rates and charges of existing service providers.
6. Develop a **strategy for the operation** of the utility and other general utility business plans.
 - Any positive financial feasibility must be weighed with the Tribe's willingness to take on the responsibility of providing utility services. These responsibilities include long-term operations and maintenance, billing and collections, safety, legal and contractual obligations, and administration.

Identifying and Evaluating Tribal Utility Opportunities

- **Technical Feasibility** (What is possible/reasonable regarding the facilities/infrastructure/location?)
 - Power Supply
 - Self-generation (renewables or traditional?)
 - Market purchases/other suppliers
 - Transmission (where is your power coming from now? Is there capacity on the system for different or other power supplies?)
 - Distribution (can you take over the current facilities?)
 - Operations (who will run, maintain your utility?)
- **Financial Feasibility** (Compare the cost of your current service with alternatives.)
 - Know the basis of your current charges- review your bills and existing utility tariffs.
 - Are significant new tribal facilities being planned? These could impact financial analysis.
 - How does the cost of an alternative power supply plus transmission compare with the current power supply charges?
 - How does the cost of alternative power delivery systems and operational costs compare with current charges?
 - What rate setting considerations may help you meet your goals?

Opening Discussions With Your Utility

- Begin at the right level
- Know your (and their) rights
- Know your strengths and values
- Know what you want and have authorities in place
- Have a strategy for achieving what you want
- Communicate/Negotiate!

- Requires
 - Preparation
 - Dedicated team
 - Coordination
 - Terms of months/years
 - Political effort

Tribal Utility Formation Budget & Timeline

It Depends!



Examples of Favorable Utility/Tribe Interactions

- Tribal utility formation
- Wholesale Tariffs
- Direct Access Service
- Net Metering Arrangements
- Use of substations/infrastructure
- Energy Efficiency Programs
- Community Renewables
- Tribal member representation on Utility Boards
- Negotiation of Sovereign immunity/dispute resolution
- Participation in dam licensing negotiations
- Right of Way Agreements
- Tribal choice of providers

Results!

- Lower costs
- Integrate renewables
- Exercise and develop sovereignty
- Improved service
- Improved reliability
- Ownership

- Flexibility in services
- Community relationships
- Integration of the tribe into broader community and political issues
- Refined intra-tribal processes
- Infrastructure improvements
- Agreements

Lessons Learned from Tribal Utility Formation Projects

- Tribal (and Utility) designated personnel necessary.
- Creation of relationships is critical.
- Executive to executive communications/Staff communications.
- Work with other local utilities and local service providers.
- Hire the best experts.
- Tribal leadership support is essential.
- Make necessary tribal laws and regulatory entities.
- Educate your utilities.
- Develop MOUs and other agreements.
- Consider the context: your utility's issues; tribal growth & development; political issues in the region; market issues.
- Timelines/deadlines require extensive planning and constant attention.

Questions?

