

OFFICE OF LEGISLATIVE BUDGET ASSISTANT – AUDIT DIVISION
PRELIMINARY FINDINGS
ELECTRIC COMPANY RESTRUCTURING

PRESENTED TO
LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE
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In December 2017, the Fiscal Committee of the General Court adopted a recommendation by the joint Legislative Performance Audit and Oversight Committee (LPAOC) to conduct a performance audit of electric company restructuring. We held an entrance conference with the Public Utilities Commission (PUC) in March 2018.

PRELIMINARY FINDINGS

We were asked to conduct an audit to determine the status of electric company restructuring. We met with PUC personnel to determine the status of electric company restructuring, contacted electric utility stakeholders, researched New Hampshire statutes and administrative rules governing electric company restructuring, reviewed audits from other states and relevant PUC orders, and conducted a file review of applications from companies registering with the PUC to operate within the New Hampshire retail electric marketplace.

By way of background, effective May 1996, the PUC was authorized by RSA 374-F “to require the implementation of retail choice of electric suppliers for all customer classes of utilities providing retail electric service under its jurisdiction.” By 2003, retail competitors were allowed to register with the PUC, access the marketplace, and provide retail electric customers choice in who supplied their electricity. However, certain aspects of the electric company restructuring process requiring utilities to divest from owning electric generation assets had been delayed by litigation and changes in law.

Restructuring appears to have been substantially completed. The Federal Energy Regulatory Commission’s approval of Eversource’s sale of hydroelectric generation assets will mark the completion of electric restructuring. As a separate issue, the New Hampshire Supreme Court decided an appeal by Eversource to determine the proper interpretation of RSA 374-F related to a utility’s ability to purchase a gas transmission line. Oral arguments in this appeal were held on September 27, 2017 and the Supreme Court reversed and remanded the case to the PUC.

Based on our initial planning work during March and April we have concluded there does not seem to be significant issues with electric restructuring pursuant to RSA 374-F. Electric company restructuring is nearly complete as described above. Competition within the retail electric market appears to have improved. The retail electric market as of December 31, 2017 was made up of 35 competitive electric power suppliers (CEPS) and 122 aggregators. An aggregator is any person or entity, other than a utility, that aggregates electric load or serves as a broker on behalf of a CEPS, an individual customer, a group of customers, or any combination thereof. An initial review of CEPS and aggregator applications submitted to the PUC during 2018 indicated they are processed by PUC in 17 days on average. PUC staff reported the primary barrier to entering the market is obtaining a bond or letter of credit required by administrative rules.

Although RSA 374-F contains 15 aspirational principles to guide stakeholders in restructuring the retail electric market, we found few objective standards upon which to base our evaluation of restructuring obtaining these principles. Further, PUC officials report the cost of energy has decreased since 2003, primarily due to low cost natural gas. A review of performance audits from other states revealed little value in assisting us in conducting a performance audit of electric company restructuring in New Hampshire. Furthermore, it is beyond the scope of the LBA’s expertise to determine how the competitive environment created under RSA 374-F impacted retail rates in New Hampshire, especially given the changes in the energy market since 1996.