



NATURAL GAS CUSTOMER CHOICE: INDEPENDENT SUPPLIER STANDARDS

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INTRODUCTION

The 2017 Montana Legislature passed House Joint Resolution No. 28 requesting the study of natural gas customer choice to identify the costs for monopoly utilities to open their gas systems to consumer choice, the costs that could be passed on to consumers, and the merits and complications of customer choice companies.¹

Currently, NorthWestern Energy customers in western Montana are able to participate in customer choice programs by selecting a third-party gas supplier for their utility needs. The same choice is not available to Montana Dakota Utilities (MDU) customers in eastern Montana.

Most customer choice programs began in the 1990s to promote competition in local energy markets. Natural gas customer choice programs allow customers to purchase natural gas from a natural gas supplier or marketer other than the local natural gas utility. If a customer chooses to buy from a natural gas marketer, that marketer procures the natural gas from other sources and arranges its delivery to the local natural gas utility's system. The local natural gas utility commonly charges the customer to transport and distribute the gas on its system. State public service commissions do not allow local natural gas utilities to earn a profit on natural gas itself. Sales of natural gas by marketers are unregulated and marketers may earn profit on the company's sales.²

Montana's customer choice legislation is paired with licensing standards set by the Montana Public Service Commission (PSC) for independent natural gas suppliers. The standards provide regulatory oversight to the PSC for maintaining consumer protection standards.

CUSTOMER CHOICE LEGISLATION

The Montana Legislature passed the Natural Gas Utility Restructuring and Customer Choice Act (Title 69, chapter 3, part 14, MCA) in 1997. The law states natural gas companies may voluntarily offer customers a choice of natural gas suppliers and provide open access to its transmission facilities. It also provides licensing authority for independent gas suppliers to the PSC.

Licensing Standards

Under 69-3-1405, MCA, the PSC is required to license suppliers and enforce the following licensing provisions:

Natural gas suppliers shall file an application and obtain a license from the PSC.

- 1.) Licensees shall:
 - a. provide copies of all license applications to the PSC and to all distribution service providers;
 - b. and provide annual updates to licensing information.
- 2.) License applications become effective 30 days after filing with the PSC. If the PSC rejects an application, the PSC shall specify the reason in writing and provide alternatives to overcome deficiencies.

¹ House Joint Resolution No. 28, 2017 Montana Legislature

² How customer choice programs work, U.S. Energy Information Administration

- 3.) The PSC shall promulgate rules requiring licensing information to identify the licensee and ensure that natural gas supply is provided as offered and is adequate in terms of quality, safety and reliability;
- 4.) The PSC may require proof of a licensee's financial integrity and a demonstration of adequate firm deliverability to meet load requirements; and
- 5.) The PSC may, pursuant to its own investigation or upon the complaint of an affected party, institute a proceeding to revoke or suspend a license of a natural gas supplier for just cause.

ADMINISTRATIVE RULES

The PSC implements Montana's Natural Gas Utility Restructuring and Customer Choice Act by administrative rule (38.5.7001 – 7014, ARM). The rules set minimum licensing standards for independent suppliers in the state, including registration and reporting requirements and minimum standards for license revocation.

Licensing Standards

Independent natural gas suppliers must apply for a supplier license with the PSC. Applicants must supply the information found in the following table in order to satisfy licensing requirements.

| Table 1. Montana Independent Gas Supplier Licensing Requirements | |
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| 1. | Applicant's business name |
| 2. | Street address and mailing address |
| 3. | Telephone number |
| 4. | A description of the business's organization |
| 5. | Supplier representative's contact information |
| 6. | Consumer contacts |
| 7. | Applicant's agent for service of process in Montana |
| 8. | Detailed information regarding the company's gas supply |
| 9. | Detailed information stating the quality, safety, and reliability of the company's gas supply |
| 10. | Information regarding financial integrity, including current balance sheets, income statements, profit and loss statements, cash flow statements, and information regarding deliverability to meet load requirements |
| 11. | A description of federal and state judicial and administrative proceedings pending against the applicant |

Source: ARM 38.5.7010

Independent suppliers must also file examples of each type of contract offered to residential and small commercial customers and notify distributors by providing all license applications.³ Suppliers must also file an electronic registration with the PSC, including contact information and a list of the geographic areas and a list of Montana cities where residential and small customer are served.⁴

Suppliers also file annual reports including a list of services, quality and reliability reports and organization charts.⁵ There are currently 13 natural gas suppliers licensed in Montana by the PSC to serve residential, small business, commercial and industrial customers. Of those 13 currently licensed operations only five – Commercial Energy of Montana, Energy West Resources, Big Sky Gas, Croft Petroleum, and DNE Sales – are licensed to serve residential customers.⁶

License Revocation

The Montana PSC may revoke or suspend a natural gas supplier license pursuant to a PSC investigation if the supplier violates or fails to meet the following standards.

| Table 2. Gas Supplier License Revocation Standards | |
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| 1. | Violation of any federal or state law which has as its purpose, directly or indirectly, fair competition among suppliers |
| 2. | Violation of any federal or state law which has as its purpose, directly or indirectly, protection of consumers |
| 3. | Violation of any PSC rule |
| 4. | Providing false information or materially incomplete information to the PSC in regard to licensing or reporting |
| 5. | Failing to file annual reports |
| 6. | Failing to abide by federal and state laws which pertain to business, business structure, antitrust, trade, contracts, truth in labeling, consumer protection, privacy and like laws applicable generally or specifically to the provision of gas supply |
| 7. | Failing to supply gas in accordance with agreements with customers and representations to the PSC |
| 8. | Engaging in abusive or anticompetitive practices |

Source: ARM 38.5.7016

³ ARM 38.5.7010

⁴ ARM 38.5.7011

⁵ ARM 38.5.7014

⁶ Jennifer Hill-Hart Joel Tierney, PSC Natural Gas Supplier Memo, February 20, 2018

The PSC revoked one natural gas supplier license in 2015 when People’s Power and Gas filed to file an annual report. PSC staff could not contact the company by phone or registered letter. Staff found the company had filed bankruptcy and revoked its license accordingly.⁷

STATE STANDARDS

The top three states by total volume of natural gas delivered by local utilities for independent distributors in 2016 were Georgia (86 percent), Ohio (80 percent), and New York (29 percent).⁸ These states and California also have robust rules concerning independent suppliers with varying levels of licensing and consumer protection requirements.

Georgia

Customer choice is available to customers on the Southern Company Gas system.⁹

In 1997, the Georgia General Assembly adopted Senate Bill 215, a new regulatory model that allowed competitive marketers to operate customer choice programs. The law required marketers to obtain a certificate of authority demonstrating adequate financial and technical ability to sell or offer to sell natural gas in the state. In 2002, the General Assembly passed the Consumers' Relief Act to set forth a Consumer Bill of Rights and to establish a regulated provider for low-income and high-risk customers.¹⁰

Georgia law enacts a similar licensing process to the Administrative Rules of Montana, requiring application for license and setting standards for license revocation. In Georgia, suppliers must file application to the Georgia Public Service Commission (GPSC) including the following:

- The legal name of the applicant;
- The name and current business address of the applicants principal corporate officers and those officers in Georgia;
- A description of the applicants business and organization;
- Recent annual stockholder reports;
- Proposed terms of service and expected revenues;
- Statement acknowledging compliance with federal telemarketing laws and Georgia consumer protection laws;
- Financial information including demonstration of capital base, financial plans, audited financial statements, a credit or bond rating, details of purchase obligations, operating lease commitments, details concerning long-term debt, and available credit and details concerning joint ventures;
- Technical information including potential service territories; supply disruption contingency plans, gas-related emergency procedures; list of pending or past rulings, judgments or litigation, and information concerning the company’s existing operation.¹¹

The GPSC set the following standards for certification:

⁷ Jennifer Hill-Hart Joel Tierney, PSC Natural Gas Supplier Memo, February 20, 2018

⁸ Energy Information Administration (EIA), Form EIA-176, “Annual Report of Natural and Supplemental Gas Supply and Distribution.”

⁹ American Coalition of Competitive Energy Suppliers, State-by-State Information

¹⁰ Georgia Public Service Commission, “Natural Gas Competition in Georgia”

¹¹ Rules of Georgia Public Service Commission, 515-7-3-.03

Table 3. Georgia Independent Supplier Certification Standards

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| 1. | <p>The Commission shall issue a certificate of authority for a delivery group upon a showing by the applicant:</p> <ul style="list-style-type: none">(a) that it possesses satisfactory financial and technical capability to render the certificated service;(b) that it has the ability to obtain sufficient gas supply to meet the requirements of such service; and(c) that it will offer such service pursuant to rules and contract terms, which the Commission finds economically viable for the delivery group(s) which the applicant proposes to serve. |
| 2. | <p>Until a determination is made by the Commission that adequate market conditions exist within a delivery group, a marketer must separately list on its bills to retail customers within the delivery group the charges for firm distribution service and for commodity sales.</p> |
| 3. | <p>A marketer shall not refuse to sell gas to a potential firm retail customer within the delivery group(s) covered by the marketer's certificate of authority if the sale can be made pursuant to the rules for service authorized by the marketer's certificate of authority and upon terms that will provide the marketer with just and adequate compensation. The price at which a marketer sells gas shall not be fixed by the Commission.</p> |
| 4. | <p>A certificate of authority shall not be issued to an applicant who is unable to document that it has the ability to meet creditworthiness standards.</p> |
| 5. | <p>The Commission may deny an application upon a showing that a marketer or anyone acting in concert with a marketer has a history of violating laws, rules, or regulations designed to protect the public.</p> |
| 6. | <p>A marketer shall abide by applicable laws under the Official Code of Georgia Annotated, all applicable rules and regulations of the Commission, and findings, conclusions, terms, and conditions set forth in pertinent Commission Orders.</p> |
| 7. | <p>Each marketer must keep on file with the Commission's Natural Gas and Consumer Affairs Staff updated information on its regulatory contact person.</p> |
| 8. | <p>Each marketer shall make available the same options for rates, terms, and conditions of service that the marketer makes available to other similarly situated customers.</p> |
| 9. | <p>Each marketer shall pass through senior citizen discounts to eligible customers to the extent provided by the electing distribution company.</p> |
| 10. | <p>Marketers must apply to the Commission to receive authorization prior to any change in ownership, name change, adding or dropping a delivery pool group from service, owning meters, or any other substantial change that would affect their certification.</p> |

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| <p>11.</p> | <p>No marketer shall require a cash deposit to establish or re-establish credit in an amount in excess of two-and-one-half twelfths of the estimated charge for the service for the ensuing twelve months; and, in the case of seasonal service, in an amount in excess of one-half of the estimated charge for the service for the season involved. Each marketer shall establish an escrow account at a financial institution for the purpose of holding customer's deposits. Customers' deposits shall be held in trust in the escrow account established and shall not become the property of the marketer or be commingled with the funds of the marketer. Marketers shall pay interest on applicants' or customers' deposits for gas service held six months or longer at least equal to the interest rate paid by the financial institution where the escrow account is located. Upon receipt of a customer or applicant deposit, the marketer shall furnish the gas customer/applicant a receipt showing the following information:</p> <ul style="list-style-type: none"> • Name of customer/applicant; • Amount of deposit; • Date of receipt; • Name of marketer; • Interest rate; • Address where service is to be rendered; • Statement of the terms under which the deposit may be refunded. <p>Upon discontinuance of service, each marketer shall promptly and automatically refund the customers' deposits plus accrued interest on the balance, if any, in excess of the unpaid bills for service furnished by the marketer. In the case of any residential customer who has received natural gas service at the same location for twenty-four consecutive months, and who has paid his monthly utility bills promptly and regularly, and is not, at the end of such twenty-four-month period, delinquent in the payment of bills, the marketer shall, within thirty days of the end of the twenty-four-month period, automatically refund the deposit plus accrued interest, provided however, that the term promptly and regularly shall not be construed to disallow the refund to a customer who has had only two delinquent payments during the twenty-four month period. If a customer has had service discontinued for nonpayment, or has not paid bills promptly and regularly, the marketer shall withhold the refund, but thereafter, review the customer's account every twelve billings, and at the completion of a twenty-four month period during which a record of prompt and regular payments has been established, the marketer shall automatically refund the deposit, plus accrued interest. At the option of the marketer, a deposit plus accrued interest may be refunded in whole or in part, at any time earlier than the times herein prescribed, and based on any credit review period less than twenty-four months in the discretion of the marketer.</p> |
| <p>12.</p> | <p>A marketer shall not, either individually or through an alliance with another marketer, refuse to sell gas to a potential firm retail customer within the territory covered by the marketer's certificate of authority if the sale can be made by the marketer pursuant to the rules for service authorized by the marketer's certificate of authority and upon terms that will provide the marketer with just and adequate compensation.</p> |
| <p>13.</p> | <p>A marketer shall file with the Commission monthly reports as required by the Commission, providing the following: Composite sales volume and average revenue data by type of customer and delivery group; number of residential customers; number of commercial customers; number of industrial customers; total number of customers; therms delivered to commercial customers; therms</p> |

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| | delivered to industrial customers; total therms delivered in firm service to customers; total therms purchased from suppliers for firm customer demands. |
| 14. | <p>It shall be a violation of a marketer's certificate to trade customers except when the following conditions are met:</p> <ol style="list-style-type: none"> 1. Thirty days in advance of trading a customer, the marketer must provide to each customer it trades written notice stating the following: <ol style="list-style-type: none"> a. the date that the customer will be traded to a different marketer, b. the name of the marketer to which the customer will be traded, c. that the customer has the right to select the marketer of their choice without charge prior to the switch date, and d. the rates, terms and conditions of service which the new marketer will be offering to them; and 2. The traded customer's right to one free annual switch shall not be affected by the trade. In the event the customer selects another marketer rather than be traded and a switching charge is incurred as a result, the prior marketer shall pay to the EDC any applicable switch fee so that the customer maintains its free annual switch. In the event that the customer is traded and then selects another marketer within the same calendar year and a switching charge is incurred as a result, the marketer to whom the customer was traded shall pay to the EDC any applicable switch fee so that the customer maintains its free annual switch. |
| 15. | Each marketer shall file at the Commission, by the 5 th of the current month, the marketer's standard fixed offer for residential customers and standard variable offer for residential customers. Such offers shall include the cost per therm for the commodity and upstream capacity charges, and shall include the base charge, the marketer customer service charge, and any other charges to be included in the offers. |

Source: Rules of Georgia Public Service Commission, 515-7-3-.04

The GPSC currently recognizes 15 functioning independent gas suppliers in the state. The state's administrative rules are similar to those found in Montana but provide additional filing requirements that mandate monthly report filings.

Ohio

Customer choice is available to residential and nonresidential customers in the AEP Ohio, Dayton Power & Light, Duke Energy Ohio, and First Energy service systems.¹²

The Public Utilities Commission of Ohio (PUCO) introduced customer choice in 1997. Retail natural gas suppliers must be certified by the commission pursuant to section 4929.20(A) of the Ohio Administrative Code. The PUCO has the authority to license all natural gas suppliers in the state to ensure compliance with capability standards. Natural gas suppliers must file annual reports with contact information, business information, and technical details similar to those found in other states.¹³

¹² American Coalition of Competitive Energy Suppliers, State-by-State Information

¹³ Ohio Administrative Code, 4929.20-21

The PUCO adopted the following minimum standards for natural gas suppliers in that state:

| Table 4. Ohio Independent Natural Gas Supplier Minimum Standards | |
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| 1. | <p>Contract disclosure</p> <p>The rules include requirements that a retail natural gas supplier or governmental aggregator subject to certification under the Revised Code do both of the following:</p> <ol style="list-style-type: none"> 1. Provide consumers with adequate, accurate, and understandable pricing and terms and conditions of service, including any switching fees, and with a document containing the terms and conditions of pricing and service before the consumer enters into the contract for service; 2. Disclose the conditions under which a customer may rescind a contract without penalty. |
| 2. | <p>Service qualification and termination</p> <p>The rules include a requirement that, before a consumer is eligible for service from a retail natural gas supplier or governmental aggregator subject to certification of the Revised Code, the consumer shall discharge, or enter into a plan to discharge, all existing arrearages owed to or being billed by the natural gas company from which the consumer presently is receiving service. The rules also shall provide for disclosure of the terms identifying how customers may switch or terminate service, including any required notice and any penalties.</p> |
| 3. | <p>Minimum content of customer bills</p> <p>The rules include all of the following requirements, which shall be standardized:</p> <ol style="list-style-type: none"> 1. Price disclosure and disclosures of total billing units for the billing period and historical annual usage; 2. To the maximum extent practicable, separate listing of each service component to enable a customer to recalculate its bill for accuracy; 3. Identification of the supplier of each service; 4. Statement of where and how payment may be made and provision of a toll-free or local customer assistance and complaint number for the retail natural gas supplier or governmental aggregator, as well as a consumer assistance telephone number or numbers for state agencies, such as the commission, the office of the consumers' counsel, and the attorney general's office, with the available hours noted; 5. Other than for the first billing after the effective date of initial rules adopted pursuant to the Revised Code, highlighting and clear explanation on each customer bill, for two consecutive billing periods, of any changes in the rates, terms, and conditions of service. |

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| <p>4.</p> | <p>Disconnection and service termination</p> <p>The rules include policies and procedures that are consistent with the Revised Code and the commission's rules, and that provide for all of the following:</p> <ol style="list-style-type: none"> 1. Coordination between suppliers for the purpose of maintaining service; 2. The allocation of partial payments between suppliers when service components are jointly billed; 3. A prohibition against switching, or authorizing the switching of, a customer's supplier of competitive retail natural gas service without the prior consent of the customer in accordance with appropriate confirmation practices, which may include independent, third-party verification procedures; 4. A requirement of disclosure of the conditions under which a customer may rescind a decision to switch its supplier without penalty; 5. Specification of any required notice and any penalty for early termination of contract. |
| <p>5.</p> | <p>Customer information</p> <p>The rules include requirements that a natural gas company make generic customer load pattern information available to a retail natural gas supplier or governmental aggregator as defined in the Revised Code on a comparable and nondiscriminatory basis, and make customer information available to a retail natural gas supplier or governmental aggregator as defined in the Revised Code on a comparable and nondiscriminatory basis unless, as to customer information, the customer objects. The rules shall ensure that each natural gas company provide clear and frequent notice to its customers of the right to object and of applicable procedures.</p> |
| <p>6.</p> | <p>Ohio office</p> <p>The rules require that a retail natural gas supplier maintain an office and an employee in this state.</p> |

Source: Ohio Administrative Code, 4929.23

The PUCO's authority under Ohio Administrative Code, 4929.24 includes jurisdiction to, upon complaint of any person, determine if a natural gas supplier has violated code, order restitution to customers, and revoke a natural gas supplier's license.¹⁴

Ohio's independent supplier rules set a strict standard for customer termination and implicitly require a standard set of information in customer bills. The state currently recognizes 90 independent supply companies.

¹⁴ Ohio Administrative Code, 4229.24

New York

Customer Choice is available for residential and nonresidential consumers in the Central Hudson, ConEd, Corning Natural Gas, National Grid, National Fuel Gas Distribution, NYSEG, Orange & Rockland, RG&E, and St. Lawrence Natural Gas Utility Territories.¹⁵

In 1996, the New York State Public Service Commission (NYPSC) approved plans to allow customers the option to buy their natural gas and electric supply from companies other than their local utility company. The state licenses independent suppliers in a method similar to those listed above and requires stringent consumer protections including requirements for termination practices.

Under current law, the NYPSC requires the following consumer protections:

- A statement disclosing complaint resolution processes;
- A 15-day notice before discontinuing service;
- Customer choice of service from another independent supplier or the utility when a current supplier discontinues service;
- Clear procedures for switching suppliers;
- Convenient complaint handling procedures.

In addition, independent suppliers must comply with the Home Energy Fair Practices Act and PSC orders regarding payment allocation.¹⁶

New York's Home Energy Fair Practices Act serves as the basis for consumer protection in the state's utility industry. The law was amended in 2002 to require independent energy suppliers to adhere to the same consumer protection standards as the state's gas and electric utilities.¹⁷ In addition to the requirements listed above, the Home Energy Fair Practices Act sets the following standards for termination or disconnection of residential service.

Table 4. New York Gas, Electric, and Steam Service Termination Standards

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| 1. | Conditions for termination or disconnection |
| | A utility may terminate or disconnect residential service as provided for in the rules if the customer: <ol style="list-style-type: none">1. fails to pay charges for services rendered at any time during the preceding 12 months, provided that termination or disconnection of service for bills due for service rendered during periods in excess of the 12-month period is permitted in cases involving billing disputes during the 12-month period, estimated bills, the culpable conduct of the customer, or excusable utility delays;2. fails to pay amounts due under a deferred payment agreement;3. fails to pay or agree in writing to pay equipment and installation charges relating to the initiation of service; or |

¹⁵ American Coalition of Competitive Energy Suppliers, State-by-State Information

¹⁶ New York Public Service Commission, "Energy Choices – The Facts from the PSC"

¹⁷ New York State Public Service Commission, "Home Energy Fair Practices Act – Rules Governing the provision of Gas, Electric and Steam Service to Residential Customers"

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| | <ol style="list-style-type: none"> 4. fails to pay a lawfully required deposit; and 5. is sent a final notice of termination or disconnection no less than 15 days before the termination or disconnection date shown on the notice |
| <p>2.</p> | <p>Final notice</p> <p>A final notice of termination or disconnection shall clearly state or include:</p> <ol style="list-style-type: none"> 1. the earliest date on which termination or disconnection may occur; 2. the reasons for termination or disconnection, including the total amount required to be paid, and the manner in which termination or disconnection may be avoided; 3. the address and phone number of the office of the utility that the customer may contact in reference to his account; 4. the availability of utility procedures for handling complaints; and 5. a summary, prepared or approved by the commission or its authorized designee, of the protections available under this Part, together with a notice that any customer eligible for such protections should contact the utility. |
| <p>3.</p> | <p>Notice of termination or disconnection—time</p> <ol style="list-style-type: none"> 1. No utility may terminate or disconnect service until at least 15 days after a final notice of termination or disconnection: <ol style="list-style-type: none"> a. has been served personally upon the residential customer; or b. has been mailed to the residential customer at the premises where service is rendered. 2. If an alternative address for mailing purposes has been previously provided in writing to a utility, no utility shall terminate or disconnect service until at least 15 calendar days after a final notice of termination or disconnection: <ol style="list-style-type: none"> a. has been mailed to the premises where service is rendered and to the residential customer at the alternative address; or b. has been mailed to the residential customer at the alternative address and, according to procedures filed by the utility with the Office of Consumer Services, either: <ol style="list-style-type: none"> i. has been served personally upon an adult resident of the premises where service is rendered; ii. has been explained by telephone to an adult resident of the premises where service is rendered; or iii. has been posted in a conspicuous place at the premises where service is rendered. |
| <p>4.</p> | <p>Termination or disconnection of service—time.</p> <p>A utility may terminate or disconnect service to a residential customer for nonpayment of bills only between the hours of 8 a.m. and 4 p.m., Monday through Thursday, provided such day or the following day is not:</p> <ol style="list-style-type: none"> a. a public holiday, as defined in the General Construction Law; or |

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| | <p>b. a day on which the main business office of the utility is closed for business. No utility shall terminate or disconnect service to any residential customer for nonpayment of bills during a two-week period encompassing Christmas and New Year's Day.</p> |
| 5. | <p>No termination without verification of delinquent accounts</p> <ol style="list-style-type: none"> 1. No utility shall terminate or disconnect service for nonpayment of bills rendered, unless: <ol style="list-style-type: none"> a. it shall have verified that payment has not been received at any office of the utility or at any office of an authorized collection agent through the end of the notice period; and b. it shall have verified on the day termination or disconnection occurs that payment has not been posted to the customer's account as of the opening of business on that day, or shall have complied with procedures established. 2. In the case of a utility which serves a geographic area of more than six counties the commission may grant a waiver of the requirements upon approval by the commission of an alternate procedure for verification of payments. |
| 6. | <p>Rapid posting of payments in response to notices of termination or disconnection</p> <p>Utilities may take reasonable steps to establish procedures to ensure that any payments made in response to final notices of termination or disconnection, when the customer brings the fact that such a notice has been issued to the attention of the utility or its collection agents:</p> <ol style="list-style-type: none"> 1. are posted to the customer's account on the day payment is received; or 2. are processed in some manner so that termination or disconnection will not occur. |
| 7. | <p>Payment to utility personnel</p> <p>If a residential customer offers payment of the full amount that forms the basis for a scheduled termination or disconnection at the time of termination or disconnection, the utility's representative shall be obliged to accept such payment and shall not terminate or disconnect service. Whenever such payment is made, the utility representative shall provide the customer a receipt showing the date, account, name, address and amount received.</p> |
| 8. | <p>No additional notice required when payment by check is subsequently dishonored</p> <p>Receipt of a subsequently dishonored check in response to a notice of termination or disconnection or tendered to a utility representative shall not constitute payment of a residential customer's account and no utility shall be required to issue additional notice prior to termination or disconnection.</p> |
| 9. | <p>Special notification of social services official</p> <ol style="list-style-type: none"> 1. After a utility has sent a final notice of termination or disconnection to a residential customer who it knows is receiving public assistance, supplemental security income benefits or additional State payments pursuant to the Social Services Law, it shall, not more than five days nor less than three days before the intended termination or disconnection, notify an appropriate official of the local social services in district that payment for utility services has not been made. |

2. In the case of a customer for whom the utility has received a guarantee of future payment from the local social services commissioner, the utility shall send a notice of nonpayment stating that payment has not been made.
3. If the notification is made orally, the utility shall within one business day mail a written notification to such social services official.
4. Each utility shall, after consultation with an appropriate official in the social services district of each county served by the utility in whole or in part, compile and maintain a list of the social services officials who are to receive such notifications.
5. A utility may notify an appropriate social services official that a customer it knows is receiving public assistance, supplemental security income benefits, or additional State payments has failed to make timely payment for utility service, whenever it believes special circumstances affecting such customer should be brought to the immediate attention of the social services official.

Source: New York Public Service Law, Article 11.4

New York’s independent supplier rules are much more prescriptive than the Montana standards. Consumer protections are much lengthier including strict termination procedures.

California

In California, natural gas customer choice programs are known as “Core Aggregation” or “Core Transportation” programs. The programs are available to residential and small commercial customers on the Pacific Gas & Electricity, San Diego Gas & Electric, and Southern California Gas systems.¹⁸

California has offered customer choice since the early 1990s. The California Public Utilities Commission (CPUC) requires independent suppliers to register with the commission. Senate Bill 656 gave the CPUC the authority to prosecute suppliers that do not comply with minimum standards set forth by the CPUC.¹⁹

The state, similarly, requires independent suppliers to register with the CPUC within 90 days after the commission adopts standards for the company’s financial viability, and technical and operational capacity. The registration must include contact information, details regarding the nature of the service provided, and disclosure of pending civil, criminal, or regulatory cases against the company.²⁰

The Public Utilities Code requires independent suppliers to adhere to the same minimum standards as any public utility in the state. California law grants the CPUC the authority to revoke or suspend independent supplier licenses.

Table 5. California Independent Supplier License Revocation Standards

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| 1. | Upon a finding by the commission’s executive director that a supplier is in violation, the commission shall notify the core transport agent in writing and notice an expedited hearing on the suspension or revocation of the core transport agent’s registration within 30 days of the notification to the core transport agent. The commission shall, within 45 days after holding the hearing, issue a decision on the suspension or |
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¹⁸ American Coalition of Competitive Energy Suppliers, State-by-State Information

¹⁹ California Public Utilities Commission, “Natural Gas Customer Choice in California.”

²⁰ California Public Utilities Code, Chapter 4.7, 981

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| | revocation of registration, which shall be based on findings of fact and conclusions of law based on the evidence presented at the hearing. |
| 2. | <p>A core transport agent may have its registration suspended or revoked immediately for any of the following acts:</p> <ol style="list-style-type: none"> 1. Making material misrepresentations in the course of soliciting customers, entering into service agreements with those customers, or administering those service agreements. 2. Dishonesty, fraud, or deceit with the intent to substantially benefit the core transport agent or its employees, agents, or representatives or to disadvantage retail gas customers. 3. If the commission finds that there is evidence that the core transport agent is not financially or operationally capable of providing the offered gas service. 4. The misrepresentation of a material fact by an applicant in obtaining a registration. |
| 3. | The commission may suspend a registration for a specified period or revoke the registration or, in lieu of suspension or revocation, impose a moratorium on adding or soliciting additional customers. Any suspension or revocation of a registration requires the core transport agent to cease serving customers within the boundaries of investor-owned gas corporations, and the affected customers shall be served by the gas corporation until the time when they may select service from another core transport agent. A customer shall not be liable for the payment of any early termination fees or other penalties to any core transport agent under the service agreement if the serving core transport agent's registration is suspended or revoked. |
| 4. | If a customer of a core transport agent is involuntarily returned to service provided by a gas corporation, any reentry fee imposed on that customer that the commission deems is necessary to avoid imposing costs on other customers of the gas corporation shall be the obligation of the core transport agent, except in the case of a customer returned due to default in payment or other contractual obligations or because the customer's contract has expired. As a condition of its registration, a core transport agent shall post a bond or demonstrate insurance sufficient to cover those reentry fees, including reentry fees for customers returned in the event of the core transport agent becoming insolvent. |

California Public Utilities Code, Chapter 4.7, 983.5

California Public Utilities code also requires annual reporting to include contact information, business planning details, and proof of financial and technical ability. The commission is required to issue public alerts regarding independent suppliers that attempt to provide unauthorized or fraudulent service in the state.²¹

The state sets the following minimum standards for consumer protection.

Table 6. California Independent Supplier Consumer Standards

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| 1. | Confidentiality |
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²¹ California Public Utilities Code, Chapter 4.7, 984.5

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| | <p>Customer information shall be confidential unless the customer consents in writing. This includes confidentiality of customer-specific billing, credit, or usage information. The requirements do not extend to disclosure of generic information regarding the usage, load shape, or other general characteristics of a group or rate classification, unless the release of that information would reveal customer-specific information because of the size of the group, rate classification, or nature of the information.</p> |
| 2. | <p>Physical disconnects and reconnects</p> <p>Only a gas corporation or a publicly owned gas utility that provides physical delivery service to the affected customer has the authority to physically disconnect or reconnect a customer from the transmission or distribution grid. Physical disconnection by gas corporations subject to the commission’s jurisdiction can occur only in accordance with protocols established by the commission. Physical disconnection by publicly owned gas utilities can occur only in accordance with protocols established by the governing board of the local publicly owned gas utility.</p> |
| 3. | <p>Change in providers</p> <p>Upon adequate notice supplied by a core transport agent to the gas corporation or local publicly owned gas utility providing physical delivery service, customers who are eligible for core transport service may change their energy supplier. Energy suppliers may charge for this change, provided that any fee or penalty charged by the supplier associated with early termination of service shall be disclosed in that contract or applicable tariff.</p> |
| 4. | <p>Written notices</p> <p>Notices describing the terms and conditions of service as described in Section 986²², service agreements, notices of late payment, notices of discontinuance of service, and disconnection notices addressed to core gas customers shall be easily understandable and shall be provided in the language in which the core transport agent offered the services.</p> |
| 5. | <p>Billing</p> <p>All bills must have a standard bill format, as determined by the commission or the governing body, and shall contain sufficient detail for the customer to recalculate the bill for accuracy. Any late fees shall be separately stated. A core transport agent shall provide on all customer bills a telephone number by which customers may contact the core transport agent to report and resolve billing inquiries and complaints. A core transport agent contacted by a customer regarding a billing dispute shall advise the customer at the time of the initial contact that the customer may file a complaint with the commission if the customer’s dispute is not satisfactorily resolved by the core transport agent.</p> |
| 6. | <p>Meter integrity</p> |

²² California Public Utilities Code Section 986 requires independent suppliers to provide the price of gas; disclosure of all recurring and nonrecurring charges; an itemization of utility services provided; the customer’s potential right to rescind the contract; the supplier’s registration number; availability of low-income assistance programs; and the right to change service providers.

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| | A gas customer must have a reasonable opportunity to have his or her meter tested to ensure the reasonable accuracy of the meter. The commission or governing body shall determine who is responsible for the cost of that testing. |
| 7. | Customer Deposits Core transport agents may require customer deposits before commencing service, but in no event shall the deposit be more than the estimated bill for the customer for a three-month period. |
| 8. | Additional Protections The commission or the governing body may adopt additional core gas consumer protection standards that are in the public interest. |