

**§3133. Purchase of transmission capacity prohibited without prior order of the commission**

**1. Commission approval required for purchases.** A transmission and distribution utility may not purchase any transmission capacity unless the commission has issued a certificate of public convenience and necessity approving the purchase or has waived the approval requirements pursuant to subsection 11.

[PL 1999, c. 398, Pt. A, §47 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

**2. Notice of intent to file.** The utility or utilities shall file with the commission, no less than 2 months in advance of submitting its petition for a certificate of public convenience and necessity for the proposed purchase, a notice of its intent to file the petition. The notice must inform the commission of the terms of the proposed purchase and, after receiving the notice, the commission may, by rule or otherwise, require the petitioner to make available such additional information as it determines necessary. The commission may waive the requirement that at least 2 months' advance notice be given. The commission shall rule on any request for waiver within 60 days. If there is then outstanding for the utility a long-range plan approved pursuant to section 3134, the utility need not provide an advance notice of its intent to file the petition.

[PL 1999, c. 398, Pt. A, §47 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

**3. Petition for certificate of public convenience and necessity.** The petition for a certificate of public convenience and necessity must contain such information as the commission may by rule prescribe.

[PL 1999, c. 398, Pt. A, §47 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

**4. Hearing.** The petition must be set down for public hearing.

[PL 1999, c. 398, Pt. A, §47 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

**5. Deadline for issuance of commission order.** The commission shall issue its order within 12 months after the petition is filed. If there is then outstanding for the utility a long-range plan approved pursuant to section 3134, the commission shall issue its order within 9 months of filing.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**6. Certificate of public convenience and necessity.** The following provisions apply to the issuance of a certificate of public convenience and necessity.

A. In its order, the commission shall make specific findings with regard to the need for the purchase and, if the commission finds that a need exists, it shall issue a certificate of public convenience and necessity for the purchase. [PL 1999, c. 398, Pt. A, §47 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

B. [PL 1999, c. 398, Pt. A, §47 (RP); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

C. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the utility to purchase was prudent. [PL 1999, c. 398, Pt. A, §47 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

[PL 1999, c. 398, Pt. A, §47 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

**7. Exclusions.**

[PL 1999, c. 398, Pt. A, §47 (RP); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

**7-A. Consumer-owned electric utilities.**

[PL 1999, c. 398, Pt. A, §47 (RP); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

**8. Filing fee.** When the petition is filed, the utility or utilities involved shall pay to the commission an amount equal to 2/100 of 1% of the estimated cost of the purchase. The utility or utilities may, at the time of the filing of notice of its intent to file the petition, request the commission to waive all or a portion of the filing fee. The commission shall rule on a request for waiver within 30 days.

Filing fees paid as required by this subsection must be segregated, apportioned and expended by the commission for the purposes of this section. Any portion of the filing fee that is received from any utility or utilities and is not expended by the commission to process the petition for a certificate of public convenience and necessity must be returned to the utility or utilities.

[PL 1999, c. 398, Pt. A, §47 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

**9. Imported power.**

[PL 1999, c. 398, Pt. A, §47 (RP); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

**10. Renewal of contracts for purchase or conversion.**

[PL 1993, c. 91, §4 (RP).]

**10-A. Renewal of contracts for purchase originally subject to commission approval.** The requirements of this section apply to any amendment, extension or renewal of any contract between the utility and other parties governing the terms of their participation in a purchase subject to this section, if the original contract was subject to approval by the commission.

[PL 1999, c. 398, Pt. A, §47 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

**10-B. Renewal of contracts not originally subject to commission approval.** For any amendment, extension or renewal of any contract otherwise subject to this section for which the original contract was not subject to approval by the commission, the utility shall file a copy of the proposed amendment, extension or renewal with the commission within 7 days of the day when the utility receives notice of the proposal, but approval under this section is not required.

[PL 1993, c. 91, §5 (NEW).]

**11. Waiver of approval requirements.** The commission may waive the notice and approval requirements of this section on its own motion or upon request of any party. The commission shall rule on a request for a waiver within 60 days. Prior to considering a waiver, the commission shall ensure that notice by mail has been sent, and an opportunity to be heard permitted, to persons who commonly participate in commission proceedings and persons whose contracts the commission determines may be affected by the agreement. The commission may prescribe by rule the content of a request for waiver and procedures for the expeditious processing of the request in certain circumstances.

[PL 1999, c. 398, Pt. A, §47 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

**SECTION HISTORY**

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 378, §1 (AMD). PL 1987, c. 387, §3 (AMD). PL 1987, c. 490, §§A6,B4 (AMD). PL 1987, c. 769, §§A138,A139 (AMD). PL 1993, c. 91, §§4,5 (AMD). PL 1995, c. 357, §§3-5 (AMD). PL 1999, c. 398, §A47 (AMD). PL 1999, c. 398, §§A104,105 (AFF).

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