

**DOE Award GO17089
Seneca Nation of Indians
Energy Organizational Planning**

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EXECUTIVE SUMMARY

As the Seneca Nation of Indians (SNI) continues to refine and finalize its Strategic Energy Plan, it became necessary to insure that a sustainable organization structure was developed through which the energy program and its initiatives could be nurtured and managed. To that end, SNI undertook a study to thoroughly evaluate the existing organizational structures and assess the requisite changes and/or additions to that framework that would complement the mission of the Strategic Plan. With the assistance of Department of Energy funding, SNI hired Red Mountain Energy Partners (RMEP) and Utility Reduction Specialists (URS) to provide the overall assessment and a critical path to organizational development.

The context in which the Nation's Utility Department and Commission operates is a complex one, with operations spread over two distinct territories, operating under different utility providers with very distinct operational oversight and rate tariffs. While current SNI utility departments and a utility commission exist, their roles are limited to distribution and line service to a relatively small percentage of members, and a very thin layer of regulatory oversight which has been adopted over time. Service, rate and right of way (ROW) agreements have been negotiated over the years, some of which have been beneficial, but many of which do not necessarily meet today's needs. Energy and natural resources exist on the Nation's territories, but have historically been extracted by private developers, at times at a significant economic and environmental cost to the community.

The goal of this study was to analyze, work with staff and leadership and recommend the most effective plan for the development of an organizational framework within which the Seneca could more effectively exercise energy sovereignty – control and manage their natural resource assets – i.e. develop its own energy resources, meet the current and projected energy needs of their community, and “sit at the table” with other regional energy providers to deal with issues on a peer-to-peer basis.

The project team's approach was two-fold:

First, to assess the current state of the energy organizational situation by a) performing a load and cost analysis of both electric demand and supply as well as natural gas demand and supply to the Nation; b) analyze the tribal infrastructure and regulatory landscape would identify the documents that either hinder or enhance the formation of an SNI-owned energy organization; and c) Evaluate the functional differences in existing organizational structures to determine which functions are missing or are fragmented, with a view toward unifying and developing a workable, flexible structure or future growth.

Secondly, the process would develop a desired *future state* by taking the outputs from the assessment as inputs to a number of strategic planning sessions with the Tribal Energy Committee and the Tribal Council to formulate a roadmap for implementation. The assessment outputs consist of developed economic strategies, identified regulatory options and recommendations, and preferred organizational structure.

This approach produced valuable and actionable information along with an implementation strategy that can address the goals of the strategic plan that is self-sustaining. The approach could be replicated across other tribal communities and perhaps even small municipalities who are adding a generation component to their utility services, such as those entering into community wind or other distributed generation projects.

BACKGROUND

Overview of the Seneca Nation of Indians (SNI)

The Seneca Nation of Indians came into formal existence in 1848 when they abolished the "chief" system and established a constitution with elected officials. The constitution provides for an Executive Branch, a Legislative Branch, and a Judicial Branch. The Executive Branch is comprised of the President, Treasurer and Clerk, who are elected every two years. The Legislative Branch (or Tribal Council) is comprised of 16 members; eight from the Cattaraugus Reservation and eight from the Allegany Reservation, who are elected for 4-year staggered terms. The Judiciary Branch is comprised of separate Peacemaker, Appellate, and Surrogate Courts.

The Seneca Nation is a federally recognized Indian Nation that holds title to three distinct territories in Western New York State; they are the Allegany, Cattaraugus and Oil Spring territories. These territories encompass parts of five (5) counties: the Allegany, Cattaraugus, Chautauqua, Erie, and Niagara counties (see Map attachment). While the Cattaraugus Territory has 2,472 tribal members residing within its boundaries, the Allegany territory has a population of 1,267 members, but also has the distinction of including a US City within its boundaries - the City of Salamanca, which has a total population of 6,097 (US Census, 2000). The Oil Springs has nine enrolled members living within its boundaries. However, the Nation's total enrolled population including off territory members is 7,388 (Seneca Tribal Enrollment List, September 2004). Whilst the median age is thirty-three, 68.3 percent of households are family households and 31.7 percent are householders living alone (25.7%) or over 65 years of age (5.9%). Today, there are approximately 967 school age children and 1,073 youths enrolled with the Seneca Nation.

Recent Seneca Nation's Census reports, indicated that fifty-eight (58) percent of elderly living within the territories are low income and an estimated 59.2 percent poverty rate within the Seneca Nation exist (TDR 2000 Seneca Nation Tribal Census). Furthermore, eighty-six (86) percent of families live in overcrowded households and over thirty-six (36) percent of family homes are structural deficient and in need major repair.

Approximately, 46.9% of household use gas to heat their homes. The remaining 20.7% use electricity; 14.8% use bottle gas; 11.5% use fuel oil/kerosene; 3.4% use wood; and the remaining 2.7% use coal or other fuel. In addition, 2.2 percent of the Cattaraugus territory and 0.4 percent of the Allegany territory housing units lacked plumbing facilities and 7 percent of Cattaraugus and 0.4 percent of Allegany housing units lacked adequate kitchen facilities. While the existence of phone service, plumbing facilities, and kitchen facilities doesn't vary much from the national average in Allegany, in Cattaraugus, twice as many housing units don't have complete plumbing facilities, and four times as many households lack complete kitchen facilities as do those nationwide and 7.7 percent lacked telephone service.

Much of the territorial land is currently not served by municipal or public systems and utilities. Although the Seneca Nation territories have some developed utility infrastructure- both acquired and developed on its own – the existing infrastructure has not kept pace with the increasing population, businesses and economic development initiatives. There is a need for improved water sanitation, and solid waste facilities in both territories of our tribal land. While access to electricity is not an issue in most of the residential areas, costs are relatively high, averaging around \$.135/kWh in those areas outside of the limited boundaries of the City of Salamanca, exclusively served by the Salamanca Board of Public Utilities (BPU). There are some areas within the territories that lack transmission access, and have to this point been un-developable due to this lack of access.

Energy Goals

On the three territories of the Seneca Nation, there exist opportunities for energy development from both renewable and non-renewable resources. Renewable resources that are currently being assessed for potential development include wind energy, solar arrays, micro-hydro and biomass power. Additionally, the Nation is considering expanded applications of ground source heat pump technology for heating and cooling in governmental, commercial and residential settings. The Seneca also have a natural gas resource that it seeks to further develop and market, utilizing the economic benefits realized to possibly leverage its renewable energy development initiatives.

The Nation recognized that in order to more efficiently pursue new energy development, it must first define an energy vision as well as incorporate tribal resource assessment, energy efficiency planning, demand projections, and an opportunities analysis into a comprehensive plan or strategy. In 2003, the Seneca Nation embarked on a Strategic Energy Planning process, and has completed the first two phases which has included, for purposes of prioritizing initial strategic focus, visioning and goal setting, preliminary energy usage analysis and projected energy needs, a preliminary resource options analysis, and preliminary resource assessment. This planning process has been useful so as to create the political and business consensus by the Nation to prioritize energy development as a strategic tool to 1) exercise its sovereignty, 2) create economic development opportunities, 3) provide new jobs and revenue streams, and 4) effectively and responsibly manage its energy resource assets. As the Nation enters into Phase III or the “development phase,” it is apparent that an effective organizational structure must be formalized to provide a sustainable environment in which the Strategic Energy Plan can be implemented and an energy program can thrive.

The Seneca Nation Strategic Energy Plan, and its current initiative to develop a formal energy organization, strives to meet the ever-growing energy needs of the Seneca communities and businesses while strengthening the Nation’s sovereignty, creating economic opportunities, improving tribal revenues and perpetuating the cultural and environmental values of the Seneca. These goals are central to the Nation’s Comprehensive Economic Development Strategy, and more specifically, to the Economic Diversification Strategy that has been under development for several years. The Seneca Nation has long depended on an economy based on the tax-free sales of tobacco products and gasoline. More recently, gaming has provided much needed revenues to support government services and community development. However, the Nation leadership is cognizant of the need to diversify its economy in order to offer stable and sustainable revenue streams in the face of ever-changing legislative and market dynamics. Energy development is a keystone of that diversification strategy.

The Nation also recognizes that we must first define, and then institute, the most appropriate and effective organizational structure(s) to implement and manage the further development its energy resources and programs. The energy organization(s) must be flexible enough to respond to market changes, yet stable enough to sustain the program, its enterprise(s) and business strategies over time. This organizational development must be formalized to provide a sustainable business environment in which the energy program can thrive. independent of tribal politics.

If the Seneca are to embark on the intended energy generation development projects, there must be a formalized structure through which the projects and their resulting generation can be managed. Issues regarding the Nation’s probable energy initiatives -- generation, distribution, power sales and purchases, exploration and development partnerships, facility and infrastructure needs, asset management, etc. – must all be evaluated and defined within a context of

organizational and business planning. A tribal utility, joint-venture generation projects, a gas exploration & production company...each represent very different functions and organizational structures but must all be managed by consistent regulatory and business structures to ensure orderly and efficient development and long-term management.

While it is understood that in order to be sustainable, the organization(s) must have an appropriate level of autonomy, they must also prove accountable to the Nation's government leadership and community members. The task at hand then is identifying the legal and organizational structure(s) that best fit the functional intentions and development strategies of the business models, while providing accountability and benefits to the Seneca community and government. In this way, the project will provide the Nation's leadership with a salient and acceptable framework for the implementation of the Strategic Energy Plan, and subsequently, provide a catalyst for the Nation's economic diversification strategy.

In order to insure sustainability, the Nation was awarded funding through the DOE's "*First Steps*" grant program for *Energy Organization Development*.

Project Objectives

Objectives of the project are as follows:

1. Complete an evaluation of organizational options by retaining utility planning consultants to evaluate the formation of a Tribal Utility and/or Energy Services/ Production entities.
2. Analyze the Nation's current load profile such that organizational strategies could be assessed in terms of capacity to serve load as well as negotiate potential power purchases.
3. In conjunction with the Nation's Department of Justice, develop, refine and adopt a Seneca regulatory and statutory framework to effectively manage the Nation's natural resource development as well as any associated business activities.
4. In conjunction with the Nation's Department of Justice, recommend the necessary framework for a tribal energy unit to implement the strategic energy plan.
5. Identify potential strategic project development partners and negotiation strategies for project partnerships and power purchases as well as any identified transmission and distribution objectives.
6. Create an organizational plan and preliminary business plan which will define the organization's structure, provide a blueprint for its creation and operation, and requisite financial pro-formas and projections.

Project Plan

In addition to the organizational analysis, a number of key items for energy organizational planning were missing from the information gathered in the Strategic Energy Plan. Chief among these was specific and comprehensive load information that could be used in analyzing the potential procurement of energy in the current marketplace so as to provide something along the lines of a specific cost benefit analysis..

Additionally, while strategic options had been identified, a focused analysis of the legal regulatory documents governing energy procurement and delivery on the reservation had been looked at or analyzed as it was a preliminary strategic analysis at that juncture. As those strategic directions and plan was developed through those early phases, it set the stage to develop a more comprehensive project framework which serves as the basis of this next-phase project..

Thus, SNI’s organizational analysis project approach was two-fold:

First, to assess the current state of the energy organizational situation by a) undertaking an updated and specific load and cost analysis of both electric demand and supply as well as natural gas demand and supply to the Nation; b) analyzing the and regulatory landscape by identifying the documents that either hinder or enhance the formation of a tribally owned energy organization; and c) looking to the functional differences in existing organizational structures to determine which functions are missing or are fragmented with a view toward unifying and developing an appropriate structure.

Secondly, the process would develop a desired *future state* by taking the outputs from the assessment as inputs to a number of strategic planning sessions with the SNI Energy Committee and the Seneca Nation Council to formulate a roadmap for implementation. The assessment outputs would consist of specific economic strategies and identified options and opinions as to preferred organizational recommendations.

Two consultant firms were chosen to work on the project due to their relative strengths considering the complex issues to be addressed: Red Mountain Energy Partners (RMEP) and Utility Reductions Specialists (URS). The following work plan was created to define the tasks and responsibilities for the team:

ENERGY ORGANIZATIONAL DEVELOPMENT WORK PLAN – PHASE I

PHASE 1 – Assess Current State	DELIVERABLE	Consultant Travel Anticipated	RMTE Role	URS Role
I. Project Kick-off & Stakeholder meetings	Meeting Summaries	X	Support	Support
II. Assessments of Current Situation & Energy Resources	Situational Analysis Report with SWOT detailed presentation to Committee			
a. Identify Info gaps/collect additional data			Co-Lead	Co-Lead
b. Update energy usage assessment		X		Lead
c. Define SNI’s strategic position relative to utility providers & resource assessments			Lead	Support; input and review
Natural gas			Co-Lead	Co-Lead
Electricity			Support	Lead
Power generation			Lead	Support
d. Assess SNI market opportunities & challenges			Co-Lead	Co-Lead
e. Present Situational Analysis		X	Co-Lead	Co-Lead
III. Complete legal review & develop proposed Tribal Regulatory & Statutory Framework	Legal & Regulatory Issues/Framework		Lead	Support/ review

PHASE 2 –Develop Future State	DELIVERABLE Resources and Organizational	Consultant Travel Required	RMTE	URS
IV. Define business structure options, pros/cons, impacts	Options Analysis Grid	X	Co-Lead 40	Co-Lead 40
V. Develop and present decision models and organizational options analysis & Develop high level cost estimates and funding options	Decision Model/Flow Chart; Present to/Review With Committee	X	Co-Lead 20	Co-Lead 20
VI. Develop Strategic Recommendations w/input from Energy Committee	Detailed Recommendations		Co-Lead 20	Co-Lead 20
VII. Detailed business structure and financial modeling for natural gas production and renewable power generation	Business Plans w/ high level cost estimates		Support/ Review 5	Lead 20
VIII. Identify potential partnerships, funding options	Summary Comparison of options		Co-Lead 10	Co-Lead 10
PHASE 3 – Define Roadmap	DELIVERABLE			
IX. Create Critical Path and Preliminary Business Plan for recommended strategy			Co-Lead 40	Co-Lead 40
X. Present Draft Plan with legal, regulatory, business and financial components to Tribal Council for adoption	Final Report with all above components plus detailed Critical Path; PowerPoint Presentation to Council	X	Co-Lead 40	Co-Lead 40

While the original work plan assumed a targeted completion date of 12/30/08, it was necessary to extend the deadline for 90 days to March 30th to accommodate the scheduling of committee meetings and consultations with legal and SNI leadership.

Additional challenges were identified including: lack of data pertaining to energy demand and historical resource assessment; complex regulatory documentation; and numerous accounting anomalies with regard to utility provider documentation. These issues translated into months of research, documentation and analysis that was underestimated in the project planning.

The following is a synopsis of the tasks completed with a summary of the challenges faced and their impacts on the overall project and resulting recommendations:

Assessing Current State

Kick-off & stakeholder meetings were held at regular intervals through out the process with the SNI Utilities Commission, SNI Energy Committee, SNI Economic Development Committee, Natural Resources Committee, other appropriate sub-committees of the Nation Council and relevant staff. These meetings enabled the project team to gain thoughts, direction, consensus and authorization to proceed along critical decision-points during the process.

Challenges Noted	Impact
Collection of data was a challenge throughout, given the dispersed nature of documentation, age of archival data and highly confidential nature of much of the most recent but very relevant documentation and data.	It was helpful to have team member with a legal background who could work closely with the Nation's legal staff, understanding what was proprietary and confidential and maintaining that status throughout the analysis process as the Nation's staff is mindful of their fiduciary duty and on-going sensitive nature of much of the current facility information and data.

This assessment was the most time-consuming and strenuous component of the overall project. For a complete situational analysis, it was first necessary to identify the missing pieces of information that have thwarted previous efforts to develop this project plan. Identification of information or data gaps is highly dependent on a broad survey of information and data available. Given the breadth, depth, length of years and confidential nature of the Nation's

history with energy production, regulation and activity throughout the last century, creating this baseline was much more difficult than anticipated. Tracey LeBeau, of Red Mountain Energy Partners initiated a thorough review of available archival data and a survey and a summary of findings was compiled. This process was helpful in that it gave the team and the Nation an opportunity to focus on creation of a baseline summary of information regarding energy activities, documentation, issues and agreements dating back pre-1900. It was also helpful in understanding the complexity of the energy estate throughout the decades for the Nation. Subsequently, the team could begin to create and fine tune the process for explaining the status quo to stakeholders, as well as analyzing and establishing recommendations for next steps.

In the end, the team was able to deliver an effective situational and SWOT analysis to the participating stakeholders and committees. The team had a productive set of meetings with the current Utilities Commission, utility staff and with relevant council committees to present initial set of findings, situational and SWOT analysis along with preliminary recommendations with respect to focus of organizational goals and structure. The Energy Committee was vocal and provided specific direction to the team, which aided greatly in final stage analysis and recommendations.

Several key strategic issues for SNI were identified through this effort and included in the situational analysis and final recommendations:

1. Utility Services (primarily gas and electric)
2. Natural Gas Facilities and Projects
3. Generation Development

Load and Cost Analysis:

James Yockey of URS Inc. provided a load and cost analysis for assessing the supply and demand of electric power and natural gas for SNI. While electric power could be fully assessed; historical inconsistencies and missing data/information prevented a complete assessment of natural gas supply and demand. A follow-on audit of the natural gas infrastructure and “pay-take” supply system is recommended.

Electric Power

Electricity bills were collected from all government, small business and large commercial loads for the last twenty-four to thirty-six months. Bills were organized and entered into spreadsheets so that meter reads reflected corresponding monthly demand and usage. This was done in order to create a coincident peak load profile that accurately reflects the size of generation required to service the entire Tribal loads. However no invoice data for household residential usage was obtained. Instead URS used census data and applicable load profile data from the NYPSC to create a demand curve for residential load. A summary of the electric demand is presented for Department of Energy reference in Attachment I [*Proprietary*]

Natural Gas

It has been difficult to understand the supply and demand situation for natural gas due to inconsistencies in historical record keeping, discrepancies between metering of the end-use customers, metering of the well-head production of SNI owned wellheads and metering of the balance between SNI owned distribution and NFG owned distribution.

Summaries of End-Use by sector, Natural Gas Production and Utility Agreement Information relevant to the analysis are provided for the exclusive reference of Department of Energy in Attachment II [*Proprietary*].

Legal/Regulatory Analysis:

In order to create a Legal & Regulatory Issues/Framework to provide contextual support for options for business structures, several tribal utility and energy organizational case studies were highlighted for the team and presented in a side-by-side analyses, based on levels of attendant structure, regulatory role, formalization, and business focus.

An in-depth regulatory, land status and tribal jurisdictional analysis was undertaken, which outlined current regulatory and jurisdictional issues related to consideration of expanding the current Tribal regulatory regime and a utility business structure on Seneca Nation lands and territories. As these same issues are explored in Indian Country, these customary questions must also often contemplate fact patterns of first impression, and situations that significantly orbit around land status questions. This specific analysis reviewed the overall state of jurisdictional issues in Indian County as applied to civil

regulatory questions, as well as to related physical utility and regulatory control of utility facilities issues. Numerous documents were researched and identified that had relevance to SNI energy and regulatory issues. The analysis covered:

- Jurisdictional considerations related to regulating utility business and facilities by a Tribal governments
- Tribal Regulatory Authorities Related to Utility Services
- Utility Regulation and Utility Tax Precedents
- Jurisdictional considerations related to regulating utility business and facilities by a Tribal government on a reservation with facilities on a numerous territories
- State of New York Regulatory Review
- Franchises, Rights of Ways and Easements, Eminent Domain, Restricted Fee Status of SNI territories
- Current SNI Tribal Utility Code and Review of Utilities Charter and Ordinances
- Restructuring of Current SNI Utility Ordinances

Binary analysis and options – After reviewing all relevant documents, a binary analysis was completed by URS Inc, RMEP and SNI Planning that separated documents into those that would help the effort toward expanding the energy organizational framework, and those that would limit or restrict future development. One particular document that was identified restricts tribal development of natural gas storage for a number of years forward. This could limit the profitability of a natural gas distribution utility by eliminating a key function of flexibility and hedging during volatile market conditions. Fortunately, there were not many documents restricting tribal energy organizational development, but there were a number of overlapping documents relating to departmental and utility commission roles and responsibilities that need to be cleaned up. The analysis revealed that there is a lack of documents regulating anything with regard to energy on Seneca land.

The team provided a useful model in the Southern Ute's Red Willow Corporation, and a site visit (at the Nation's expense) was coordinated to learn more about how their energy organization had developed over time. Because the two Tribes are both active in natural gas production as well as providing gas for heating to their members, the site visit was tremendously useful to discuss and see successful, closely-held tribal utility departments and services; long-term planning and execution of capital plans for utility services; organizational structures for utility services ranging from water, waste water and natural gas for tribal commercial and residential customers. The team – including Seneca staff, project team member and Seneca tribal councilpersons -- was able to spend time with Southern Ute's council, gas production personnel, gas gathering personnel, business leadership and water/waste water utility personnel.

It was a challenge to provide relevant information and case studies to help all of the participants understand the range of the roles within the current and recommended models. Additionally, an effort to establish overall, territory-wide services could have multiple start-up issues - ranging from acquisition of systems to expressed concerns regarding expertise and collections. Overall, however, it was useful for all of the participants to hear all of the different circumstances and decision-drivers that were present elsewhere, in order that they

can have some context to think through priorities in terms that this is not necessarily an all or nothing proposition.

Given the multi-faceted nature of lands and facilities within the exterior boundaries of the Seneca Nation and their multiple territories, these questions are even more complex. The Nation's standing and sensitive tribal-state negotiations occurring throughout this project, information surrounding jurisdictional primacy, taxation, franchises, land status and agreements regarding utility facilities had to be handled with the utmost sensitivity. This was not so much a challenge, but a reality that the team had to constantly be aware of when discussing any of these issues outside of the team, as legal issues were active throughout this project. The fact that this was undertaken is a testament to the Nation's focus and willingness to address these important energy sovereignty issues for the benefit of their community.

Organizational Analysis:

Decision models were presented with an overall organizational options analysis to the Energy Committee. Utility and energy organizational case studies were highlighted and discussed in more detail, based on levels of attendant structure, regulatory role, formalization, and business focus.

This process engendered much discussion, along with updates regarding tribal energy usage and infrastructure findings to date, so the Energy Committee was able to provide clear direction to the Project Team on next steps.

Because this was an iterative process, the Project Team would learn more throughout the project's time horizon and report back to the Committee and Commission – all the while, other Tribal programs and initiatives were moving in tandem and often necessarily very quietly – which made it very necessary to convene energy committee and commission meetings periodically, to ensure that efforts were coordinated to the degree that it was appropriate.

Also, because energy issues on the Territories have long been a sore subject with many Nation members, these discussions often brought out a high degree of frustration, not with the Project, but with the historical inequities and frustrations overall. In the end, these discussions provided a friendly, focused forum for stakeholders and leaders to discuss their frustrations, which was ultimately useful in understanding the need for sensitivity, and the overall sense of support for the proactive nature of the Project effort.

An Options Analysis Grid was prepared and presented to define business structure options, pros/cons, impacts high level cost estimates and funding options. Additionally a second grid, focused on the SNI Regulatory Code options, outlined the following:

SNI Regulatory Code Options Analysis Grid

This process was impactful as it distilled those laws, ordinances, and codes which are currently in place – their stated purposes as well as background on their intended purposes – and summarized provisions, scope of authorities, delegated powers and administration. It provided a beginning roadmap to the project’s ultimate destination, which was to provide recommendations to the Nation on how to achieve their stated organizational and business goals by strengthening what was already codified by tribal law and clarifying what is needed to establish a tribal regulatory regime that authorizes what is wanted but does not necessarily create a burden to the Nation to administer, which was the direction of the Nation’s leadership.

- Current Tribal utility provisions (Legal, regulatory, administrative – provisions, ordinances, laws currently in place)
- Clarification or Issues Presented by Project/Team/Committee (Current Situation review impacting current provisions)
- Recommendation of Specific Changes, Amendments, Actions (Alternatives and Options; review of

terms commonly included in most utility codes, ordinances, administrative procedures and specific recommendations on scope of amendments to ordinances, laws, regulations and administrative procedures).

In order to adequately analyze the current energy organizational situation it was useful to identify the existing elements in those tribal entities that have a relationship to energy and utility services. These entities were segmented according to a functional continuum for energy organizations. The following table identifies the functional segments and the corresponding tribal entities that currently exist. Missing elements are identified in red parentheses.

Functional Continuum of Energy Organizations

Regulator	Distributor	Marketer
Council	Water Dept	
Commission	Gas Dept	(SNI Gas Missing)
	(Electric Missing)	(SNI Power Missing)

The missing function of electric distribution service and gas and power marketing provides a clear idea of what a new energy organizational structure might address. In particular the departmental functions within the Tribe itself are infrastructure-focused and do not have a billing function for identifying the cost of service or generating revenue to maintain the infrastructure. Likewise, the utility commission acts only as a complaint organization for water and gas service but does not actively develop or review rate cases or monitor rates of electric service among utility providers on the reservation. In addition and despite the opportunity to get access to inexpensive hydro-power and other renewable energy, there is no electric distribution function for obtaining electric supply, distributing electric power or billing for required revenues. Finally, despite opportunities for excess generation and production of electric power and natural gas, there is no entity set-up to engage in the marketing of those commodities.

Develop *Future State*:

From looking at this functional segmentation at least one and perhaps two new energy organizations were identified on the power side: an electric utility organization and possibly an attendant marketing organization with priority on the distribution organization. A list of characteristics for a new electric distribution organization also became apparent. Key priorities for a new electric organization would include:

- Addressing the external inequity in relations between incumbent providers and Tribe
- Addressing to the extent it is capable, the internal inequity and electric rate disparity among tribal members in multiple territories
- Provide long-term, self-sustaining revenues
- Facilitate procurement of necessary supplementary energy resources
- Model sustainable revenue recovery procedures for other utility services

On the natural gas side, it was apparent that while there is the potential for development of additional new exploration and production (E&P), more assessment data is required to create a clear and effective plan for its development. Before a comprehensive plan is proposed, additional assessment on the gas reserves needs to be completed by the Nation, including the drilling of three test wells and the collection of well data from these and recompleted wells, to more clearly define decline curves and production capacity. Additionally, the final report defines those regulatory and policy issues that require definitive action by SNI Council before the E&P Company can be developed. The recommendations of this project do, however, allow for the addition of the natural gas, as well as water and wastewater components to the organizational structure.

The Nation energy committee has embraced the concept that there are alternatives or incremental entry points to consider along a more phased approach to developing utility service options for Nation member and enterprises. Funding any of the options will require a well coordinated and long-term capital plan for operations, training and administration.

After careful consideration of the organizational imperatives identified above, and the lack of legal and regulatory impediments, a tactical approach and critical path were defined to move toward development of a new tribal electric organization.

A preliminary presentation of recommendations was presented to a sub-committee of the Seneca Nation Council and Utility Department management to solicit input from their leadership for the final report. This discussion was very instrumental in iterating the project's next steps to recommend a very specific critical path option for the Nation. As it contemplates where it might begin to assume more control over its utility services, from initiation to settlement. The timing of this was particularly good as the Nation has (since the beginning of this project) hired additional Seneca professional staff to head their current utility service areas. This has added to the positive consensus and sense that the Nation has the human capacity to assume some of the responsibilities of the project's recommendations and activities going forward.

Draft documents concerning the requisite codes, ordinances, and policies defined through this process will be submitted to the Nation's Department of Justice upon Council approval of the final recommendations. Financial projections for recommended plan will be reviewed for adoption in FY '10, and represent a phased approach to a full organizational build-out. Next steps for human capacity building and more complete natural gas development planning have been presented and partially funded, and an additional funding solicitation is being prepared. The project team stands ready to assist in the implementation of the plan wherever helpful.

Due to the sensitive nature of negotiations involved in those steps, and pending legal issues, the specific tactical approach can not be detailed in this report. Consultation with the SNI Department of Justice, and the Energy Committee of the Seneca Nation Council will take place in mid-April, 2009, and we anticipate a supporting Council resolution from Council at their May, 2009 regular session.

Conclusion

Overall, the project certainly proved more challenging than anticipated, even in light of the fact that the project team understood the complexity of the Seneca Nation's energy environment. The long history of energy development and legal proceedings, the multiple territories, utility suppliers, rate tariffs and land use created a complex maze of issues and considerations that significantly impacted our development of strategy.

The legal and regulatory review required research spanning over 50 years to truly understand an energy development history of approximately 120 years in the making, and how that fed into the current state. An inordinate amount of time also had to be committed to locating missing pieces of resource data, defining load factors and system issues that were not readily available through the Nation's records.

In general, however, the methodology proved sound, and the participation of the Energy Committee and Council members was a significant component of our project's success. At each stage of analysis, these groups acted as our sounding boards and guideposts, and consensus was built through-out the process. By committing the extra time and effort to our situational analysis, everyone had a clear definition of the legal, regulatory, market and organizational factors that would feed into our strategy development. AS we developed the future state recommendations, then, consensus and support had already been established to move the recommendations and initiatives forward for Nation Council approval.

The strategy presented will provide the Seneca Nation with a functional Tribal Utility that can expand in a strategic manner to accommodate the growing needs of the community, protect the energy assets of the Seneca Nation, provide the nation with strengthened leverage in the energy market, offer more varied and alternative resource capabilities, and provide greater energy rate parity for its end-users.