

Public Notice of Proposed Rulemaking

RHODE ISLAND GOVERNMENT REGISTER PUBLIC NOTICE OF PROPOSED RULEMAKING

AGENCY: Public Utilities Commission

RULE IDENTIFIER: Repeal of ERLID 7767

REGULATION TITLE: Consumer Protection Requirements for Nonregulated Power Producers

RULEMAKING ACTION: Direct Final

If no formal objection is received on or before April 12, 2018, the Public Utilities Commission will file the repeal without opportunity for public comment.

TYPE OF FILING: Repeal

DATES:

Public Notice Date: Wednesday, February 21, 2018

End of Comment Period: Thursday, April 12, 2018

SUMMARY OF PROPOSED RULE: The regulations may be repealed because statutory changes resulted in the authority for the rules being transferred from the Public Utilities Commission to the Division of Public Utilities and Carriers. The Division of Public Utilities and Carriers has, pursuant to R.I. Gen. Laws Sec. 39-26.7-1 to 6, engaged in rulemaking which will completely supersede the PUC's current rules. R.I. Gen. Laws Sec. 39-26.7-5(g)(11) states: "Upon the division's filing of regulations pursuant to this section, the commission shall initiate a rulemaking proceeding to repeal any rules that overlap with the regulations filed by the division." The Division has completed its rulemaking process through the comment and hearing period. The Division has finalized and filed its rules with the Secretary of State. The effective date of the Division's rules is April 12, 2018. Through this rulemaking, the Public Utilities Commission's repeal will become effective with the effective date of the Division's adoption of new rules.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by April 12, 2018 to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Mailing Address:

Luly Massaro, Commission Clerk
Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

Email Address:

Luly.massaro@puc.ri.gov

WHERE COMMENTS MAY BE INSPECTED:

Mailing Address:

Commission Clerk's Office
Rhode Island Public Utilities Commission Clerk
89 Jefferson Boulevard
Warwick, RI 02888

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

For full regulatory analysis or supporting documentation see agency contact person above.

Authority for This Rulemaking:

R.I. Gen. Laws Sec. 39-26.7-5(g)(11)

Regulatory Findings:

In the development of the proposed repeal consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information. The Office of Regulatory Reform has cleared this agency to initiate this repeal.

The Proposed Amendment:

The Public Utilities Commission proposes to repeal Consumer Protection Requirements for Nonregulated Power Producers as follows:

~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS~~
~~PUBLIC UTILITIES COMMISSION~~

~~CONSUMER PROTECTION~~
~~REQUIREMENTS FOR NONREGULATED POWER PRODUCERS~~

~~Date of Public Notice: May 16, 2014~~

~~Date of Public Hearing: June 12, 2014~~

~~Effective Date: October 20, 2014~~

~~REQUIREMENTS FOR NONREGULATED POWER PRODUCERS~~

~~I. INTRODUCTION~~

~~Nonregulated Power Producers (NPPs), as defined by the Utility Restructuring Act of 1996 (URA) in R.I. Gen. Laws § 39-1-2(19), have been permitted to sell to or aggregate electricity for eligible Rhode Island customers since July 1, 1997. The Public Utilities Commission (Commission) is required to “promulgate such...rules and regulations as are necessary to protect consumers following the introduction of competition in the electric industry...”~~

~~In 1997, the Commission promulgated the initial Consumer Protection Requirements for Nonregulated Power Producers. Until 2012, very little electric supply competition occurred at the residential level. In 2012 and 2013, more NPPs began marketing to residential customers and more customers have switched to competitive supply. As a result of this increased participation in the competitive market, the Commission and Division of Public Utilities and Carriers has been made aware of certain issues not considered in the 1997 version of the rules and regulations. Therefore, in response to an identified need, the Commission has determined there is a need to amend its Consumer Protection Requirements for Nonregulated Power Producers.~~

~~II. PREREQUISITES FOR RHODE ISLAND OPERATIONS~~

~~A. All NPPs seeking to do business in Rhode Island must be registered in good standing with the Division of Public Utilities and Carriers (Division), in accordance with R.I. Gen. Laws. § 39-1-27.1(c) and (d).~~

~~B. In addition, an NPP must file with the Division evidence of authorization to do business in Rhode Island from the Rhode Island of Secretary of State.~~

~~C. Dissemination of information regarding a customer's usage is governed by the electric distribution company's Terms and Conditions. Where there is no provision for dissemination of customer usage information, such information will be provided at the customer's request by the electric distribution company to the customer at no charge, for dissemination by the customer to NPPs of the customer's choice. There may be direct transfer of data from the electric distribution company directly to the supplier upon request of the customer.~~

~~D. Contracts between NPPs and customers must be written in plain English, and include the following information:~~

- ~~1. Specific pricing information, including all charges (see Rule H E);~~
- ~~2. Term of service, including the date by which a customer must contact the NPP if he or she seeks to disenroll at the end of the term to avoid extending service with the NPP beyond the initial term such date must allow the NPP to contact [name of electric distribution company] in sufficient time to switch the customer back prior to entry into the customer's next billing cycle, as set forth in the electric distribution company's tariffs on file with the PUC;~~
- ~~3. Rights and limitations of each party to terminate the contract, including notification rules for termination by either signatory. This section of the contract must clearly state that the NPP may not physically cut off electric service to consumers;~~
- ~~4. Amount of any fees or penalties that may be imposed, e.g., for late payments, bad checks, or early contract terminations;~~
- ~~5. Any deposits that may be required (including amount, interest rate, recovery, conditions for forfeiture);~~
- ~~6. Budget plan availability, if any;~~
- ~~7. Dispute resolution process;~~
- ~~8. Customer service contact telephone number;~~
- ~~9. Method by which a customer may cancel service through the NPP. While sending an e-mail or by other electronic means may be acceptable, an additional method by which a customer without internet access may cancel service must be provided, such as by mailing a letter or by making a telephone call with third-party verification;~~
- ~~10. Any additional service options or additional information; and~~
- ~~11. A statement that there may be a market adjustment charged or credited to the customer by [name of electric distribution~~

~~company] on his or her last utility bill for which the customer is enrolled in standard offer service.~~

~~For uniformity of presentation to residential customers, the information shall be presented in the above numerical order. Upon request by a residential customer, any contract must be made available in Spanish and Portuguese.~~

~~E. Price information shall include pricing elements, price change formulas, and the potential for price volatility through variable rates or other mechanisms. Unless there is a rate cap, if the NPP will not make the rate known to the customer until after the electricity is consumed, the disclosure shall clearly state that the price of electricity during the period commencing on [date] may be higher than the standard offer rate charged by the [name of electric distribution company].~~

~~F. Fuel and environmental impacts of the NPP's source or sources of generation must be provided to customers in compliance with the Commission's Energy Source Disclosure Rules. The Energy Source Disclosure labels may be provided to customers electronically.~~

~~G. Where the NPP sends a bill separate from the electric distribution company, NPP customer bills must contain, at a minimum, the billing period (dates and number of days in the period); an indication of whether the bill is rendered on an actual read or estimated basis; the demand and energy levels being billed; the current month's billing amount, shown separately from the total amount due; payment due date; late payment penalties, interest rate, and charges; and a toll-free contact number for questions regarding the bill.~~

~~H. Physical cut-off of electric service shall be controlled solely by the electric distribution company under its current termination rules.~~

~~III. DISPUTES BETWEEN NPPS AND CUSTOMERS~~

~~A. Breach of Contract and Billing Disputes. Disputes between the NPP and an individual customer that cannot be privately resolved may be may be resolved through appropriate legal action. The Commission will not adjudicate such disputes.~~

~~B. Violations of these Regulations. Disputes between NPPs, customers, or other aggrieved parties relating to violations of these regulations are subject to the Division's jurisdiction under the Division's Rules Applicable to Nonregulated Power Producers, particularly Part IV., entitled Dispute Resolution Regulations Relating to Nonregulated Power Producers.~~

~~C. Division Decision Final Unless Appealed. Any decision of the Division issued in conformance with the Division's Regulations shall be final and binding upon the parties unless appealed under the Rhode Island Administrative Procedures Act.~~

~~D. Enforcement and Remedies. The Commission reserves the right to exercise its authority to issue any order reasonably necessary to enforce these regulations or otherwise protect the public interest in accordance with the Commission's Rules of Practice and Procedure~~

~~E. Investigations by the Commission.~~

- ~~1. The Commission reserves the right to open an investigation on any matter to enforce its regulations or determine whether these regulations are being violated.~~

~~IV. COORDINATE REGULATIONS AND AUTHORITY~~

~~NPPs are subject to the URA, as well as regulations promulgated by the Commission and the Division. They must also comport with the Commission approved Terms and Conditions for NPPs of the individual electric distribution companies, including but not limited to:~~

- ~~A. The Utility Restructuring Act of 1996, particularly R.I. Gen. Laws § 39-1-27.1.~~
- ~~B. The Commission's Reliability Responsibility Regulations for Nonregulated Power Producers.~~
- ~~C. The electric distribution company's Terms and Conditions for Nonregulated Power Producers as approved by the Commission.~~
- ~~D. The Division's Dispute Resolution Regulations Relating to Nonregulated Power Producers.~~