

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: RULES GOVERNING THE :
ACCEPTANCE OF CREDIT CARDS : DOCKET NO. 3569
BY UTILITY COMPANIES :

REPORT ON FINAL RULES

I. Introduction

The purpose of the Rules Governing the Acceptance of Credit Card Payments by Utilities is to standardize the procedures and financial responsibility for the costs associated with the acceptance of credit cards.

The Commission initiated Docket No. 3569 on October 8, 2003 to Investigate the Feasibility of Using Credit Cards as a Method of Paying Utility Bills. Data Requests were propounded and the responses showed that there was an inconsistency in the way utilities that were accepting credit card payments processed them and allocated the associated costs. It appeared from the responses that credit card fees made that method one of the most expensive methods of accepting payments for utility bills. Further information indicated that at the time of the discovery process, the Rhode Island Division of Taxation allowed the payment of State Income Taxes through an independent third party credit card processing company which assesses a convenience fee to the taxpayer using the credit card.

The Commission conducted a Technical Record Session on March 12, 2004 to learn more about the way credit card payments can be handled by a utility, including a presentation made by a third party credit card processing company. One member of the public attended and supported the idea of allowing ratepayers to use credit cards, but opposed passing along those fees to other customers. Representatives from several of the

utility companies indicated that there has been strong interest from customers in having the option to use their credit cards to pay their utility bills.

On March 18, 2004, at an open meeting, the Commission determined that if a utility desires to accept credit cards as a form of payment, it should be entitled to make that management decision and provide customers with the most cost-effective means of utilizing their credit cards. However, the Commission also determined that the “cost causer,” or the person using the credit card, should be responsible for the associated fees. Therefore, the Commission is proposing the following Rules.

Subsequent to the proposal of these Rules, the Department of Administration posted Procedural Handbook Section A-55 which set out procedures for State Agencies to accept payment of state taxes and fees without assessing a convenience fee on the payor. However, whereas the State has decided to spread the cost of accepting credit card fees across the entire tax base, the Commission, at this time, believes it is in the best interest of all ratepayers to assess responsibility for the credit card fee to the cost causer, the user of the credit card.

II. Notice and Hearing

On April 5, 2004, in accordance with R.I.G.L. §§ 42-35 et seq., 39-1 et seq., 39-2 et seq., the Commission issued a Notice of Rulemaking and Public Hearing regarding Rules Governing the Acceptance of Credit Cards by Utility Companies (“Rules”). On April 25, 2004, the Commission held a public hearing for the purpose of taking verbal comments from interested parties. No interested party or member of the public provided verbal comment.

III. Written Comments

The deadline for submitting written comments regarding the proposed Rules was May 3, 2004, but the Commission accepted written comments that were filed late by the Narragansett Bay Commission (“NBC”). The Division of Public Utilities and Carriers (“Division”) Narragansett Electric, New England Gas, Verizon, and Cox submitted timely written comments.¹

The Comments/language changes by New England Gas and Narragansett Electric appeared to be for clarification purposes and most were incorporated, either verbatim or in a manner that mirrors the intent behind the clarification. With regard to provisions not adopted by the Commission, the following provides the rationale.

Narragansett Electric expressed concern that the Rules state that the Company “has a duty to enter into the most cost effective contract.” The Company requested a change from “has a duty” to “will endeavor.” The Company claimed that its language change would be consistent with the requirement that the Company act in a prudent manner on behalf of all ratepayers. The Commission did not make this change because “has a duty” suggests prudence and is more definitive than the language proposed by Narragansett Electric. Furthermore, the Commission accepted New England Gas’ suggested language to clarify how that duty could be satisfied. Narragansett Electric’s other substantive language changes, such as a clarification of the utilities obligations to customers have been satisfied by the inclusion of language submitted by New England Gas.

¹ Cox did not suggest any changes to the proposed Rules.

The Division recommended that all local exchange carriers, including Verizon and CLECs be subject to the requirements of the Credit Card Rules. Such a requirement may adversely impact the CLECs' competitiveness. Additionally, where the Commission does not set the CLECs' rates and does not regulate their earnings, it would be unnecessary to apply the Rules to all local exchange carriers.

Verizon requested that it be excluded from the requirements of the Credit Card Rules because of Verizon-Rhode Island's form of regulation and the fact that there is competition in local telephone service. The Commission does not set Verizon's rates based on traditional cost of service/rate of return or PBR, like the other utilities. Rather, telecommunications is becoming a fully competitive service and Verizon's earnings are not based on a rate of return. Therefore, if Verizon were to accept credit cards and chooses to absorb the costs through all rates, such an action would affect Verizon's earnings, not customers' rates. Therefore, the Commission has excluded Verizon from the requirements of the Credit Card Rules.

NBC provided a "white paper" from Master Card and Visa which basically states that if an entity accepts other forms of payment in person or by mail without charging a convenience fee, they cannot charge a convenience fee for the credit card payment that is made in person or by mail. NBC argues that if it cannot accept credit card payments in person, their collections will suffer. However, when asked earlier in the docket if NBC had undertaken any studies to show the impact of credit cards on collections, NBC had done no studies and had no data. In fact, the only data supplied with the comments showed the number of customers utilizing credit card payments and the number of dollars charged. In any case, it seems that it would be more convenient to make a credit card

payment over the telephone rather than in person. NBC provided no data to show how many of the credit card payments are made in person versus over the telephone or by another alternative method. Therefore, it is difficult to understand how these Rules will adversely impact on NBC's collections.

Furthermore, the transition period and Tariff filing requirements contained in the Rules will provide sufficient time for the utilities to comply with the Rules.

IV. Conclusion

When Rules are promulgated under the Administrative Procedures Act, the Commission provides an Order Number only for administrative filing purposes. The Final Rules Governing the Acceptance of Credit Cards by Utility Companies were filed with the Secretary of State's Office on June 30, 2004 for effect August 1, 2004.

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EFFECTIVE AT WARWICK, RHODE ISLAND ON AUGUST 1, 2004
PURSUANT TO AN OPEN MEETING HELD ON JUNE 29, 2004. WRITTEN
REPORT ISSUED ON SEPTEMBER 24, 2004.

PUBLIC UTILITIES COMMISSION

Elia Germani, Chairman

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