

State of Rhode Island and Providence Plantations
Public Utilities Commission

Rules Governing the Acceptance of Credit Card by Utility Company: Docket No. 3569

Public Notice of Proposed Rule-Making

Pursuant to the provisions of R.I. Gen. Laws §42-35-2.7 and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Public Utilities Commission (PUC) hereby gives notice of its intent to repeal the Rules Governing the Acceptance of Credit Card by Utility Companies (Rules).

These Rules require electric, gas, wastewater and water utilities who allow payment by credit card to pass through vendor fees to the credit card user rather than socializing the processing fee in rates. Since the promulgation of the Rules, utilities have sought waivers from these rules and the PUC granted the waivers. As a result, some utilities pass the cost of accepting credit card through in rates and some pass it on to the credit card user. The PUC proposes to repeal the Rules because there is no longer one consistent policy in effect. The effect of repealing the rules would neither require nor prohibit the charge of a convenience fee by the utility. Rather, the utility will follow the tariffs it has on file for payment by credit card until such time as the utility's tariff is subject to further review by the PUC

The proposed repeal of the Rules Governing the Acceptance of Credit Card by Utility Companies are available for public inspection at www.ripuc.org/eventsactions/docket/3569page.html, in person at the Clerk's Office, Public Utilities Commission, 89 Jefferson Boulevard, Warwick, Rhode Island, or by email request to luly.massaro@puc.ri.gov or by calling Luly Massaro at 401-780-2107.

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.

All interested parties are invited to submit written comments concerning the PUC's intent to repeal the regulations by December 27, 2016 to Luly Massaro, Public Utilities Commission, 89 Jefferson Boulevard, Warwick, Rhode Island, or by email to Lulymassaro@puc.ri.gov.

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

Luly E. Massaro
Commission Clerk
November 23, 2016

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

Concise Explanatory Statement Pursuant to R.I.G.L. §42-35-2.6

The Public Utilities Commission repeals the Rules Governing the Acceptance of Credit Card by Utility Companies because there is no longer one consistent policy in effect.

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

~~RULES GOVERNING THE ACCEPTANCE OF CREDIT CARDS
BY UTILITY COMPANIES~~

~~Date of Public Notice: April 5, 2004~~

~~Date of Public Hearing: April 21, 2004~~

~~Effective Date: August 1, 2004~~

I. — Purpose, Methodology and Findings

—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 the Rhode Island Division of Taxation allows 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. — Statutory Authority**~~

~~—The Commission has the statutory authority to promulgate these Rules under R.I.G.L. §§ 42-35 et seq., 39-1 et seq., 39-2 et seq.~~

~~**III. — Definitions**~~

- ~~A. — “Commission” shall mean the Public Utilities Commission.~~
- ~~B. — “Division” shall mean the Division of Public Utilities and Carriers.~~
- ~~C. — “Company” or “Companies” shall mean each public utility operating in the State of Rhode Island to whom these Rules are applicable.~~
- ~~D. — “Credit Card” shall mean a card issued by a Third Party Vendor or Bank for the customer’s use, whereby the Third Party Vendor or Bank becomes responsible for payment and shall include a debit card issued by a financial institution which is imprinted with a card association~~

~~symbol such as Visa or Master Card symbol. A debit card not imprinted with a Visa or Master Card symbol shall not be considered a “Credit Card”. This definition is not intended to disallow the use of ATM Cards or electronic checks in the same manner as Credit Cards if a Company so chooses to accept same for payment.~~

~~E. “Third Party Vendor or Bank” shall mean the entity which processes the Credit Card payments on behalf of the utility.~~

~~F. “Convenience Fee” shall mean the Third Party Vendor or Bank costs associated with the use of a Credit Card to be paid by the customer using the Credit Card.~~

IV. — Applicability

~~—A. Companies: These Rules shall be applicable to all electric distribution companies, natural gas distribution companies, and regulated water and sewer utilities operating in the State of Rhode Island.~~

~~—B. Customers: These Rules shall apply to all customers of the Company to whom the Company offers payment by Credit Cards.~~

~~—C. These Rules shall not apply to any Company that chooses to absorb the cost of the Convenience Fee through their shareholders. A Company to which these Rules would otherwise be applicable, that chooses to absorb the cost of the Convenience Fee through their shareholders shall account for those fees in a clear manner that can be tracked by the Commission.~~

V. — Terms of Acceptance of Credit Cards

- ~~A. At the Company's sole discretion, each Company may choose to accept Credit Cards as a form of payment for the satisfaction of the amounts due from their customers.~~
- ~~B. A Company that chooses to accept credit cards as a form of payment shall not pass any of the associated costs on to any customers not choosing to pay with their Credit Cards.~~
- ~~C. A Company may choose which "brand" of Credit Cards to accept, such as Visa, Master Card, American Express, Discover, etc. A Company is not required to accept every "brand" of Credit Card.~~
- ~~D. The level of the Convenience Fee may differ among different customer classes.~~
- ~~E. A Company may not deny a customer the use of his or her Credit Card solely because the utility account is in arrears.~~
- ~~F. For applicable utilities, a partial payment may be accepted on a Credit Card.~~

VI. Administration

- ~~A. A Company that chooses to accept Credit Cards has a duty to enter into the most cost effective contract on behalf of its customers with a Third Party Vendor or Bank. In determining "cost effectiveness", a Company must evaluate the expense to the customer, but also may take into account financial strength and customer service considerations.~~

~~B. While the Commission does not set the level of the Convenience Fee, it will be up to the Company to act in a prudent manner on behalf of all of its ratepayers.~~

~~C. While the Commission is not requiring a Company to choose its vendor through a competitive bid process, if a Company does not choose its vendor through a competitive bid process, it must provide evidence to the Commission sufficient to show that the Company utilized the most cost effective means for customers to use their Credit Cards.~~

~~D. The Commission shall have the right to review any agreement entered into with a Third Party Vendor or Bank and disallow recovery by the Company of any fees or costs associated with the use of Credit Cards by a customer that are not recovered from the cost causing customer.~~

~~E. All Companies accepting Credit Cards must file a Tariff with the Commission setting out the Terms and Conditions of Credit Cards as a method of payment at least thirty (30) days prior to the commencement of accepting Credit Cards, consistent with R.I.G.L. § 39-3-11. Such Tariffs shall include customer instructions.~~

~~VII. Customer Relations~~

~~A. Each Company accepting Credit Cards shall provide a direct telephone transfer, at no cost to the customer, from its Customer Service Center to its Third Party Vendor or Bank for customers who call in to the Company and who choose to pay by Credit Card.~~

- ~~B. Each customer choosing to pay by credit card shall be notified prior to providing his or her Credit Card number, of the amount of the convenience fee and must indicate in the affirmative to continue with the payment process.~~
- ~~C. Each Company that maintains a website shall include information and instructions regarding all payment methods, including any additional fees, and shall include links to its Third Party Vendor or financial institution's website.~~
- ~~D. Each Company, upon commencement of the acceptance of Credit Cards, shall provide its customers with a notice including information and instructions regarding all payment methods, including instructions of how to pay by Credit Card, including disclosure of the convenience fee.~~
- ~~E. It shall be the responsibility of the Company to provide the necessary assistance to its customers choosing to utilize Credit Cards as a form of payments, including aiding in the resolution of disputes between the Company's Third Party Vendor or Bank that involve payment of the Company's bill.~~
- ~~F. In recognition that the Division does not regulate the Third Party Vendor or Bank, the Company shall respond to the Division whenever the Division is attempting to assist a customer with a billing and/or payment dispute that includes the use of a Credit Card. In addressing billing and/or payment disputes, it shall not be a defense to a Division~~

~~inquiry or investigation, whether formal or informal, that the Company does not actually process the Credit Cards. Provided, however, the Company shall have no obligation to participate in any billing dispute which involves matter strictly between the Customer and Third Party Vendor or Bank (e.g. rates of interest, late payments, unauthorized Credit Card use). Further, it is provided that any dispute involving billing for service rendered shall be addressed in the same manner and within the same time limits as provided in applicable Rhode Island Law and Division or Commission regulations.~~

~~VIII. Effective Date for Compliance~~

~~—Any utility accepting Credit Cards prior to the effective date of these Rules, that is not in compliance on the date on which these Rules become Effective, shall be required to come into compliance when their current contract expires, at the next regularly scheduled renegotiation of their contract, or if there is no set date for expiration or renegotiation of the contract, within three (3) months from the Effective Date of these Rules. In no event shall any utility be out of compliance with these Rules after twelve (12) months from the Effective Date.~~

~~IX. Severability~~

~~—If any part of these Rules is found to be invalid or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Rules which can be given effect without the invalid provision or application, and to this end, the provisions of these Rules are severable.~~

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