

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

CONSUMER PROTECTION
REQUIREMENTS FOR NONREGULATED POWER PRODUCERS

Date of Public Notice: May 31, 1997 and November 5, 1997

Date of Public Hearing: November 18, 1997

Effective Date: December 31, 1997

REQUIREMENTS FOR NONREGULATED POWER PRODUCERS

I. INTRODUCTION

Nonregulated Power Producers ("NPPs"), as defined by the Utility Restructuring Act of 1996 ("URA") in R.I.G.L. Sec.39-1-2(7.1), have been permitted to sell to or aggregate electricity for eligible Rhode Island customers since July 1, 1997. The Public Utilities Commission ("Commission") was required by the URA to promulgate regulations necessary to meet operating and reliability standards of the regional power pool, R.I.G.L. Sec.39-1-27.1(b). These regulations became effective January 1, 1997. The Commission was also required by the URA to incorporate the recommendations of the Retail Electric Licensing Commission for consumer protection, access to books and records, and other requirements determined to be reasonable, necessary and in the public interest." R.I.G.L. Sec.39-2-1(c). These regulations are adopted pursuant to that authority.

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.G.L. Sec.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 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 II E);
2. Term of service;
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; and
9. Any additional service options or additional information.

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

E. Price information should include pricing elements, price change formulas, and the potential for price volatility through variable rates or other mechanisms. Upon adoption by the Commission of a format for such disclosure, NPPs shall present information using the prescribed format.

F. Fuel and environmental impacts of the NPP's source or sources of generation must be provided to customers in the format prescribed by the Commission upon its adoption of such a format. Prior to such adoption:

1. NPPs that make representations about generation sources, emissions or other environmental claims about their product must do so in a manner that is factually accurate and not misleading.

2. Any NPP making such a claim must file a copy of the claim and substantiation thereof with the Commission for its information within ten (10) business days after making it public.
3. The filing must include a description of the contracts and/or entitlements that are being relied upon by the NPP to support its claim.

G. 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. The Commission does not intend to adjudicate disputes between NPPs and customers regarding breach of contract claims or billing matters. Such disputes that cannot be privately resolved may be referred to the Consumer Protection Division of the Department of Attorney General, or may be resolved through appropriate legal action.

B. Violations of these Regulations. Disputes between NPPs, customers, or other aggrieved parties relating to violations of these regulations are subject to the Commission's jurisdiction, and shall be adjudicated in the manner set forth below.

C. Delegation of Initial Fact-Finding Adjudication to the Division.

1. Any party who believes they have been or will be aggrieved by a violation of these rules may file a complaint with the Division pursuant to the Division's Dispute Resolution Regulations Relating to Nonregulated Power Producers ("Division Regulations"). A copy of the complaint shall also be served on the Commission.

2. The Attorney General, as a matter of right, also may file a complaint with the Division or the Commission against any NPP to seek enforcement of these regulations. If the Attorney General files with the Commission, the Commission may hear the Attorney General's complaint, or refer the matter to the Division for adjudication.
3. The Division is hereby delegated the responsibility to initially hear the complaint, and file a decision and findings with the Commission at the close of the case. However, the Commission reserves the right to hear and decide any complaint without Division adjudication.

D. 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, as if the Commission issued the decision, unless:

1. A timely notice of appeal has been filed with the Commission, as specified in Rule III E; or
2. The Commission, after reviewing the decision and findings, decides within five days of receiving the Division's decision, or at the next scheduled open meeting, whichever occurs later, to review and reconsider the decision.

E. Division Decisions Appealable to the Commission. Any decisions, order, or recommendations of the Division arising out of a complaint filed with the Division pursuant to the Division's Regulations may be appealed directly to the Commission by any party to such proceeding by filing a notice of appeal within five business days of the issuance of the Division's written decision. The notice of appeal must include a copy of the Division's written decision, and set forth clearly and concisely the basis for the petitioner's disagreement with the Division's decision. A copy of the notice of appeal must be served on all other parties to the Division's proceeding. The Commission may summarily uphold the Division's decision, request more information from the parties before ruling, or commence its own proceeding. Any decision of the Commission is directly appealable to the Supreme Court pursuant to R.I.G.L. Sec.39-5-1.

F. Enforcement and Remedies. The Commission reserves the right to exercise its authority to issue any order reasonably necessary to enforce these regulations, resolve any disputes, or otherwise protect the public interest.

G. Intervention. Any person or entity whose interests will be substantially and directly affected by the outcome of Commission consideration of an appeal or proceedings under this rule may file a motion to intervene. The motion must clearly set forth the interests of the party seeking intervenor status. The Commission shall grant such intervention if:

1. The person's or entity's interests will be substantially and directly affected by the outcome of the Commission's consideration of an appeal or proceedings under this rule; and
2. The interests cannot be adequately represented by other parties to the proceeding.

Alternatively, the Commission can grant a party or entity limited intervention status, which would allow that intervenor the right to submit written comments.

H. Investigations by the Commission or Division.

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.
2. The Division may open its own investigation into any matter to determine whether these regulations are being violated. If the Division concludes that a violation has occurred, the Division may file a complaint directly with the Commission to enforce these regulations.

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. The following list includes, but does not necessarily exhaust, references to those sources of authority:

- A. The Utility Restructuring Act of 1996, particularly R.I.G.L. Secs. 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.

The foregoing requirements, after due notice and an opportunity for hearing, are hereby adopted and filed with the Secretary of State this 21st day of November, 1997, to become effective December 31, 1997, more than thirty (30) days after filing, in accordance with the provisions of R.I.G.L. 1956 (1988 Reenactment) Sec.42-35-2(a)(2) and Sec.42-35-3.

11/21/97
Date

James J. Malachowski, Chairman