

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

CONSUMER PROTECTION REQUIREMENTS FOR : DOCKET NO. 4503  
NONREGULATED POWER PRODUCERS :

**NOTICE OF RULEMAKING AND PUBLIC HEARING**

Pursuant to the provisions of Section 39-1-1 and 42-35-3 of the Rhode Island General Laws, as amended, the Public Utilities Commission (PUC) will conduct a public hearing on **Thursday, June 12, 2014 @ 9:30 A.M.** in Hearing Room A, at the PUC's office located at 89 Jefferson Boulevard, Warwick, Rhode Island for the purpose of affording all interested persons an opportunity to submit data, views, or arguments, orally or in writing, in response to the PUC's plan to amend the PUC's rules entitled "Consumer Protection Requirements for Nonregulated Power Producers" effective December 31, 1997.

The proposed regulation requires competitive electricity suppliers (Nonregulated Power Producers) to include in customer disclosures/marketing materials, additional information necessary for retail electricity customers to make an informed decision about whether or not to purchase the energy portion of their electricity from a Nonregulated Power Producer without adding further regulatory burden on the Nonregulated Power Producer. There are no additional filing requirements included in the revised rules. The proposed rules also incorporate a subsequent change to law regarding energy source disclosure which supersedes the language in the current rules.

The proposed rules streamline the dispute resolution process for customers and properly reflect the statutory jurisdiction of the PUC and Division of Public Utilities and Carriers (Division). The new language also reflects current practice for addressing customer complaints. Customer complaints regarding Nonregulated Power Producers have historically been handled in the same manner as any other customer dispute and where there is a dispute regarding compliance with the rules, those have been addressed by the Division. The proposed rules reflect this reality.

The proposed rules will affect the interests of The Narragansett Electric Company d/b/a National Grid, Pascoag Utility District, Nonregulated Power Producers, and the Division of Public Utilities and Carriers. The proposed rules will also affect all customers of electric service provided by the above public utilities and Nonregulated Power Producers.

In the development of the proposed interpretation consideration was given to the following: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. One purpose of the Proposed Regulations is to eliminate overlap and duplication with statutes and Rules within the jurisdiction of the Division, a separate state agency which has the statutory responsibility and personnel to address disputes between public utilities and their customers. The Commission found no other duplication with other state agencies' laws or regulations and identified no significant economic impact on small businesses as defined by R.I. Gen. Laws § 42-35.1-3.

The rules and regulations are on file at the Clerk's Office, 89 Jefferson Boulevard, Warwick, Rhode Island. Copies of the rules and regulations may be obtained in person, by mail, by calling 401-780-2107, or accessed under the PUC's Docket Menu, Docket No. 4503 at [www.ripuc.org](http://www.ripuc.org). Interested persons wishing to offer data, views, or arguments on the proposed rules and regulations may file written comments no later than June 16, 2014 with the Commission Clerk to the following address:

Luly E. Massaro, Commission Clerk  
Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, Rhode Island 02888

Reference is also made to R.I.G.L §§ 42-35, 39-1, 39-26.1 et seq., specifically, §§ 42-35-1, 42-35-2, 42-25-3, 42-35-4, 42-35-5, 39-1-15 and 39-26.1-3(e) and 39-26.1-5(e).

The PUC is accessible to the handicapped. Individuals requesting interpreter services for the hearing impaired must notify the Clerk's office by calling 780-2107, seventy-two (72) hours in advance of the hearing date.

Luly Massaro, Commission Clerk  
May 16, 2014

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

**Concise Summary of Proposed Non-technical Amendments  
To  
Consumer Protection Requirement for Nonregulated Power Producers**

In accordance with the Administrative Procedures Act, §42-35-3(a)(1) of the General Laws of Rhode Island, following is a concise summary of proposed non-technical amendments:

1. Part I updates changes that transpired in the competitive market and states the need to amend the current rules.
2. Part II, Section D.2 defines term of service between Nonregulated Power Producer (NPP) and customer.
3. Part II, Section D.9 incorporates method by which customer may cancel service through the NPP.
4. Part II, Section D.11 incorporates notification by the NPP regarding potential market adjustment in on the customer's first bill following enrollment.
5. Part II, Section E incorporates additional pricing disclosure language by the NPP.
6. Part II, Section F incorporates a subsequent change to law regarding energy source disclosure.
7. Part II, Section G adds clarification language.
8. Part III is amended to streamline the resolution process to properly reflect the statutory jurisdiction of the Public Utilities Commission and the Division of Public Utilities and Carriers.

**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. Gen. Laws See. § 39-1-2(7-119), 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..." ~~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(e). These regulations are adopted pursuant to that authority.~~ 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 See. § 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 II E);
2. Term of service, including the date by which a customer must contact the NPP if he or she seeks to disenroll, 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;
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~~  
8.9. Method by which a customer may cancel service through the NPP. While making a letter and/or 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 a telephone call with third-party verification;

~~10.~~ Any additional service options or additional information; ~~and~~  
~~9.11.~~ 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 first utility bill following enrollment.

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

E. Price information ~~should~~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]. ~~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.~~

~~The filing must include a description of the contracts and/or entitlements that are being relied upon by the NPP to support its claim. 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. ~~The Commission does not intend to adjudicate disputes between NPPs and customers regarding breach of contract claims or billing matters. Such disputes~~Disputes between the NPP and an individual customer 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. 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 ~~Commission's 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, 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 ~~unless appealed under the Rhode Island Administrative Procedures Act, as if the Commission issued the decision, unless:~~

~~A timely notice of appeal has been filed with the Commission, as specified in Rule III E; or~~

~~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 in accordance with the Commission's Rules of Practice and Procedure.

~~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, including but not limited to:~~

- A. The Utility Restructuring Act of 1996, particularly R.I. Gen. Laws. 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