

2015 -- H 5978 SUBSTITUTE A

LC002247/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- NONREGULATED POWER
PRODUCER CONSUMER BILL OF RIGHTS

Introduced By: Representatives Kennedy, Carnevale, Shekarchi, Keable, and Marshall

Date Introduced: March 25, 2015

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 26.7

4 NONREGULATED POWER PRODUCER CONSUMER BILL OF RIGHTS

5 **39-26.7-1. Short title.** – This chapter shall be known and may be cited as the
6 "nonregulated power producer consumer bill of rights."

7 **39-26.7-2. Purpose.** – The purpose of this act is to assist consumers in making an
8 informed choice of nonregulated power producer.

9 **39-26.7-3. Definitions.** – When used in this chapter, the following terms shall have the
10 following meanings:

11 (1) "Commission" means the Rhode Island public utilities commission.

12 (2) "Division" means the division of public utilities and carriers.

13 (3) "Nonregulated power producer" shall have the same meaning as that which is
14 contained in § 39-1-2.

15 **39-26.7-4. Consumer information requirements.** – (a) On or before September 1, 2015,
16 the division shall initiate a docket to redesign the standard billing format for residential customers
17 to better enable such residential customers to compare pricing policies and charges of
18 nonregulated power producers to the standard offer service rate. The division shall issue a final

1 decision or rules in such docket not later than six (6) months after its initiation.

2 (b) In addition to all information required by §§ 39-3-37.2 and 39-3-37.3, the rules shall
3 provide for the bill to include a standard offer service price to compare with the date of the next
4 expected rate change and the date by which a customer's nonregulated power producer must
5 initiate the transfer of service in order for the transfer to be complete by the next meter read date.
6 If the standard offer service rate is ever a variable or time-of-use rate, the division shall prescribe
7 the manner in which the price to compare will be represented.

8 (c) On or before September 1, 2020, and every five (5) years thereafter, the division shall
9 reopen such docket to ensure the standard billing format continues to meet the requirements of
10 this section.

11 (d) The division shall facilitate the creation of an Internet website which shall provide
12 information necessary for a consumer to obtain service and compare pricing policies and changes
13 among nonregulated power producers. This website may be maintained by a third party chosen
14 through a competitive solicitation and the cost of such website shall be funded through an
15 assessment on any obligated entity, as such term is defined in § 39-26-2, but excluding electric
16 distribution companies, in a manner governed by division regulation.

17 (e) On or before July 1, 2018, and every two (2) years thereafter, the division shall review
18 the Internet website and make any improvements to ensure such Internet website remains a useful
19 tool for customers to compare pricing policies and charges among nonregulated power producers.

20 (f) The nonregulated power producer shall make available to the division and the
21 provider of the Internet website facilitated by the division on a monthly basis: (1) All of its
22 offerings currently available; (2) The expiration of all such offerings; (3) Pricing information for
23 all such offerings; (4) Cancellation fees, if any, of such offerings; (5) Contact information; and
24 (6) Any other information the division requires.

25 **39-26.7-5. Certain customer rights.** – (a) An electric distribution company shall transfer
26 a residential customer to the standard offer service rate not later than the next billing cycle after
27 receipt of a request from a residential customer eligible for standard offer service.

28 (b) The electric distribution company shall not be liable for any contract termination fees
29 that may be assessed by the nonregulated power producer.

30 (c) An electric distribution company shall transfer a residential customer to the electric
31 generation service rate of a nonregulated power producer not later than the next billing cycle after
32 the electric distribution company receives from the nonregulated power producer a successful
33 enrollment of such residential customer unless the notification is not received by the electric
34 distribution company in accordance with its commission-approved terms and conditions on file

1 with the division and commission.

2 (d) Notwithstanding any other provision of the general laws, nothing shall prohibit a
3 residential customer who moves from one dwelling to another dwelling within the state from
4 immediately receiving electric generation service from a nonregulated power producer, provided
5 such customer was receiving such service from a nonregulated power producer immediately prior
6 to such move.

7 (e) The electric distribution company shall include in its terms and conditions, subject to
8 review and approval by the commission, conditions for release of customer information to a
9 nonregulated power producer.

10 (f) Customers shall be entitled to any available individual information about their loads or
11 usage at no cost.

12 (g) No electric distribution company shall include in any bill or bill insert anything that
13 directly or indirectly promotes a generation entity or affiliate of the electric distribution company.
14 No nonregulated power producer shall include a bill insert in an electric bill of an electric
15 distribution company.

16 (h) On or before January 1, 2016, the division shall initiate a rulemaking proceeding to
17 develop a standard summary form of the material terms and conditions of the contract for electric
18 generation services signed by a residential customer. Such form shall include, but not be limited
19 to, the following: (1) A description of the rate the customer will be paying; (2) Whether such rate
20 is a fixed or variable rate; (3) The term and expiration date of such rate; (4) Whether the contract
21 will automatically renew; (5) A notice describing the customer's right to cancel the service, as
22 provided in this section; (6) Information on air emissions and resource mix of generation facilities
23 operated by and under long-term contract to the nonregulated power producer; (7) The trade name
24 of the nonregulated power producer; (8) The toll-free telephone number for customer service of
25 the nonregulated power producer; (9) The Internet website of the nonregulated power producer;
26 (10) The toll-free telephone number for customer complaints of the division; and (11) Any other
27 information required by the division. Upon the division's filing of regulations pursuant to this
28 section, the commission shall initiate a rulemaking to repeal any rules which overlap with the
29 regulations filed by the division.

30 (i) On and after January 1, 2016, each nonregulated power producer shall, prior to
31 initiation of electric generation services, provide the potential residential customer with a
32 completed summary form developed pursuant to this section. Each nonregulated power producer
33 shall, prior to the initiation of electric generation services, provide the potential commercial or
34 industrial customer with a written notice describing the rates, information that complies with §

1 39-26-9 and the commission's rules governing energy source disclosure which may be amended
2 from time to time, terms and conditions of the service, and a notice describing the customer's
3 right to cancel the service, as provided in this section.

4 (j) No nonregulated power producer shall provide electric generation services unless the
5 customer has signed a service contract or consents to such services by one of the following:

6 (1) An independent third-party telephone verification;

7 (2) Receipt of a written confirmation received in the United States mail from the
8 customer after the customer has received an information package confirming any telephone
9 agreement;

10 (3) The customer signs a contract that conforms with the provisions of this section; or

11 (4) The customer's consent is obtained through electronic means, including, but not
12 limited to, a computer transaction.

13 (k) Each nonregulated power producer shall provide each residential customer and small
14 commercial and industrial customer with a written contract, such contract which may be
15 provided in electronic format, that conforms with the provisions of this section and maintain
16 records of such signed service contract or consent to service for a period of not less than two (2)
17 years from the date of expiration of such contract, which records shall be provided to the division
18 or the customer upon request.

19 (l) Each contract for electric generation services shall contain:

20 (1) All material terms of the agreement;

21 (2) A clear and conspicuous statement explaining the rates that such customer will be
22 paying, including the circumstances under which the rates may change;

23 (3) A statement that provides specific directions to the customer as to how to compare the
24 price term in the contract to the customer's existing electric generation service charge on the
25 electric bill and how long those rates are guaranteed;

26 (4) Such contract shall also include a clear and conspicuous statement providing the
27 customer's right to cancel such contract not later than three (3) days after signature or receipt in
28 accordance with the provisions of this subsection, describing under what circumstances, if any,
29 the supplier may terminate the contract and describing any penalty for early termination of such
30 contract;

31 (5) The method by which a customer may cancel service through the nonregulated power
32 producer, including a method by which a customer without Internet access may cancel service;
33 and

34 (6) Any other information required by the division.

1 (m) A customer served on the general commercial and industrial rate, or its successor,
2 shall have, until midnight of the third business day after the latter of the day on which the
3 customer enters into a service agreement or the day on which the customer receives the written
4 contract from the nonregulated power producer as provided in this section, the right to cancel a
5 contract for electric generation services entered into with a nonregulated power producer.

6 (n) Between thirty (30) and sixty (60) days, inclusive, prior to the expiration of a fixed
7 price term for a residential customer, a nonregulated power producer shall provide a written
8 notice to such customer of any change to the customer's electric generation price. Such residential
9 customer shall select the method of written notice at the time the contract is signed or verified
10 through third-party verification as described in this section in a manner approved by the division.
11 Such customer shall have the option to change the method of notification at any time during the
12 contract.

13 (o) No nonregulated power producer shall charge a residential customer month-to-month
14 variable rates for electric generation services following the expiration of a contract entered into
15 after the effective date of this section without providing written notification to such residential
16 customer forty-five (45) days prior to the commencement of such month-to-month variable rates.
17 Such notice shall conform to any rules that may be promulgated by the division. Such customer
18 shall have the option to change the method of notification at any time during the contract.

19 (p) No nonregulated power producer shall charge an electric generation service rate to a
20 residential customer that is twenty-five percent (25%) more than the original contract price, or the
21 last rate notification provided by the nonregulated power producer, without disclosing the rate
22 change described in this section fifteen (15) days before it takes effect. Such disclosure shall be in
23 writing and shall conform to any rules that may be promulgated by the division.

24 (q) No third-party agent may sell electric generation services on behalf of a nonregulated
25 power producer unless the third-party agent is an employee or independent contractor of such
26 nonregulated power producer, and the third-party agent has received appropriate training directly
27 from such nonregulated power producer.

28 (r) All sales and solicitations of electric generation services by a nonregulated power
29 producer, aggregator or agent of a nonregulated power producer or aggregator to a customer
30 conducted and consummated entirely by United States mail, door-to-door sale, telephone or other
31 electronic means, during a scheduled appointment at the premises of a customer or at a fair, trade
32 or business show, convention or exposition in addition to complying with the provisions of this
33 section shall comply with all state and local laws and regulations.

34 (s) Any representative of a nonregulated power producer, aggregator or agent of a

1 nonregulated power producer or aggregator shall prominently display or wear a photo
2 identification badge stating the name of such person's employer or the nonregulated power
3 producer the person represents and shall not wear apparel, carry equipment or distribute materials
4 that includes the logo or emblem of an electric distribution company or contains any language
5 suggesting a relationship that does not exist with an electric distribution company, government
6 agency or other supplier.

7 (t) No nonregulated power producer, aggregator or agent of a nonregulated power
8 producer or aggregator shall advertise or disclose the price of electricity to mislead a reasonable
9 person into believing that the electric generation services portion of the bill will be the total bill
10 amount for the delivery of electricity to the customer's location, or make any statement, oral or
11 written, suggesting a prospective customer is required to choose a supplier. When advertising or
12 disclosing the price for electricity, the nonregulated power producer, aggregator or agent of a
13 nonregulated power producer shall on and after January 1, 2016, indicate, using at least a ten (10)
14 point font size, in a conspicuous part of any advertisement or disclosure that includes an
15 advertised price, the expiration of such advertised price, and any fixed or recurring charge,
16 including, but not limited to, any minimum monthly charge.

17 **39-26.7-6. Nonregulated power producer obligations.** – (a) No contract for electric
18 generation services by a nonregulated power producer shall require a residential customer to pay
19 any fee for termination or early cancellation of a contract in excess of fifty dollars (\$50.00), or
20 twice the estimated bill for energy services for an average month, whichever is less, provided that
21 when a nonregulated power producer offers a contract, it provides the residential customer an
22 estimate of such customer's average monthly bill; and provided further, it shall not be considered
23 a termination or early cancellation of a contract if a residential customer moves from one
24 dwelling within the state and remains with the same nonregulated power producer. If a residential
25 customer does not have a contract for electric generation services with a nonregulated power
26 producer and is receiving a month-to-month variable rate from such supplier, there shall be no fee
27 for termination or early cancellation.

28 (b) Each nonregulated power producer shall file annually with the division a list of any
29 aggregator or agent working on behalf of such supplier.

30 (c) Each nonregulated power producer shall develop and implement standards and
31 qualifications for employees and third-party agents who are engaged in the sale or solicitation of
32 electric generation services by such supplier.

33 (d) Each nonregulated power producer, aggregator or agent of a nonregulated power
34 producer or aggregator shall comply with the provisions of the telemarketing regulations adopted

1 pursuant to 15 U.S.C. § 6102.

2 (e) Any violation or failure to comply with any provision of this chapter or rules
3 promulgated by the division shall be subject to civil penalties by the division including, a penalty
4 of not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1,000), and in
5 the case of a continuing violation of any of the provisions of this chapter, every day's continuance
6 shall be deemed to be a separate and distinct offense, an order of refund, and/or the suspension or
7 revocation of a nonregulated power producer's certificate, or a prohibition on accepting new
8 customers following a hearing.

9 (f) On or before July 1, 2016, the division shall initiate a rulemaking proceeding to
10 develop and implement, or cause to be implemented, standards relating to abusive switching
11 practices, solicitations and renewals by nonregulated power producers, the hiring and training of
12 sales representatives, door-to-door sales and telemarketing practices by nonregulated power
13 producers, in accordance with the goal of ensuring customers have sufficient information to make
14 an informed decision. The division shall issue final rules on such docket not later than six (6)
15 months after its initiation.

16 (g) The division may initiate a docket to review the feasibility, costs and benefits of
17 placing on standard offer service all customers of all nonregulated power producers who are
18 hardship cases.

19 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- NONREGULATED POWER
PRODUCER CONSUMER BILL OF RIGHTS

1 This act would impose a series of regulatory requirements upon the electrical generation
2 and distribution industry for the protection of consumers. This act includes a variety of consumer
3 information which would have to be given to consumers. The act would also set forth procedures
4 for sale and solicitation of electric generation services by a nonregulated power producer.

5 This act would take effect upon passage.

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