

REGULATORY LAW ALERT
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RHODE ISLAND ENACTS NEW RETAIL ELECTRIC CONSUMER
BILL OF RIGHTS

OVERVIEW

On July 12, 2016, Rhode Island Governor Gina Raimondo signed into law House Bill 7040, the “Nonregulated Power Producer Consumer Bill of Rights” (the “Bill”). The Bill, effective upon passage, creates a new Chapter 39-26.7 of the General Laws that either immediately or through mandated regulatory proceedings imposes new regulatory requirements for Rhode Island retail electric providers (referred to locally as “nonregulated power producers” or “NPPs”), principally but not exclusively applicable to NPPs serving residential consumers. Drawing heavily from some recently-implemented Connecticut legislation, the Bill immediately transforms Rhode Island from being among the least to the most regulated states for retail electric service.

NEW REQUIREMENTS/PROCEEDINGS

The Bill provides for the Division of Public Utilities and Carriers (“Division”) to either implement new requirements or conduct docketed proceedings to develop new regulatory requirements, including the following:

1. *Immediate Implementation of New Contracts that Reflect Required Minimum Terms.* NPPs must immediately ensure that all written contracts include specific elements, including:
 - a “clear and conspicuous” statement of the rate and how it may change;
 - a statement that compares the new price to the customer’s existing service rate and how long the new price is guaranteed;
 - “clear and conspicuous” notice of cancellation rights, termination provisions and cancellation fees;
 - a description of how consumers can cancel the NPP’s service;
 - and any other relevant information required by the Division.

2. *Immediate Implementation of NPP Employee and Agent Identification and Uniform Changes.* NPP field representatives must wear a photo identification badge and not wear apparel or use collateral suggesting a relationship that does not exist with the distribution utility.
3. *Immediate Implementation of New Written Notices at End of Fixed Price Terms and Before Substantially Increasing Variable Rates for Residential Customers.* The Bill requires NPPs to issue several new notices, including (i) 30-60 days before the end of a fixed price term indicating any changes to the generation price, (ii) 45 days before the end of a fixed price term if the customer will be switched from a fixed to a monthly variable rate, and (iii) 15 days before a supplier will increase any rate by 25% more than the original contract price.

NOTE:

- ▶ the customer should be asked at sign up his or her preferred form of notice (mail, email, etc.) and the customer may change this at any time; and
 - ▶ the Division may initiate a proceeding to determine the contents of such notices.
4. *Immediate Implementation of Direct Supplier Training of All Sales Agents and Related Agent Obligations.* The Bill requires a host of obligations, including:
 - ▶ requiring that third-party sales agents receive “appropriate training” directly from the NPP (meaning that you can’t rely on “training the trainer” approaches);
 - ▶ the NPP must file with the Division on an annual basis a list of non-employee agents and aggregators;
 - ▶ and the NPP shall “develop standards and qualifications for employees and third party agents” who are selling services for the supplier, without specifying the particular content to be included in such “standards and qualifications” or requiring that they be filed with the Division.
 5. *Immediate Compliance with Safeguards for Accuracy in Marketing of Price and Terms.* NPPs cannot advertise or publicly disclose electricity prices to any consumer or business in a misleading manner or suggest that a customer must choose a competitive supplier. After January 1, 2017, specified price-related information must be included in advertisements in at least ten (10) point type.
 6. *Immediate Implementation of Expedited Customer Switching by Utility and NPPs.* A utility must switch a customer to utility standard service not later than the next billing cycle after receiving a switching request from an eligible standard service customer and shall do the same for a customer seeking to switch to an NPP, as long as the distribution company receives a timely switch order from the NPP as measured by deadlines in Public Utilities Commission-approved terms of service.
 7. *Immediate Limitation on Termination Fees.* Termination or early cancellation fees are capped at \$50.00 or twice the estimated energy services bill for an average month, whichever is less, and precluded for month-to-month variable without a contract.

8. *Immediate Division Facilitation of an NPP Shopping Website.* A website providing consumer information on service and pricing comparisons must be maintained with Division assistance and will be funded by an assessment on regulated entities other than the utilities (no time deadline for implementation).

NOTE:

- ▶ an RI-specific shopping “EmpowerRI” website is already in place; and
 - ▶ the effectiveness of the website is subject to a required Division review every two years starting in 2019.
9. *New Proceeding for Residential Bill Redesign.* Standardized bills for residential consumers would be changed to allow for direct comparison between NPP prices and the utility standard service price (docket opened by September 1, 2016 and concluded within six months, as well as a required reopener every five years thereafter).
 10. *New Proceeding for Development of Contract Summary Form.* A standard summary form for residential customers must be developed that would include a description of the rate, when it terminates, automatic renewal provisions, cancellation rights, description of air emissions and resource mix, trade name, toll free contact numbers, Internet websites, Division complaint toll-free number, and other relevant information (docket opened by January 1, 2017; no required conclusion date. NOTE: in an apparent error, the Bill requires NPPs to use the “completed summary form developed pursuant to this section” both “on and after” the January 1, 2017 start date for the proceeding to develop the form in the first place).
 11. *New Proceeding to Develop Standards for Identifying Abusive Supplier Practices.* The Division must conduct a proceeding to develop standards for abusive practices relating to switching, solicitations, hiring and training of sales staff, door-to-door sales, and telemarketing practices (docket opened by July 1, 2017 and concluded within six months).
 12. *Discretionary New Docket re: Handling of Hardship Customers.* The Division may elect to commence a docket to consider whether all hardship cases should be placed on utility standard offer services.

REMEDIES

The Bill also specifies robust remedies for violation of the new NPP chapter or any rules promulgated thereunder, provided that the sanctions follow a hearing, including a civil penalty per violation of between \$300 and \$1,000, guidance that the fine may be imposed each day for a continuing violation, and potential for suspension or revocation of the NPP’s license or a prohibition on accepting new customers.

CONTACT

If you have questions, please contact [Robert J. Munnelly, Jr.](#), in our [Regulatory and Administrative Law Practice](#).

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