

2019 -- S 0399

LC001868

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- PUBLIC UTILITIES COMMISSION

Introduced By: Senators Seveney, Coyne, DiPalma, Valverde, and Euer

Date Introduced: February 27, 2019

Referred To: Senate Commerce

(Lieutenant Governor)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-1-27.1 of the General Laws in Chapter 39-1 entitled "Public
2 Utilities Commission" is hereby amended to read as follows:

3 **39-1-27.1. Retail electric-licensing-commission plan requirements and nonregulated**
4 **power producer registration requirements.**

5 (a) The retail electric-licensing commission shall, by January 1, 1997, submit a plan to
6 the legislature that shall include, but not be limited to, the following:

7 (1) A recommendation for taxing and/or assessing electric-distribution companies,
8 electric-transmission companies and nonregulated power producers;

9 (2) Recommendations regarding changes to the regional power pool that would facilitate
10 the creation of an independent-system operator and voluntary power exchange; and

11 (3) Proposals for consumer protections, access to books and records, and other
12 requirements the retail electric licensing commission determines to be reasonable, necessary, and
13 in the public interest.

14 (b)(1) On or before January 1, 1997, the public utilities commission shall establish
15 regulations applicable to nonregulated power producers that are selling electricity in this state that
16 are necessary to meet (directly or through contract) the operating and reliability standards of the
17 regional power pool.

18 (2) In addition, the public utilities commission shall participate in all proceedings before
19 the Federal Energy Regulatory Commission with respect to the modification and/or termination

1 of wholesale all requirements contracts in place as of January 1, 1996, between electric-
2 distribution companies operating in this state and their affiliated power suppliers. The purpose of
3 such participation is to ensure that termination fees payable by ultimate customers in this state are
4 determined in accordance with the provisions of § 39-1-27.4. To facilitate such participation, the
5 public utilities commission is authorized to assess electric-distribution companies under its
6 jurisdiction for its reasonable expenses incurred in connection with its participation in those
7 proceedings, up to a maximum of one hundred thousand dollars (\$100,000) per year, which
8 assessments shall be in addition to all other assessments authorized by this title.

9 (3) On January 1, 1998, and annually for the next four (4) years thereafter, the public
10 utilities commission shall transmit to the governor, the speaker of the house, and the president of
11 the senate, a report detailing: developments in the competitive power supply market in this state;
12 estimated savings realized by customers as a result of the introduction of retail competition in the
13 power supply market; progress towards implementation of a regional transmission agreement for
14 New England and other reforms implemented by the regional power pool; and the status of
15 electric industry restructuring activities in the other New England states and any
16 recommendations for statutory changes.

17 (c) All nonregulated power producers seeking to ~~do-business~~ engage in the retail sale of
18 electricity in this state must file with the division of public utilities and carriers a notarized
19 registration application that includes the information identified below and any additional
20 information required by the division of public utilities and carriers pursuant to regulations issued
21 to protect the public interest in connection with the registration of entities seeking to sell
22 electricity at retail:

23 (1) Legal name;

24 (2) Business address;

25 (3) The name of the state where organized; the date of organization; a copy of the articles
26 of incorporation, association, partnership agreement, or other similar document regarding legal
27 organization;

28 (4) Name and business address of all officers and directors, partners, or other similar
29 officials;

30 (5) Name, title, and telephone number of customer-service contact person;

31 (6) Name, title, and telephone number of regulatory contact person;

32 (7) Name, title, and address of registered agent for service of process;

33 (8) Brief description of the nature of business being conducted; and

34 (9) Evidence of financial soundness, except those nonregulated power producers that may

1 be obligated entities under § 39-26-2(16) shall provide security such as a surety bond or other
2 financial instrument showing evidence of liquid funds, such as a certificate of deposit, an
3 irrevocable letter of credit, a line of credit, a loan, or guarantees in an amount specified by the
4 division, pursuant to rules and regulations promulgated by the division on or before February 1,
5 2017, provided that the amount be not less than twenty-five thousand dollars (\$25,000), nor more
6 than five hundred thousand dollars (\$500,000). The financial instrument shall name the public
7 utilities commission and division of public utilities and carriers as obligees. Financial security
8 shall be reviewed each year at the time a nonregulated power producer makes its annual filing.
9 The financial security shall be available to satisfy penalties assessed by the division for violations
10 of any consumer-protection rules or laws related to nonregulated power producers; refunds
11 ordered by the division; or failure to comply with the provisions of chapter 26 of title 39, as
12 determined by the public utilities commission. Payments made pursuant to this subsection for
13 violation of the provisions of § 39-26-4 shall be forfeited, and shall be remitted to the renewable
14 energy development fund established in § 39-26-7, or any successor funds, and all other
15 forfeitures will be remitted to the state's general fund.

16 (d) Copies of all filings pursuant to subsection (c) shall be served upon the commission
17 and all electric-distribution companies. Updated information shall be filed within ten (10) days of
18 any change to the information included in a registration application, as filed or previously
19 updated. Registration applications filed pursuant to subsection (c) shall become effective thirty
20 (30) days after filing with the division, unless rejected during the thirty-day (30) period. If the
21 division should reject a registration application, it shall specify the applicable reasons in writing
22 and, if practicable, identify alternative ways to overcome any deficiencies. After an opportunity
23 of a hearing, the division may rescind a nonregulated power producer's registration for cause.
24 Nonregulated power producers shall be authorized to do business in this state after their
25 registration becomes effective and while it remains in good standing.

26 (e) A filing fee of one hundred dollars (\$100) shall accompany all registration
27 applications filed pursuant to subsection (c). Nonregulated power producers shall thereafter renew
28 their registrations with the division on an annual basis. Applications for renewal shall be filed
29 before the close of business on December 31 of each calendar year. Applications for renewal shall
30 specify any changes in previously filed registration information. A filing fee of one hundred
31 dollars (\$100) shall accompany all applications for renewal of nonregulated power producer
32 status.

33 SECTION 2. Section 39-26.7-5 of the General Laws in Chapter 39-26.7 entitled
34 "Nonregulated Power Producer Consumer Bill of Rights" is hereby amended to read as follows:

1 **39-26.7-5. Certain customer rights.**

2 (a) An electric-distribution company shall transfer a residential customer to the standard-
3 offer service rate not later than the next billing cycle after receipt of a request from a residential
4 customer eligible for standard-offer service.

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

7 (c) An electric-distribution company shall transfer a residential customer to the electric-
8 generation-service rate of a nonregulated power producer not later than the next billing cycle after
9 the electric-distribution company receives from the nonregulated power producer a successful
10 enrollment of such residential customer, unless the notification is not received by the electric-
11 distribution company in accordance with its commission-approved terms and conditions on file
12 with the division and commission.

13 (d) Notwithstanding any other provision of the general laws, nothing shall prohibit a
14 residential customer who moves from one dwelling to another dwelling within the state from
15 immediately receiving electric-generation service from a nonregulated power producer, provided
16 such customer was receiving such service from a nonregulated power producer immediately prior
17 to such move.

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

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

23 (g) On or before January 1, 2017, the division shall initiate a rulemaking proceeding to
24 develop a standard summary form of the material terms and conditions of the contract for
25 electric-generation services signed by a residential customer. Such form shall include, but not be
26 limited to, the following:

27 (1) A description of the rate the customer will be paying;

28 (2) Whether such rate is a fixed or variable rate;

29 (3) The term and expiration date of such rate;

30 (4) Whether the contract will automatically renew;

31 (5) A notice describing the customer's right to cancel the service, including the right to
32 schedule the cancellation of service on a date certain at any time during the contract period, as
33 provided in this section;

34 (6) Information on air emissions and resource mix of generation facilities operated by and

1 under long-term contract to the nonregulated power producer;

2 (7) The trade name of the nonregulated power producer;

3 (8) The toll-free telephone number for customer service of the nonregulated power
4 producer;

5 (9) The internet website of the nonregulated power producer;

6 (10) The toll-free telephone number for customer complaints of the division; and

7 (11) Any other information required by the division. Upon the division's filing of
8 regulations pursuant to this section, the commission shall initiate a rulemaking proceeding to
9 repeal any rules that overlap with the regulations filed by the division.

10 (h) On and after January 1, 2017, each nonregulated power producer shall, prior to
11 initiation of electric-generation services, provide the potential residential customer with a
12 completed summary form developed pursuant to this section. Each nonregulated power producer
13 shall, prior to the initiation of electric-generation services, provide the potential commercial or
14 industrial customer with a written notice describing the rates; information that complies with §
15 39-26-9 and the commission's rules governing energy source disclosure, which may be amended
16 from time to time; terms and conditions of the service; and a notice describing the customer's
17 right to cancel the service; as provided in this section.

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

20 (1) An independent, third-party telephone verification;

21 (2) Receipt of a written confirmation, received in the United States mail from the
22 customer, after the customer has received an information package confirming any telephone
23 agreement;

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

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

27 (j) Each nonregulated power producer shall provide each customer with a written
28 contract, which contract may be provided in an electronic format, that conforms with the
29 provisions of this section and maintain records of such signed service contract or consent to
30 service for a period of not less than two (2) years from the date of expiration of such contract,
31 which records shall be provided to the division or the customer upon request.

32 (k) Each contract for electric-generation services shall contain:

33 (1) All material terms of the agreement;

34 (2) A clear and conspicuous statement explaining the rates that such customer will be

1 paying, including the circumstances under which the rates may change;

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

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

10 (5) The ~~method~~ methods by which a customer may cancel service through the
11 nonregulated power producer which shall include electronic termination of an existing
12 consumer's service agreement prior to the consumer's next bill read date so long as the request to
13 disenroll has been made at least seven (7) calendar days in advance of the next bill read date. The
14 electronic termination shall be provided in a clear and conspicuous location on the nonregulated
15 power producer's Internet website, including and a method by which a customer without internet
16 access may cancel service; and

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

18 (l) Between thirty (30) and sixty (60) days, inclusive, prior to the expiration of a ~~fixed-~~
19 ~~price-term~~ contract for a residential customer, a nonregulated power producer shall provide a
20 written notice to such customer of ~~any change to the customer's electric generation price~~ the
21 contract expiration date. Such residential customer shall select the method of written notice at the
22 time the contract is signed or verified through third-party verification, as described in this section,
23 in a manner approved by the division. Such customer shall have the option to change the method
24 of notification at any time during the contract.

25 ~~(m) No nonregulated power producer shall charge a residential customer month-to-month~~
26 ~~variable rates for electric generation services following the expiration of a contract entered into~~
27 ~~after the effective date of this section [July 12, 2016] without providing written notification to~~
28 ~~such residential customer forty five (45) days prior to the commencement of such month-to-~~
29 ~~month variable rates. Such notice shall conform to any rules that may be promulgated by the~~
30 ~~division. Such customer shall have the option to change the method of notification at any time~~
31 ~~during the contract.~~ On and after August 1, 2019, no nonregulated power producer shall
32 automatically renew or cause to be automatically renewed a contract with a residential customer;
33 provided however that, a new contract with a residential customer shall be required if the terms
34 for electric generation services change from variable to fixed rates, fixed to variable rates, or to a

1 [different fixed rate.](#)

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

7 (o) No third-party agent may sell electric-generation services on behalf of a nonregulated
8 power producer unless the third-party agent is an employee or independent contractor of such
9 nonregulated power producer and the third-party agent has received appropriate training directly
10 from such nonregulated power producer.

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

17 (q) Any representative of a nonregulated power producer, aggregator, or agent of a
18 nonregulated power producer or aggregator shall prominently display or wear a photo
19 identification badge stating the name of such person's employer or the nonregulated power
20 producer the person represents and shall not wear apparel, carry equipment, or distribute
21 materials that includes the logo or emblem of an electric-distribution company or contains any
22 language suggesting a relationship that does not exist with an electric-distribution company,
23 government agency, or other supplier.

24 (r) No nonregulated power producer, aggregator, or agent of a nonregulated power
25 producer or aggregator shall advertise or disclose the price of electricity to mislead a reasonable
26 person into believing that the electric-generation services portion of the bill will be the total bill
27 amount for the delivery of electricity to the customer's location, or make any statement, oral or
28 written, suggesting a prospective customer is required to choose a supplier. When advertising or
29 disclosing the price for electricity, the nonregulated power producer, aggregator, or agent of a
30 nonregulated power producer shall, on and after January 1, 2017, indicate, using at least a ten
31 point (10) font size, in a conspicuous part of any advertisement or disclosure that includes an
32 advertised price, the expiration of such advertised price, and any fixed or recurring charge,
33 including, but not limited to, any minimum monthly charge.

1 SECTION 3. This act shall take effect upon passage.

=====
LC001868
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS -- PUBLIC UTILITIES COMMISSION

1 This act would provide that nonregulated power producers must provide residential
2 customers with the ability to cancel electricity service electronically, as well as an alternative
3 method for customers without Internet access and would further require the nonregulated power
4 producers to provide the customer with the contract expiration date at least thirty (30) days prior
5 to expiration. Nonregulated power producers would further be prohibited from automatically
6 renewing a contract with a residential customer as of August 1, 2019.

7 This act would take effect upon passage.

=====
LC001868
=====