



State of Rhode Island and Providence Plantations

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*Patrick C. Lynch, Attorney General*

January 31, 2007

**VIA REGULAR AND ELECTRONIC MAIL**

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

**Re: Implementation of the Requirements of the  
Energy Policy Act of 2005 – Docket 3759**

Dear Ms. Massaro:

In accordance with the discussion in the pre-hearing conference in the above-captioned proceeding held on January 26, 2007, please find ten copies of a memorandum prepared by Dr. John Stutz, consultant to the Rhode Island Division of Public Utilities and Carriers in this matter, with respect to the "Smart Metering" issue. The Division hereby adopts Dr. Stutz' comments with respect to "Smart Metering" as reflecting the Division's position on this issue. We would like to emphasize that we believe that time-varying rates is something that will require close monitoring by the Division and the Commission for the foreseeable future, but that we believe that current practices in this state are in compliance with the applicable law, and represent a reasonable and rationale regulatory and implementation posture at this point in time.

Thank you for your attention to our comments. If you have any questions regarding this filing, please feel free to contact me at (401) 274-4400, ext. 2299.

Sincerely,

William K. Lueker  
Special Assistant Attorney General

Enclosure

cc: Docket 3759 Service List  
Andrew Dzykewicz, Office of Energy Resources

## MEMORANDUM

TO: Rhode Island Division of Public Utilities and Carriers  
FROM: John Stutz, Tellus Institute  
TOPIC: The Smart Metering Standard in EPAct  
DATE: January 30, 2007

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The Energy Policy Act of 2005 (EPAct) is wide-ranging and complex. The electricity title (Title XII) alone has ten subtitles. Within that, Subtitle E has four sections, three of which deal with standards. It is the standard for time-based metering and communications (“Smart Metering”) which provides the focus for this memorandum.

Subtitle E amends the Public Utility Regulatory Policies Act of 1978 (PURPA). For the standards included in Subtitle E the requirements for review by state commissions are, to a substantial extent, the same as those established in PURPA. Below, after a brief review of the requirements established in PURPA, the specific requirements for commission review of Smart Metering and the appropriate action on this standard in Rhode Island are addressed. The memorandum concludes with a brief remark on the future role for time-varying rates in Rhode Island.

The discussion below is based on the treatment of Smart Metering in the *Reference Manual and Procedures for Implementation of the “PURPA Standards” in the Energy Policy Act of 2005* (The EPAct Manual), prepared for and distributed by NARUC, and on Rhode Island-specific information.

### **General PURPA Requirements**

The purpose of Title I (“Retail Regulatory Policies for Electric Utilities”) of PURPA was to encourage conservation, efficiency, and equity for electric consumers. To accomplish this, PURPA originally put forward six standards. The first five concerned rate design. The sixth addressed load management. PURPA required that state regulatory authorities consider each standard and make a determination whether or not it was appropriate to implement it. PURPA clearly stated that nothing prohibited an authority from deciding that it was not appropriate to implement any or all of the standards. Thus, while state commissions were required to consider the standards, they were not required to adopt them.

PURPA specified procedural requirements that state commissions were to follow. After public notice and hearing, a state commission’s determination was to be made in writing, be based upon findings and evidence, and be available to the public. As the EPAct Manual notes, these requirements allow a range of approaches, from a “paper hearing” in which the commission makes a determination based on written filings from interested parties to a full evidentiary hearing with written testimony from expert witnesses, and an opportunity for cross-examination by the participating parties.

## Smart Metering

As discussion in the EAct Manual makes clear, the general requirements established in PURPA apply to the new standards included in EAct. In particular, only a paper hearing is required and, based on such a hearing, the Commission can decline to implement a standard. Relative to Smart Metering, the key specific requirement in EAct is for rate schedules under which the rate charged by the electric utility **reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level.** (Part A of the Smart Metering Standard, emphasis added.) In Rhode Island the variance in the cost of purchasing electricity is determined by the arrangements under which the electricity provided by the utility is obtained:

- The vast majority of customers and usage is taken on Standard Offer Service (SOS). For SOS, electricity is provided under contracts which have no time-related variance in cost.
- Ratepayers not served on SOS are split between “the market” (i.e., non-utility supply) and Last Resort Service (LRS), provided through short-run contracts which have fixed monthly costs.

Based on the arrangements currently in place in RI, there is no daily or hourly variance in the utility's wholesale costs, and so no benefit or basis for adopting any of the three types of time-varying rates discussed in the Smart Metering Standard.

One might argue that LRS supply should be restructured so that the cost varies daily or hourly. However, that could easily increase the cost of LRS. The EAct Manual notes that a regulator, in judging the costs and benefits of time-based rates, may consider whether they will leave consumer bills higher than they are currently. Here, in addition to concern that cost might indeed rise if the LRS power procurement is changed, the Division notes that historically there has been considerable shifting on and off LRS. This being the case, it is not clear that changing LRS will move customers to time-based rates on more than a temporary basis.

Parts C and E of the Smart Metering Standard refer, respectively, to the provision of time-based meters to customers requesting them and the requirement to treat customers who are served by the market in the same fashion as those on SOS or LRS. National Grid is currently providing meters to all customers who request them. Thus, the Company is, in effect, voluntarily addressing the issues raised by parts C and E. The Division supports the Company's action. Given the lack of time variance in SOS and LRS supply, dealing with customer requests is the appropriate level of response to the Smart Metering Standard in RI today.

## Concluding Remarks

The appearance of the Smart Metering Standard in EAct is part of broader consideration of time-varying rates. The argument for such rates is simple: the cost of generation varies substantially. Thus, to foster development of an efficient market, customers should be subject to prices that reflect that variation. There are a number of problems with this argument:

- Most prices consumers face are not based on marginal costs. In this situation moving one price—electricity—toward marginal cost as time-varying pricing generally does, will not necessarily make markets more efficient.
- Time-varying rates can expose small customers to dramatic short-run changes in electricity prices. This is contrary to the ratemaking criterion of rate stability which this Commission has endorsed in the past.
- While time-varying rates together with advanced metering can result in load shifting, customers may not achieve bill savings sufficient to motivate their acceptance of such rates.

Looking ahead, it would be my recommendation for the Commission that time-varying rates be considered carefully, and applied, if at all, in a fashion that maximizes the likely benefits and minimizes the likely problems.