



May 7, 2007

Stephen Frias, Esq.
RI Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

Re: Affordable Energy Plan

Dear Mr. Frias,

There were several issues your e-mail raised, as follows: (1) whether the debt forgiveness plan will exceed the R.I.G.L. §39-2-1(e); (2) whether the PUC has the discretion to qualify customers for the plan without an actual termination; and (3) what constitutes a breach of an agreement and what remedies are available on account of any breach.

- (1) With respect to the first issue, Pascoag's submitted plan is in all respects compliant with the requirements of §39-2-1(e) yet it does not exceed the limitations included therein. Pascoag has no intention of going beyond the statute in terms of the amount of forgiveness, the eligibility prerequisites or in the amount of time set forth. Pascoag will restrict this program to the parameters as outlined in the statute.
- (2) It is my opinion that the provisions of G.L. §39-2-1-9(e) do not afford the PUC the discretion to allow participation of a non-terminated customer. 39-2-1(e) states, in pertinent part that,

“Effective July 1, 2007 notwithstanding the provisions of Part V, Sections 4(E)(1)(B) and (C) of the Public Utilities Commission rules and regulations governing residential, electric, gas and water utility service, a very low income customer who is terminated from gas and/or electric service shall be eligible, one time to have electric and/or gas utility service restored provided the following conditions are met...”

The use of words “a very low income customer who is terminated” leaves no room for interpretation and is not ambiguous. Thus, the statute

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creates only one class of customer who is eligible to participate in this plan. A prerequisite for eligibility under this statute is a termination.

- (3) It is also my opinion that non-compliance with any of the qualifying requirements constitute a breach of the statute, which requires:
- (i) the customer pays twenty-five percent (25%) of the customer's unpaid balance;
 - (ii) the customer agrees to pay one thirty-sixth ($1/36^{\text{th}}$) of one half ($1/2$) of the customer's remaining balance per month for thirty-six (36) months;
 - (iii) the customer agrees to remain current with payments for current usage; and
 - (iv) the customer has shown, to the satisfaction of the division, that the customer is reasonably capable of meeting the payment schedule provided for by the provisions of the subdivision 39-2-1(e)(1)(i) and (ii) in this section. The restoration of service provided for by this subsection shall be a one-time right; failure to comply with the payment provisions set forth in this subsection shall be grounds for the customer to be dropped from the repayment program established by this subsection, and the balance due on the unpaid balance shall be due in full and shall be payable in accordance with the rules of the commission governing the termination of residential electric, gas, and water utility service. A customer who completes the schedule of payments pursuant to this subsection, shall have the balance of any arrearage forgiven, and the customer's obligations to the gas and/or electric company for such balance shall be deemed to be fully satisfied. The amount of the arrearage so forgiven shall be treated as bad debt for purposes of cost recovery by the gas or the electric company.

A breach will, of course, disqualify a person from participation in the plan; however, there seems to be some room for interpretation of what is "current" and what is "failure to comply". Perhaps a definitional section added to this paragraph would further define these terms. Other than that, the statute is clear and unambiguous and in that use the rules of statutory construction would prevent the commission from exercising any discretion, in my opinion.

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Lastly, but most importantly, Pascoag's participation is expressly made contingent upon written assurances, from the RIPUC, of reimbursement pursuant to the other provisions of this legislation.

Very truly yours,

Handwritten signature of William L. Bernstein in cursive script.

William L. Bernstein, Esq.
General Counsel
Pascoag Utility District