

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION**

**IN RE:           RULES ESTABLISHING MINIMUM        :**  
**EFFICIENCY STANDARDS FOR CERTAIN NEW        :**       **DOCKET NO. 3827**  
**PRODUCTS SOLD IN THE STATE OF                :**  
**RHODE ISLAND                                        :**

**REPORT ON FINAL RULES**

**I.     Introduction**

The stated purpose of the Energy and Consumer Savings Act of 2005, R.I. Gen. Laws §39-27-1 *et seq.* is to establish “energy and consumer savings by setting minimum efficiency standards for certain products sold or installed in the state.” The General Assembly found that efficiency standards save money on utility bills, reduce pollution and other environmental impacts, improve the reliability of electricity systems and contribute to the economy of the state by balancing energy supply and demand. R.I. Gen. Laws §39-27-2. Pursuant to R.I. Gen. Laws §39-27-5, the Public Utilities Commission (“Commission”) is authorized to adopt rules and regulations in consultation with the state building code commissioner and the chief of energy and community services<sup>1</sup> establishing minimum efficiency standards for the new products listed in the statute. In accord with this statutory mandate, the Commission, in conjunction with representatives from the building code commission and energy and community services, modified the existing regulations to reflect the changes in the law.

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<sup>1</sup> By definition, the chief of the energy and community services is head of the state energy office which is now the Commissioner of the Office of Energy Resources.

## II. Notice and Hearing

On April 3, 2007, in accordance with the Administrative Procedures Act (“APA”), R.I. Gen. Laws §42-35-1 *et seq.*, the Commission issued a Notice of Rulemaking and Public Hearing regarding the Rules and Regulations Establishing Minimum Efficiency Standards for Certain New Products Sold in the State of Rhode Island. On April 16, 2007, the Commission held a public hearing for the purpose of taking verbal comments from interested parties.

At that time, the Commissioner of the Office of Energy Resources (“OER”) submitted a letter in which it detailed two typographical errors in the legislation which it believes rendered the specific sections inconsistent with the legislative intent. Specifically, the Commissioner of OER identified a typographical error in the standard for oil-fired furnaces with the greater than symbol was used instead of the less than symbol.

The second error is found in section 39-27-5(b) omits inclusion of subsection (3). The intent of this language is to provide a trigger provision only applicable to residential boilers upon regional consensus and not the other products that were added to this legislation as set forth in R.I. Gen. Laws §39-27-4(b).<sup>2</sup> At the public hearing, counsel for the Commissioner of OER represented that he had filed comments and had spoken with the legislators who were involved with the legislation and was assured by those legislators that the issues identified by OER did not represent their original intent and that they would file and enact legislation to correct these errors.<sup>3</sup>

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<sup>2</sup> Letter to Luly Massaro, Commission Clerk, from Commissioner Andrew C. Dzykewicz, dated April 17, 2007 and received by the Commission April 16, 2007.

<sup>3</sup> Transcript of Public Hearing, April 16, 2007, pp.6-8.

In addition to the written and oral comments received by the Commissioner of OER, the Commission received written comments from the Rhode Island Public Interest Group Appliance Standards Awareness Project and the Northeast Energy Efficiency Partnerships (“NEEP”). The written comments mirrored those previously received by the Commissioner of OER.<sup>4</sup>

### **III. Administrative Procedures Act Requirements**

The APA, R.I. Gen. Laws § 42-35-1 *et seq.*, governs the Rulemaking Process. It requires at least 30 days notice prior to the adoption of final rules and requires the Commission to provide opportunity for comments to be made during that 30-day period. R.I. Gen. Laws §42-35-3. The Commission must then file final rules with the Secretary of State’s office within 30 days of finalizing the rules. R.I. Gen. Laws §42-35-4(a). The Rules become effective 20 days after filing with the Secretary of State, or on such date as indicated in the Rules. R.I. Gen. Laws §42-35-4(b). In this case, the Commission published notice of the Rules on April 3, 2007. The Commission received written and oral comments from interested parties. Satisfied that the comments reflect the legislative intent, the Commission corrected the obvious typographical errors. When Rules are promulgated under the APA, the Commission provides an Order Number only for administrative purposes. The Rules Establishing Minimum Efficiency Standards were filed with the Secretary of State’s Office on May 11, 2007 for effect June 1, 2007.

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<sup>4</sup> Comments of the Rhode Island Public Interest Group Appliance Standards Awareness Project, and Northeast Energy Efficiency Partnerships, May 3, 2007.

EFFECTIVE AT WARWICK, RHODE ISLAND ON JUNE 1, 2007 PURSUANT TO AN OPEN MEETING DECISION ON MAY 10, 2007. FINAL RULES FILED WITH THE SECRETARY OF STATE'S OFFICE ON MAY 11, 2007. REPORT ISSUED ON MAY 11, 2007.

PUBLIC UTILITIES COMMISSION



*Elia Germani*  
Elia Germani, Chairman

*Robert B. Holbrook*  
Robert B. Holbrook, Commissioner

*Mary E. Bray*  
Mary E. Bray, Commissioner