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November 5, 2007

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

**RE: Docket No. 3876 In Re: Rules and Regulations Governing the Termination of Residential Electric, Gas and Water Utility Service**

Dear Ms. Massaro:

Enclosed please find an original and nine copies of the comments of AARP Rhode Island on Docket No. 3876, In Re: Rules and Regulation Governing the Termination of Residential Electric, Gas and Water Utility Service.

If you have any questions concerning this filing, please contact me at 401-276-3706.

Sincerely,

Stephen Jennings  
Associate State Director  
AARP Rhode Island

Encl.

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RHODE ISLAND PUBLIC UTILITIES COMMISSION

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

IN RE: RULES AND REGULATIONS	§	
GOVERNING THE TERMINATION OF	§	DOCKET NO. 3876
RESIDENTIAL ELECTRIC, GAS AND	§	
WATER UTILITY SERVICE		

**Comments of AARP Rhode Island**

AARP,<sup>1</sup> with more than 137,000 members in Rhode Island, submits the following comments in Docket No. 3876, In Re: Rules and Regulations Governing the Termination of Residential Electric, Gas and Water Utility Service. The proposed rules implement several new pieces of legislation adopted during the last session; however, the proposal would also make significant changes in other portions of existing rules that would severely diminish consumer rights.

AARP SUMMARIZE

**I. Consumers should be allowed to have assistance from non attorneys:**

Consumers in Rhode Island can request a formal hearing at the PUC over the question of whether a disconnection of service is justified under the rules. Currently, a consumer can appear at this hearing representing themselves, represented by an attorney or represented by “another person of their choice”. The proposed amendment to Part VI,

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<sup>1</sup> AARP is a nonprofit, nonpartisan membership organization that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. We produce *AARP The Magazine*, published semimonthly; *AARP Bulletin*, our monthly newspaper; *AARP Segunda Juventud*, our semimonthly magazine in Spanish and English; *NRTA Live & Learn*, our quarterly newsletter for 50+ educators; and our website, AARP.org. AARP Foundation is an affiliated charity that provides security, protection, and empowerment to older persons in need with support from thousands of volunteers, donors, and sponsors. We have staffed offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

Section 5 removes the last option and requires either pro se (representing themselves) or be represented by a an attorney authorized to practice in the state.

AARP opposes this change. AARP believes the legal process should be open, accessible and affordable for the consumer. This proposed change does the opposite—making formal hearings less accessible and more costly. Hiring an attorney is expensive. Consumers who have already indicated they cannot pay their utility bills in full are not in the position to spend funds on an attorney. Forcing a consumer facing disconnection to hire an attorney is the same as denying that consumer the right to a hearing.

For those who cannot afford an attorney, appearing in person is not always an option. For example:

- A customer may have a language barrier and require assistance from a friend or family member in order to even “represent” themselves.
- An older, or disabled or ill customer may not be able to attend a hearing in person and thus lose the right to a hearing if they must appear in person.
- Many customers, including older customers, may feel intimidated by the process and would not pursue their rights if they had to appear alone.

The proposed amendment is also in conflict with other rules which contemplate situations where an older person is assisted by a third party. For example, the rules allow an older person to designate that a disconnection notice for their residence should be sent to a third party. If that person has had another person (such as a son, daughter or guardian) handling their bills and receiving important notices, there is no rationale for then forcing that older person to represent him or herself in a hearing.

AARP is aware of the Commission’s concern regarding the unauthorized practice of law and that a letter has been sent to the Attorney General asking for an opinion on the matter. Because parties will not have had access to the response to that letter prior to filing comments, comments on this portion of the rule should be held open until the response is made public, and parties should have another opportunity to comment on the issue. Parties such as the ACLU and the Wiley Center have proposed alternatives to pro

se representation that would meet the needs of affected customers. AARP believes that these and other alternatives should be seriously considered, with the goal of ensuring that consumers who need assistance have access to assistance at no cost.

## **II. More lenient payment plans should be permitted:**

A proposed amendment would remove a provision in Part V, Section 4 (A) that allows utility companies to offer more lenient payment plans than those required by the rules. AARP strongly opposes this amendment. We see no legitimate rationale for removing this provision. The Commission's reasoning, as stated at the public hearing as well as reported by the Providence Journal<sup>2</sup>, is that the proposal is made to help control utility bad debt. Bad debt is properly an issue for a rate case where parties could conduct discovery regarding the amount of bad debt and the factors contributing to it. No proof has been offered in this rulemaking regarding bad debt and any direct or indirect link to payment plans.

The state's utilities should not be prohibited from offering more lenient payment plans if they so choose. Allowing a utility the flexibility to respond to a unique or specific situation is good for both the utility and the customers. There is neither mandate, nor expectation that an electric, water or gas company must offer more lenient terms. However, when they do, the customer maintains access to services that are no less than essential to maintaining health and safety. AARP is unaware of any other state which actually *prohibits* a utility from offering better payment terms to a customer than the minimum required by law or rule. Further, this proposal does not even appear to come from the utilities themselves. For all of these reasons, the proposed change should be rejected.

## **III. Provisions regarding immediate restoration of service should be maintained:**

Another proposed change which would diminish consumer rights occurs at Part VII, Section 1 (B) to allow the Administrator of the Division of Public Utilities and

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<sup>2</sup> "Protesters rally for utility consumers in Rhode Island," The Providence Journal, October 12, 2007.

Carrier to conduct proceedings regarding the immediate emergency restoration of service, without first determining whether the Commission is available to conduct the hearing. In effect, the proposal shifts the authority to conduct service restoration hearings from the Commission to the DPUC. The current process, where the Commission conducts such hearings, has been working well and should not be changed.

A consumer seeking restoration of service under this provision has most likely already had a hearing before DPUC and lost. In such emergency situations it is unfair for the customer to have to appear before the same adjudicator who may have ordered disconnection in the first place. The current procedure acts as a sort of check and balance and should not be changed.

#### **IV. Improvements are necessary for new provisions relating to protecting households with infants from disconnection:**

New legislation, S 0546 which prohibits termination of service to a residence where a child under one year of age resides, provided the customer has not been terminated previously. The current rulemaking contains provisions to implement this new law.

AARP has several suggestions to improve notice to customers who are affected by this new legislation. In Section 3, new subsection (F) (1)(d) relates to procedures for putting a hold on termination of service prior to receipt of the infant's proof of age. The rule proposes a 7 day hold. The proposal does not indicate whether it refers to business days or calendar days and this should be clarified as business days. Further, AARP suggests the hold period should be at least 10 days as the parents may have to wait on other parties for the required information, such as a hospital. In addition, changes to "Form III" found in the appendices include information regarding the new protection for households with infants. However, it does not indicate that this protection is unavailable to customers who have had a previous disconnection. That information should be added.

**V. Senator Montalbano's recommendation should be considered and supported:**

On October 10 Senator Joseph Montalbano submitted a letter to the Commission requesting a modification of the rules for down payment for reconnection. Specifically, Sen. Montalbano recommend reducing the percentage of down payment from 25% to 15% of the outstanding balance to assist lower income households in re-establishing service prior to the onset of colder weather. Sen. Montalbano's reasoning for this request is the fact that the Legislature did not fund the Affordable Energy Plan, which was intended to provide relief to low income households.

AARP is also disappointed that the Affordable Energy Plan has not been funded. We agree with Sen. Montalbano that it is essential to assist low income households in restoring heating service prior to winter. Federal assistance through LIHEAP is never sufficient to meet the entirety of needs in our state. AARP urges the Commission to consider and adopt Sen. Montalbano's proposal to reduce down payments for reconnection.

Submitted by:

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