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Via Electronic Mail and First Class Mail

June 16, 2014

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

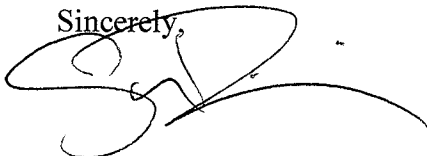
Re: **Docket No. 4503: Consumer Protection Requirements for Nonregulated Power Producers**

Dear Ms. Massaro:

Enclosed please find Comments of the Retail Energy Supply Association in connection with the above-referenced proceeding.

Please do not hesitate to contact me if you have any questions or require additional information. Thank you.

Sincerely,



Steven J. Boyajian

Enclosure



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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION

CONSUMER PROTECTION REQUIREMENTS : DOCKET NO. 4503
FOR NONREGULATED POWER PRODUCERS :
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**COMMENTS OF THE
RETAIL ENERGY SUPPLY ASSOCIATION**

The Retail Energy Supply Association (“RESA”)¹ hereby submits its comments in response to the Rhode Island Public Utilities Commission’s (“Commission”) Notice of Rulemaking and Public Hearing in the above-referenced proceeding.² RESA appreciates the opportunity to comment on this important matter.

INTRODUCTION

RESA is a non-profit organization and trade association that represents the interests of its members in regulatory proceedings in the Mid-Atlantic, Great Lakes, New York and New England regions. RESA members are active participants in the retail competitive markets for electricity, including the Rhode Island retail electric market. Several RESA member companies are licensed by the Commission to serve residential, commercial and industrial customers in Rhode Island and are presently providing electricity service to customers in the State. As such,

¹ RESA’s members include: AEP Energy, Inc.; Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc. dba IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG Energy, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

² Notice of Rulemaking and Public Hearing (May 16, 2014) (“Notice”).

RESA and its members have an interest in ensuring that any amendments to the Consumer Protection Requirements for Nonregulated Power Producers (“Rules”) do not have an adverse effect on RESA members, their customers or the continued success of the retail electric market in Rhode Island.

BACKGROUND

On May 16, 2014, the Commission issued the Notice proposing to amend the Rules in response to increased marketing and switching activity, particularly in the residential market,³ and offering interested persons an opportunity to submit comments on the Proposed Amendments.⁴ RESA hereby submits its comments in response to the Notice.

COMMENTS

The main purpose of the Proposed Amendments is to provide customers with additional information to assist them in making informed decisions regarding the purchase of electricity from NPPs.⁵ RESA supports providing customers with sufficient information to ensure they are adequately informed about their retail electric supply options and their terms of service. As such, RESA generally supports the Proposed Amendments with minor modifications to ensure that they do not cast an overly broad net and provide clear direction to NPPs as to their obligations.

The Proposed Amendments have been introduced due to increased marketing activity by NPPs to “residential customers.”⁶ However, the Proposed Amendments are not limited in their applicability to residential customers and, as written, would apply equally to all customer classes.

³ Proposed Non-Technical Amendments to Consumer Protection Requirements for Nonregulated Power Producers (May 16, 2014) (“Proposed Amendments”), at § I.

⁴ *See, generally*, Notice.

⁵ *Id.* at 1.

⁶ *See* Proposed Amendments, at § I.

Such widespread applicability could have the unintended consequence of impeding the continued development of the competitive supply opportunities for commercial customers. Thus, before promulgating the amended Rules, RESA requests that the Commission revise the following two provisions to limit their applicability to residential customers and provide further clarification of their provisions:

Term of Service

The Commission proposes providing customers an opportunity to rescind their choice of NPP prior to beginning to take service from such NPP.⁷ While RESA generally supports this change, before promulgating the Proposed Amendments, RESA requests that the Commission modify this provision to limit it to residential customers.

Because of the amount of time and money typically spent to negotiate individual pricing arrangements and other terms of service, once they sign an agreement to take service from an NPP, commercial customers have generally had sufficient time to contemplate their supply arrangements. As such, it is not necessary to provide these customers with additional time in which they can rescind those arrangements. In fact, doing so, will require NPPs to incur real costs to hedge against the risk that these customers will rescind or that the price of power will fluctuate during the span of time between when commercial customers sign their agreements and the conclusion of the applicable rescission period. Those costs will be recouped as a cost of doing business that will be absorbed by all customers in the form of higher prices. While NPPs will incur some hedging costs associated with a rescission period for residential customers, because the load profiles of these customers is more consistent and predictable and the volume of load at risk with respect to an individual residential customer is quite small, NPPs are in a better

⁷ Proposed Amendments, at § II(D)(2) (requiring customers be provided sufficient time to disenroll before beginning to take service from an NPP).

position to manage those risks and costs than they are for commercial customers who have much larger load profiles. The combination of large load and forward market prices that can, and do, change materially within very short periods of time, it is impractical for NPPs to cost-effectively manage forward price volatility for commercial customers if NPPs are required to provide any kind of automatic rescission right. Accordingly, RESA encourages the Commission to limit the availability of a rescission period to residential customers.

Pursuant to the Proposed Amendments, NPPs must give customers sufficient time to exercise the right to rescind to ensure that the customer's electric distribution company ("EDC") can cancel the enrollment before the customer begins receiving service from the NPP.⁸ Since the EDCs are in possession of the information necessary for NPPs to identify the date by which they must provide notice of a customer's decision to rescind, the EDCs should be required to provide a published schedule setting forth the date by which such information is needed. In this way, the Commission can ensure that customers receive the benefit of this provision.

For the foregoing reasons, RESA requests that the Commission revise Section II(D)(2) of the Proposed Amendments to read:⁹

Term of service, including the date by which a residential customer must contact the NPP if he or she seeks to disenroll, such date must allow the NPP to contact [name of electric distribution company] in sufficient time to switch the customer back prior to entry into the customer's next billing cycle as disclosed in a published schedule issued by such electric distribution company

Cancellation Method

The Proposed Amendments would require NPPs to include in their contracts the method by which a customer may cancel service.¹⁰ While RESA generally supports this provision, it

⁸ Proposed Amendments, at § II(D)(2).

⁹ Recommended additions shown as double underline; recommended deletions shown as strike through.

¹⁰ Proposed Amendments, at § II(D)(9).

requests that the Commission revise this provision to: (a) recognize that U.S. mail already provides a method for cancellation that does not require an internet connection; (b) recognize that commercial customers will typically have internet access; and (c) clearly indicate that electronic delivery methods are acceptable.

The Proposed Amendments provide that an NPP must make available a non-internet based method by which customers can provide cancellation of service.¹¹ However, as written, the Proposed Amendments fail to recognize that commercial customers typically have internet connections and need such connections to ensure their continued viability in today's economy, which is increasingly dependent on a company's ability to adopt electronic methods of communication, including e-mail, text messaging and mobile telephone applications.

Moreover, the Proposed Amendments only recognize a telephone call with third-party verification as an acceptable method of non-internet based communication.¹² While some NPPs may already have arrangements with third-party verification companies, not all do. In order to comply with this provision, those NPPs who do not will be required to engage and pay such companies in order to comply with this provision; thereby, resulting in an increased cost of doing business, which will ultimately be reflected in prices paid by customers. Thus, rather than requiring NPPs to incur these additional costs, RESA encourages the Commission to recognize that there are other acceptable, non-internet based methods of communication, including the mailing of a letter.

The Proposed Amendments also indicate that certain methods of cancellation "may be" acceptable.¹³ However, this phrase implies that these methods also may not be acceptable.

¹¹ Proposed Amendments, at § II(D)(9).

¹² *Id.*

¹³ *Id.*

Thus, RESA requests that the Commission clarify that e-mail and other electronic means *are* acceptable but that other non-internet based methods should also be made available to residential customers.

For the foregoing reasons, RESA requests that the Commission revise Section II(D)(9) of the Proposed Amendments to read:

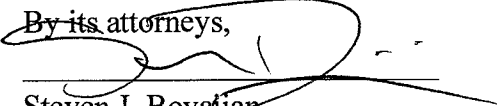
Method by which a customer may cancel service through the NPP. While ~~making a letter and/or sending an e-mail or by other electronic means may be~~ is acceptable, an additional method by which a residential customer without internet access may cancel service must be provided, such as by mailing a letter or by a telephone call with third-party verification

CONCLUSION

RESA appreciates the opportunity to submit these comments and looks forward to working with the Commission to ensure that customers are adequately protected without negatively impacting the continued development of the burgeoning retail electric market in Rhode Island. To that end, RESA offers the above clarifications and improvements to the Proposed Amendments. RESA also requests that it be added to the distribution list for any future rulemaking efforts relevant to the competitive retail electric market generally and NPPs specifically.

Respectfully submitted,
RETAIL ENERGY SUPPLY
ASSOCIATION

By its attorneys,



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