



**Testimony of NRG Energy, Inc.
Before the Rhode Island House Committee on Corporations
In opposition to:**

**HB 6431 an Act Relating to Public Utilities and Carriers – Nonregulated Power
Producer Consumer Bill of Rights**

June 23, 2021

Chairman Solomon, Vice Chairs O'Brien and Caldwell and distinguished members of the House Committee on Corporations:

My name is Kandi Terry. I am providing this testimony on behalf of NRG Energy Corporation. I am here today in opposition to HB 6431. While NRG is fully supportive of open and transparent energy markets and adequate consumer protections, we believe that the provisions of this bill that modify the Consumer Bill of Rights will confuse consumers and mitigate some of the protections already elaborated in that statute. The proposed changes also discriminate against Nonregulated Power Providers ("NPP") in a manner that will cause consumers to migrate back to the electric utility for electricity service. That in turn will slow progress in meeting many of the electricity policy goals of the state including the goal to meet 100% of Rhode Island's electricity demand with renewable energy by 2030.

This bill proposes just one change to the Consumer Bill of Rights already enshrined in statute, but this change significantly mitigates the existing Consumer Bill of Rights. This proposal would require the NPPs to send a notice to customers being served under a variable rate contract at least once annually. The notice requires the NPP to provide the customer with a price for a potential fixed price renewal, or the current variable rate in the event a customer will pay a variable rate and the current default rate. The notice must provide clear instructions on how to return to the utility's default service. This proposed revision exempts government bodies that aggregate the load of retail customers from the requirements in the amendment the other provisions in the amended section. The government exemption adds more confusion to the market and is also discriminatory in nature.

The proposed notice will only confuse customers and at some level is inconsistent with the existing requirements. The current Consumer Bill of Rights already requires a new contract if the terms of the contract switch on renewal or if the price changes. The current Consumer Bill of Rights includes several other provisions requiring communications with the consumer. This additional communication might be sent to consumers at a time when a price for a fixed price renewal might not be representative of what would have happened if the customer waited until the end of its contract to renew. It might also send an incorrect price signal on the renewable rate. The price for a fixed-price renewal, the current variable rate and the current default service rate on the date of the annual notice might have no relevance to the prices available in the market



when the contract is scheduled for renewal. In general, the once-annual notice will not help consumers as it might be delivering information that will be irrelevant when needed.

The exemption for government aggregations will reverse some of the consumer benefits found in the existing Consumer Bill of Rights and is anti-competitive as it gives advantage to NPPs serving aggregated loads that other NPPs do not have. Ultimately, NPPs or the utility serve all retail load. Government entities contract with NPPs (or other intermediaries) to secure and deliver the electricity to serve the aggregation of customers. While this provision is not clear, it would appear that the government waiver would apply to the NPP serving the aggregated load. It would be anti-competitive to have one set of rules for one aggregator and its customers and another more stringent set of rules applied to a different aggregator and its customers. Perhaps more importantly, this exemption would allow NPPs serving government-aggregated customers to automatically renew customers, change their rate or their rate structure without a new contract; practices that are prohibited under the current Consumer Bill of Rights. It is not clear why this consumer protection would be waived for some NPPs and not for others.

The incremental communication required under this proposal also discriminates against NPPs in favor of the utilities in what is already a heavily lopsided market in favor of the utilities. This requirement will force a competitive entity to provide customers with information about the utility's price and explicit instructions on how to enroll with the utility's default service. The utilities on the other hand, do not have the same obligation. The utilities are not compelled to provide information about competitors' prices and do not send explicit pricing and switching instructions on an annual basis. The utility's default service price is heavily subsidized by distribution rates. Pricing information about default service and any implication that default service and utility service are comparable is misleading to customers. The two products are not comparable.

Companies like NRG can only be responsive to customer preferences when the retail electricity market allows innovation in product offerings to flourish. Policymakers should leverage the power of customer choice and competition to achieve desired policy outcomes, not retreat to outmoded, inflexible regulated models. This is important because our clean energy future needs innovation in policy and market structure to incentivize the adoption of next generation technologies.

The energy landscape is changing. The changes are being driven by environmental opportunities, federal policy further opening markets and state initiatives driving innovation. Layering on additional regulatory requirements as the answer to every matter that arises in the retail energy marketplace will have the unintended consequence of making it even more difficult for customers to shop for energy services, and more costly for retail suppliers to serve them. This in turn makes achieving the state's energy policy objectives more difficult.

This is the age of Amazon.com consumerism. Consumers demand convenience and expeditiousness in their purchases for goods and services. Completing the job of restructuring the electric market would remedy the root causes of many of the concerns HB 6431 seeks to address and will facilitate the achievement of many



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of Rhode Island's environmental and policy goals. NRG would be happy to delve further into a discussion of restructuring at a future opportunity.

For the foregoing reasons, NRG respectfully opposes RB 6431, An Act Relating to Public Utilities and Carriers – Nonregulated Power Producer Consumer Bill of Rights.