

2011 -- H 5564

LC01105

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- DUTIES OF UTILITIES AND
CARRIERS--REGULATORY POWERS OF ADMINISTRATION

Introduced By: Representatives JP O'Neill, Petrarca, and Jackson

Date Introduced: March 03, 2011

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-2-5 of the General Laws in Chapter 39-2 entitled "Duties of
2 Utilities and Carriers" are hereby amended to read as follows:

3 (Note: Sections 39-2-2, 39-2-3, and 39-2-4 of the General Laws in Chapter 39-2
4 entitled "Duties of Utilities and Carriers" are included herein for reference only and do not
5 contain any amendment.)

6 **39-2-2. Rate discrimination.** -- (a) If any public utility or any agent or officer of a public
7 utility, as defined in chapter 1 of this title, shall directly or indirectly by any device whatsoever,
8 or otherwise, charge, demand, collect, or receive from any person, firm or corporation a greater or
9 less compensation for any service rendered or to be rendered by it in, or affecting, or relating to
10 the transportation of persons or property between points within this state, the distribution of
11 electricity or the production, transmission, delivery, or furnishing of heat, or water, or the
12 conveyance of telegraph or telephone messages, or for any service in connection therewith, than
13 that prescribed in the published schedules or tariffs then in force or established as provided
14 herein, or than it charges, demands, collects, or receives from any other person, firm, or
15 corporation for a like and contemporaneous service, under substantially similar circumstances and
16 conditions, the public utility shall be guilty of unjust discrimination which is hereby prohibited
17 and declared to be unlawful and, upon conviction thereof, shall be fined not less than two hundred
18 dollars (\$200) nor more than five hundred dollars (\$500) for each offense; and the agent or officer

1 so offending shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less
2 than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) for each offense.

3 (b) Nothing in this section or any other provision of the law shall be construed to
4 prohibit the giving by any public utility free or reduced rate service to any elderly person as
5 defined by the division.

6 **39-2-3. Unreasonable preferences or prejudices.** -- (a) If any public utility shall make
7 or give any undue or unreasonable preference or advantage to any particular person, firm, or
8 corporation, or shall subject any particular person, firm, or corporation to any undue or
9 unreasonable prejudice or disadvantage in any respect whatsoever, the public utility shall be
10 guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than two hundred
11 dollars (\$200) nor more than five hundred dollars (\$500) for each offense.

12 (b) Nothing in this section or any other provision of the law shall be construed to
13 prohibit the giving by any public utility, free or reduced rate service to an elderly person as
14 defined by the division.

15 **39-2-4. Acceptance of unlawful rebates or advantages.** -- It shall be unlawful for any
16 person, firm, or corporation knowingly to solicit, accept, or receive any rebate, concession, or
17 discrimination in respect to any service in, affecting, or relating to the transportation of persons or
18 property, or affecting or relating to the distribution of electricity or the production, transmission,
19 delivery, or furnishing of heat, or water, or the conveyance of telephone or telegraph messages
20 within this state, or for any service in connection therewith, whereby the service shall, by any
21 device whatsoever or otherwise, be rendered free, or at a less rate than that named in the
22 published schedules and tariffs in force, as provided therein, or whereby any service or advantage
23 is received other than is herein specified. Any person, firm, or corporation violating the
24 provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be
25 punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars
26 (\$500) for each offense.

27 **39-2-5. Exceptions to anti-discrimination provisions.** -- The provisions of sections 39-
28 2-2 -- 39-2-4 shall be subject to the following exceptions:

29 (1) A public utility may issue or give free transportation or service to its employees and
30 their families, its officers, agents, surgeons, physicians, and attorneys at law, and to the officers,
31 agents, and employees, and their families of any other public utility.

32 (2) With the approval of the division any public utility may give free transportation or
33 service, upon such conditions as the public utility may impose, or grant special rates therefor to
34 the state, to any town or city, or to any water or fire district, and to the officers thereof, for public

1 purposes, and also to any special class or classes of persons, not otherwise referred to in this
2 section, in cases where the same shall seem to the division just and reasonable, or required in the
3 interests of the public, and not unjustly discriminatory.

4 (3) With the approval of the division any public utility operating a railroad or street
5 railway may furnish to the publishers of newspapers and magazines, and to their employees,
6 passenger transportation in return for advertising in the newspapers or magazines at full rates.

7 (4) With the approval of the division any public utility may exchange its service for the
8 service of any other public utility furnishing a different class of service.

9 (5) Nothing in this section or any other provision of the law shall be construed to
10 prohibit the giving by any public utility, free or reduced rate service to an elderly person as
11 defined by the division.

12 (6) Any motor carrier of persons, as defined in chapter 13 of this title, may elect to file a
13 tariff providing for a rate reduction of twenty-five percent (25%) below its one-way fare tariff
14 applying to any person who is sixty-five (65) years of age or older and any person assisting and
15 traveling with a blind passenger who is not required to pay any fare pursuant to the provisions of
16 section 39-2-13 for bus rides between the hours of ten o'clock (10:00) a.m. and three o'clock
17 (3:00) p.m. of each day. In such event, the reduced fare shall be paid in part by the passenger and
18 in part by the state. That part of the reduced fare payable by the state shall be one half (1/2) of the
19 reduced fare adjusted upward to end in the nearest zero (0) or five cents (.05), and that part
20 payable by the passenger shall be the balance of the reduced fare. Payments by the state under
21 this section shall be paid monthly under procedures agreed upon by the department of
22 transportation and the carrier.

23 (7) [Deleted by P.L. 2004, ch. 378, section 4, and by P.L. 2004, ch. 504, section 4.]

24 (8) Any person, firm, or corporation or any officer, agent, servant, or employee thereof
25 who shall violate the provisions of subsection (7) of this section by fraudulently obtaining a
26 telecommunications device shall, upon conviction, be fined not exceeding five hundred dollars
27 (\$500) or be imprisoned for a term not exceeding one year.

28 (9) (i) Nothing in this section or any other provision of the general laws shall be
29 construed to prohibit the commission from taking actions to enable the state to participate in a
30 federal communications commission telephone lifeline program. The commission may set a
31 subscriber funded monthly residence basic exchange lifeline telephone service credit in an
32 amount not to exceed the federal subscriber line access charge or the monthly basic service
33 charge, whichever is less, for those persons who receive supplemental social security income
34 (SSI), aid to families with dependent children (AFDC), general public assistance (GPA), aid from

1 the Rhode Island medical assistance program, or food stamps issued pursuant to the Food Stamp
2 Act of 1964 as amended (public law 88-525 and amendments made thereto, 7 U.S.C. section
3 2011 et seq.), assistance from the low-income home energy assistance program (LIHEAP) as
4 administered by the department of administration, division of planning, and effective April 1,
5 1993, assistance from the Rhode Island pharmaceutical assistance program administered by the
6 department of elderly affairs. The public utilities commission may promulgate regulations to
7 implement this section. The department of human services and the department of administration,
8 division of planning shall certify subscriber eligibility for the programs in accordance with public
9 utilities commission and federal communications commission guidelines.

10 (ii) The department of human services shall report monthly to the governor and to the
11 house of representatives fiscal advisor the number of persons newly eligible for the lifeline
12 telephone service credit hereunder solely by virtue of their eligibility to receive food stamp
13 assistance and the department of administration, division of planning shall, also, report monthly
14 to the governor and to the house of representatives fiscal advisor the number of persons newly
15 eligible for the lifeline telephone service credit hereunder solely by virtue of their participation in
16 the low-income home energy assistance program (LIHEAP).

17 (10) Nothing in this section or any other provision of the general laws shall be construed
18 to prohibit any public utility with the approval of the commission, from forgiving arrearages of
19 any person in accordance with the provisions of subsection 39-2-1(d).

20 (11) Nothing in this section or any other provision of the law shall be construed to
21 prohibit any utility company from cutting, disconnecting, or removing mains, poles, wires,
22 conduits, or fixtures free of charge to nonprofit housing development corporations prior to
23 moving a building to be used as affordable housing for at least a ten (10) year period.

24 (12) Nothing in this section or any other provision of the general laws shall be construed
25 to prohibit any telecommunications provider with the approval of the commission, from offering
26 any person, ~~firm or corporation~~ a reduced rate, provided such rate covers all costs; and provided
27 further, that commission approval shall not be required with respect to services offered at retail to
28 business customers.

29 (13) A gas or electric distribution company may provide discounts to low income
30 customers in accordance with the affordable energy plan provisions of subsection 42-141-5(d).
31 Nothing contained herein shall prohibit the continuation of any low income discounts approved
32 by the commission prior to January 1, 2006, and in effect as of that date.

33 SECTION 2. Section 39-3-10 of the General Laws in Chapter 39-3 entitled "Regulatory
34 Powers of Administration" is hereby amended to read as follows:

1 **39-3-10. Filing and availability of rate schedules.** – (a) Every public utility shall file
2 with the public utilities administrator within a time to be fixed by the administrator, schedules
3 which shall be open to public inspection, showing all rates, tolls, and charges which it has
4 established and which are in force at the time for any service performed by it within the state, or
5 for any service in connection therewith or performed by any public utility controlled or operated
6 by it. A copy of so much of the schedules as the administrator shall deem necessary for the use of
7 the public shall be printed in plain type, or typewritten, and kept on file in every station or office
8 of the public utility where payments are made by the consumers or users, open to the public in
9 such form and place as to be readily accessible and conveniently inspected, and as the
10 administrator may order. The administrator may determine and prescribe the form in which the
11 schedules, required by this section to be kept open to the public inspection, shall be prepared and
12 arranged, provided, that with respect to public utilities subject to the federal Interstate Commerce
13 Act, 49 U.S.C. section 501 et seq., so-called, the form of the schedules shall be that as from time
14 to time prescribed by the interstate commerce commission.

15 (b) Notwithstanding the foregoing paragraph, subsection (a) herein, a public utility may
16 post on its website the rates, tolls and charges of any retail telecommunications service performed
17 by it within the state for any business customers. The foregoing paragraph, subsection (a) herein,
18 shall not apply to any service so posted, and such public utility shall not be required to file with
19 the public utilities administrator or publish any schedule or tariff for such service. Upon written
20 notice to the public utilities administrator, the public utility may withdraw any schedule or tariff
21 previously filed with the administrator for any service so posted.

22 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- DUTIES OF UTILITIES AND
CARRIERS--REGULATORY POWERS OF ADMINISTRATION

- 1 This act would amend certain rules relating to the posting of rates of retail
- 2 telecommunications services for business customers.
- 3 This act would take effect upon passage.

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