

# PROPOSED RULEMAKING

## GAME COMMISSION

[ 58 PA. CODE CH. 141 ]

### Hunting and Trapping; Big Game

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 30, 2018, meeting to amend §§ 141.43, 141.44 and 141.47 (relating to deer; bear; and elk) to authorize the Statewide use of semiautomatic, centerfire shotguns to hunt for deer, bear and elk.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the January 30, 2018, meeting of the Commission. Comments can be sent until April 20, 2018, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Purpose and Authority

In an effort to expand hunting opportunities in this Commonwealth, the Commission is proposing to amend §§ 141.43, 141.44, and 141.47 to authorize the use of semiautomatic, centerfire shotguns to hunt for deer, bear and elk. The Commission has historically permitted the use of semiautomatic shotguns for deer and bear seasons within most areas defined as special regulations areas. The Commission is proposing to extend this authorization to the remainder of this Commonwealth.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to “promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used.” The amendments to §§ 141.43, 141.44 and 141.47 are proposed under this authority.

#### 2. Regulatory Requirements

This proposed rulemaking will amend §§ 141.43, 141.44 and 141.47 to authorize the Statewide use of semiautomatic, centerfire shotguns to hunt deer, bear and elk.

#### 3. Persons Affected

Persons wishing to use semi-automatic shotguns to hunt or take deer, bear and elk in this Commonwealth may be affected by this proposed rulemaking.

#### 4. Cost and Paperwork Requirements

This proposed rulemaking should not result in additional cost or paperwork.

#### 5. Effective Date

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

#### 6. Contact Person

For further information regarding this proposed rulemaking, contact Randy S. Shoup, Director, Bureau of

Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** 48-427. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 141. HUNTING AND TRAPPING

#### Subchapter C. BIG GAME

#### § 141.43. Deer.

\* \* \* \* \*

(d) *Regular and special firearms deer seasons.*

(1) *Permitted devices.* It is lawful to hunt deer during the regular and special firearms deer seasons with any of the following devices:

(i) A manually operated, centerfire rifle or handgun that propels single-projectile ammunition.

(ii) A manually operated **or semiautomatic**, centerfire shotgun that propels single-projectile ammunition.

\* \* \* \* \*

#### § 141.44. Bear.

\* \* \* \* \*

(c) *Regular and extended firearms bear seasons.*

(1) *Permitted devices.* It is lawful to hunt bear during the regular and extended firearms bear seasons with any of the following devices:

(i) A manually operated, centerfire rifle or handgun that propels single-projectile ammunition.

(ii) A manually operated **or semiautomatic**, centerfire shotgun that propels single-projectile ammunition.

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#### § 141.47. Elk.

(a) *Permitted devices.* It is lawful to hunt elk during the elk season with any of the following devices:

(1) A manually operated, centerfire rifle or handgun. The firearm must be a .27 caliber or larger firearm that propels single-projectile ammunition 130 grains or larger.

(2) A manually operated **or semiautomatic**, centerfire shotgun. The firearm must be a 12 gauge or larger firearm that propels single-projectile ammunition.

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[Pa.B. Doc. No. 18-443. Filed for public inspection March 23, 2018, 9:00 a.m.]

## GAME COMMISSION

[ 58 PA. CODE CH. 141 ]

### Hunting and Trapping; Hunting Hours

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 30, 2018, meeting to amend Chapter 141, Appendix G (relating to hunting hours) to replace the current hunting hours table and migratory bird hunting hours table to accurately reflect the dates and hours of legal hunting for the 2018-2019 hunting/trapping license year. The Commission is also proposing to amend § 141.4 (relating to hunting hours) by deleting the hunting hours closure of mourning dove season prior to noon during the first mourning dove season.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the January 30, 2018, meeting of the Commission. Comments can be sent until April 20, 2018, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Purpose and Authority

The Commission is proposing to amend Appendix G to replace the current hunting hours table and migratory bird hunting hours table to accurately reflect the dates and hours of legal hunting for the 2018-2019 hunting license year. The Commission is also proposing to amend § 141.4 by deleting the hunting hours closure of mourning dove season prior to noon during the first mourning dove season. The Commission has progressively expanded the length of the first mourning dove season over the past few years and has determined that a simplified hunting hours standard is preferred over a split hunting hours period during the now longer first mourning dove season. The proposed deletion will cause hunting hours for mourning dove hunting to default to the hunting hours standard for migratory birds—1/2 hour before sunrise until sunset.

Section 2102(a) of the code (relating to regulations) provides that “[t]he commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth.” The amendments to § 141.4 and Appendix G are proposed under this authority.

#### 2. Regulatory Requirements

This proposed rulemaking will amend Appendix G by replacing the current hunting hours table and migratory bird hunting hours table to accurately reflect the dates and hours of legal hunting for the 2018-2019 hunting/trapping license year. This proposed rulemaking will also amend § 141.4 by eliminating the hunting hours closure of mourning dove season prior to noon during the first mourning dove season.

#### 3. Persons Affected

Persons wishing to hunt or trap game or wildlife, including mourning dove, within this Commonwealth during the 2018-2019 hunting/trapping license year will be affected by this proposed rulemaking.

#### 4. Cost and Paperwork Requirements

This proposed rulemaking should not result in additional cost or paperwork.

#### 5. Effective Date

The effective dates of this proposed rulemaking will be July 1, 2018, to June 30, 2019.

#### 6. Contact Person

For further information regarding this proposed rulemaking, contact Randy S. Shoup, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** 48-426. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 141. HUNTING AND TRAPPING

#### Subchapter A. GENERAL

#### § 141.4. Hunting hours.

Except as otherwise provided, wild birds and mammals may be hunted 1/2 hour before sunrise to 1/2 hour after sunset.

(1) During the regular antlered and antlerless deer seasons, it is unlawful to take or attempt to take other wild birds or mammals except game birds on regulated hunting grounds, migratory waterfowl, coyotes, feral swine, wild boar and bear. Coyotes may be hunted from the first day to the last day inclusive of any big game season only by persons who possess a valid furtaker's license, or by persons lawfully engaged in hunting big game who have a valid tag. Feral swine and wild boar may be taken from the first day to the last day inclusive of any big game season only by persons lawfully engaged in hunting big game who have a valid tag.

(2) Raccoon, fox, skunk, opossum, coyote, bobcat and weasel may be hunted any hour, day or night, except during restricted periods in paragraph (1).

(3) Turkey may be hunted 1/2 hour before sunrise to 12 noon from the opening day of the spring gobbler season through the third Saturday and for the remainder of the season from 1/2 hour before sunrise to 1/2 hour after sunset.

**[ (4) Mourning doves may be hunted from 12 noon to sunset from the first season opening date through the first season closing date.**

**(5) ] (4)** Migratory birds may only be hunted 1/2 hour before sunrise until sunset, except during the snow goose conservation season and the September resident goose season, when geese may be hunted 1/2 hour before sunrise until 1/2 hour after sunset.

**Appendix G. HUNTING HOURS**

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to replace the tables which appear in Appendix G, 58 Pa. Code pages 141-37—141-39, serial pages (387147)—(387149), with the following tables.)

**HUNTING HOURS TABLE  
FOR JULY 1, 2018 THROUGH JUNE 30, 2019**

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
July 1—7	5:09	9:02
July 8—14	5:14	8:59
July 15—21	5:19	8:54
July 22—28	5:25	8:48
July 29—Aug. 4	5:32	8:41
Aug. 5—11	5:39	8:32
Aug. 12—18	5:45	8:23
Aug. 19—25	5:52	8:13
Aug. 26—Sept. 1	5:58	8:02
Sept. 2—8	6:05	7:51
Sept. 9—15	6:12	7:39
Sept. 16—22	6:18	7:28
Sept. 23—29	6:25	7:16
Sept. 30—Oct. 6	6:32	7:05
Oct. 7—13	6:39	6:54
Oct. 14—20	6:46	6:44
Oct. 21—27	6:54	6:34
Oct. 28—Nov. 3	7:02	6:26
Nov. 4—10 **Ends	6:10	5:25
Nov. 11—17	6:18	5:13
Nov. 18—24	6:26	5:09
Nov. 25—Dec. 1	6:33	5:06
Dec. 2—8	6:40	5:06
Dec. 9—15	6:45	5:05
Dec. 16—22	6:49	5:07
Dec. 23—29	6:52	5:10
Dec. 30—Jan. 5	6:53	5:15
Jan. 6—12	6:52	5:21
Jan. 13—19	6:51	5:24
Jan. 20—26	6:48	5:35
Jan. 27—Feb. 2	6:43	5:44
Feb. 3—9	6:37	5:52
Feb. 10—16	6:30	6:00
Feb. 17—23	6:21	6:09
Feb. 24—Mar. 2	6:12	6:17
Mar. 3—9	6:01	6:24
Mar. 10—16 *Begins	6:50	7:32
Mar. 17—23	6:39	7:39
Mar. 24—30	6:28	7:46
Mar. 31—Apr. 6	6:17	7:54
Apr. 7—13	6:05	8:01

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
Apr. 14—20	5:55	8:08
Apr. 21—27	5:44	8:15
Apr. 28—May 4	5:35	8:22
May 5—11	5:26	8:29
May 12—18	5:19	8:36
May 19—25	5:12	8:42
May 26—June 1	5:07	8:49
June 2—8	5:04	8:54
June 9—15	5:02	8:58
June 16—22	5:02	9:01
June 23—30	5:05	9:03

\*Daylight Saving Time Begins

\*\*Ends

**MIGRATORY GAME BIRD HUNTING  
HOURS TABLE  
2018-2019**

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
Aug. 26—Sept. 1	5:58	7:32
Sept. 2—8	6:05	7:21
Sept. 9—15	6:12	7:09
Sept. 16—22	6:18	6:58
Sept. 23—29	6:25	6:46
Sept. 30—Oct. 6	6:32	6:35
Oct. 7—13	6:39	6:24
Oct. 14—20	6:46	6:14
Oct. 21—27	6:54	6:04
Oct. 28—Nov. 3	7:02	5:56
Nov. 4—10 **Ends	6:10	4:55
Nov. 11—17	6:18	4:43
Nov. 18—24	6:26	4:39
Nov. 25—Dec. 1	6:33	4:36
Dec. 2—8	6:40	4:36
Dec. 9—15	6:45	4:35
Dec. 16—22	6:49	4:37
Dec. 23—29	6:52	4:40
Dec. 30—Jan. 5	6:53	4:45
Jan. 6—12	6:52	4:51
Jan. 13—19	6:51	4:54
Jan. 20—26	6:48	5:05
Jan. 27—Feb. 2	6:43	5:14
Feb. 3—9	6:37	5:22
Feb. 10—16	6:30	5:30
Feb. 17—23	6:21	5:39
Feb. 24—Mar. 2	6:12	5:47
Mar. 3—9	6:01	5:54
Mar. 10—16 *Begins	6:50	7:02
Mar. 17—23	6:39	7:09

Dates	Begin A.M.	End P.M.
Mar. 24—30	6:28	7:16
Mar. 31—Apr. 6	6:17	7:24
Apr. 7—13	6:05	7:31

\*Daylight Saving Time Begins  
 \*\*Ends

[Pa.B. Doc. No. 18-444. Filed for public inspection March 23, 2018, 9:00 a.m.]

## GAME COMMISSION

[ 58 PA. CODE CHS. 141 AND 147 ]

### Hunting and Trapping; Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 30, 2018, meeting to amend § 141.1 (relating to special regulations areas) and rescind §§ 147.681—147.686 to eliminate the baiting permit and reporting requirements.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the January 30, 2018, meeting of the Commission. Comments can be sent until April 20, 2018, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Purpose and Authority

The Commission is proposing to amend § 141.1 and rescind §§ 147.681—147.686 to eliminate the baiting permit and reporting requirements. All other standards and requirements will remain the same.

Section 2308(a)(8) of the code (relating to unlawful devices and methods) generally prohibits a person hunting game or wildlife through the use of or by taking advantage of any artificial or natural bait. Section 2308(b)(2)(iii) of the code provides an exception to this prohibition for licensed hunters hunting deer in special regulations areas, other than counties of the second class. Section 2102(a) of the code (relating to regulations) provides that “[t]he commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth.” The amendments to § 141.1 and the rescission of §§ 147.681—147.686 are proposed under this authority.

#### 2. Regulatory Requirements

This proposed rulemaking will amend § 141.1 and rescind §§ 147.681—147.686 to eliminate the baiting permit and reporting requirements.

#### 3. Persons Affected

Persons wishing to hunt white-tailed deer in the Southeast special regulations area may be affected by this proposed rulemaking.

#### 4. Cost and Paperwork Requirements

This proposed rulemaking should not result in additional cost or paperwork.

#### 5. Effective Date

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

#### 6. Contact Person

For further information regarding this proposed rulemaking, contact Randy S. Shoup, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** 48-429. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 141. HUNTING AND TRAPPING

#### Subchapter A. GENERAL

#### § 141.1. Special regulations areas.

\* \* \* \* \*

(d) *Permitted acts.* It is lawful to:

\* \* \* \* \*

(7) Hunt or take deer in the southeast special regulations area during regular open hunting seasons for white-tailed deer through the use of or by taking advantage of bait on private, township or municipal property only [ **under a deer attractant permit issued under Chapter 147, Subchapter R (relating to deer control) as set forth in this paragraph.**

**(i) Purpose. The purpose of this paragraph is to authorize eligible persons to hunt through the use of or otherwise take advantage of approved bait to enhance the harvest rate of white-tailed deer on private, township or municipal property within the southeast special regulations area where landowners have suffered material damage to their real property and traditional hunting and deer control methods have proven ineffective in controlling local deer populations.**

**(ii) Operation. Landowners and persons they permit to hunt on their property may hunt through the use of or otherwise take advantage of approved bait for the purpose of enhancing the harvest rate of white-tailed deer. This authorization is subject to the following conditions:**

**(A) This authorization only applies during regular open hunting seasons for white-tailed deer in the affected portion of each wildlife management unit located on private, township or municipal property within the southeast special regulations area.**

(B) A bait site may not be located less than 250 yards from any previously established bait site authorized under this paragraph.

(C) Approved bait may be distributed at each bait site by approved feeders from 2 weeks prior to the opening of the first white-tailed deer season through the close of the last white-tailed deer season within the applicable wildlife management unit.

(D) Approved feeders are limited to sealed, waterproof, automatic, mechanical feeders that are set to distribute bait up to a maximum of three times per day during legal hunting hours only. The feeder must be visibly tagged or labeled with the full name and address of the landowner or an individual authorized by the landowner to use or place the approved feeder.

(E) Bait accumulation at any one bait site may not exceed 5 gallons total volume at any given time.

(F) Approved bait is limited to shelled corn and protein pellet supplements.

(G) It is the sole responsibility of landowners and persons they permit to hunt on their property to ensure that the area bait site is in compliance with this paragraph prior to hunting in that area.

(H) The landowner and persons they permit to hunt on their property may not, under any circumstances, hunt, take, kill or harvest any game or wildlife other than white-tailed deer at the bait site or coming to and from the bait site.

(iii) Suspension. The Commission may suspend the operation of any bait site if one or more of the following conditions is determined to exist:

(A) The baiting activity is causing conflict with other lawful hunting.

(B) The baiting activity is causing public safety hazards.

(C) The operation of the baiting site is not in compliance with the requirements of this paragraph.

(D) The operation if the baiting site is detrimental to the health and welfare of any wildlife, including white-tailed deer.

(E) Chronic Wasting Disease has been detected within 10 air miles of the southeast special regulations area. This suspension may remain indefinitely until the Commission determines that resumption of baiting activities will not create an unreasonable future risk of spreading of the disease on the landscape.

(iv) Violations. Violations of this paragraph will be prosecuted under section 2308 of the act (relating to unlawful devices and methods).

## CHAPTER 147. SPECIAL PERMITS

### Subchapter R. DEER CONTROL

#### [ DEER ATTRACTANT PERMIT ]

*(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to rescind the following sections*

of Chapter 147 which appear in 58 Pa. Code pages 147-70—147-72.1, serial pages (388094)—(388097).)

§§ 147.681—147.686. (Reserved).

[Pa.B. Doc. No. 18-445. Filed for public inspection March 23, 2018, 9:00 a.m.]

## GAME COMMISSION

### [ 58 PA. CODE CH. 141 ]

#### Hunting and Trapping; Wild Pheasant Recovery Areas

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 30, 2018, meeting to amend § 141.28 (relating to wild pheasant recovery areas) to delete the Somerset Wild Pheasant Recovery Area (WRPA).

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the January 30, 2018, meeting of the Commission. Comments can be sent until April 20, 2018, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Purpose and Authority

The Somerset WRPA was established by the Commission in 2009. From 2009—2011, 964 wild pheasants were trapped and transferred to the WRPA and annual population and habitat monitoring have continued through 2017. Population surveys show that current wild pheasant numbers in this WRPA are very low, and much lower than the initial population at the conclusion of releases. Commission staff have concluded that due to habitat conditions, weather severity or a combination of these factors, a huntable wild pheasant population is not achievable or sustainable on this WRPA and that in keeping with guidelines established in the Pennsylvania Ring-necked Pheasant Management Plan for unsuccessful WRPAs, the Somerset WRPA should be dissolved and the area should be reopened to either-sex pheasant hunting and to the stocking of game farm pheasants. The Commission is proposing to amend § 141.28 by deleting the Somerset WRPA.

Section 2102(a) of the code (relating to regulations) provides that “[t]he commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth.” The amendments to § 141.28 are proposed under this authority.

#### 2. Regulatory Requirements

This proposed rulemaking will amend § 141.28 by eliminating the Somerset WRPA.

### 3. *Persons Affected*

Persons wishing to hunt or take pheasants or train dogs on small game within Somerset WPRA may be affected by this proposed rulemaking.

### 4. *Cost and Paperwork Requirements*

This proposed rulemaking should not result in additional cost or paperwork.

### 5. *Effective Date*

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

### 6. *Contact Person*

For further information regarding this proposed rulemaking, contact Randy S. Shoup, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** 48-425. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 141. HUNTING AND TRAPPING

##### Subchapter B. SMALL GAME

#### § 141.28. Wild pheasant recovery areas.

(a) *Definition.* For the purpose of this section, the phrase "wild pheasant recovery area" (WPRA) includes and is limited to the following geographic locations.

[ (1) *Somerset WPRA.* That portion of Somerset County, WMU 2C, bounded on the western side starting at the intersection of Coleman Station Rd. and Stutzmantown Rd. proceeding south on Coleman Station Rd., crossing SR 31, to Brotherton Rd., continuing south to Round Hill Rd., then east onto Wills Church Rd., then to Archery Rd. The boundary then follows Berlin Plank Rd. (US Rt. 219) south into the town of Berlin where it joins the Mason Dixon Hwy. (US Rt. 219) proceeding south to Pine Hill Rd. to Walker School Rd. then east on Maple Valley Rd., to Sawmill Rd. to the Cumberland Hwy. (SR 160). The boundary then follows the Cumberland Hwy. (SR 160) south to Salco Rd. and then proceeds north on Salco Rd. to Huckleberry Hwy. (SR 160) in the town of Berlin. The boundary follows Huckleberry Hwy. (SR 160) north, crossing SR 31, to the intersection of Roxbury Rd., then north to Shanksville Rd. The boundary then proceeds north to Stutzmantown Rd., then west to the beginning at the intersection of Coleman Station Rd.

(2) [ (1) *Central Susquehanna WPRA.* Portions of WMU 4E in Northumberland, Montour and Columbia Counties, bounded and described as follows. Beginning in the southwestern extent of the WPRA at the intersection of Interstate 80 and Interstate 180, proceed north on Interstate 180 for approximately 7.2 miles to the intersection of Hughes Road. The boundary follows Hughes Road east for 0.2 mile to Susquehanna Trail. Follow Susquehanna Trail south for 0.2 mile to Schmidt Road. Follow Schmidt Road for 1.6 miles to Miller Road. Follow Miller Road east for 1.1 miles to intersection of Hockey Hill

Road. Go right on Hockey Hill Road then left onto Pugmore Lane. Follow Pugmore Lane for 0.7 mile to Harrison Road. The boundary follows Harrison Road south for 0.7 mile to Showers Road. Follow Showers Road for 1.2 miles east to intersection of Gearhart Road. Turn right on Gearhart Road and go south for 0.6 mile to the intersection of Hickory Road. The boundary follows Hickory Road east for 0.6 mile then left onto Mingle Road for 0.9 mile until rejoining Hickory Road for another 0.8 mile to the intersection of Muncy Exchange Road. The boundary follows Muncy Exchange Road south for 1.4 miles to bridge over the West Branch of Chillisquaque Creek near the intersection of State Highway 44. The boundary follows the West Branch of Chillisquaque Creek south for approximately 2.1 miles to the bridge on Arrowhead Road. The boundary follows Arrowhead Road west for 0.8 mile to the intersection of State Highway 54. Follow State Highway 54 south for 2.6 miles to the intersection of State Highway 254. Follow State Highway 254 east for 5.9 miles to the intersection of State Highway 44. Follow State Highway 44 south for 1.1 miles to the intersection of State Highway 642. Follow State Highway 642 southwest for 2.3 miles to the intersection of Billhime Road. Turn right onto Billhime Road and go 1.1 miles to the intersection of East Diehl Road. Turn left on East Diehl Road then right onto Cameltown Hill Road. Follow Cameltown Hill Road for 1 mile to the intersection of Blee Hill Road. The boundary follows Blee Hill Road northwestward for 0.6 mile to the intersection of Hillside Drive. Turn left onto Hillside Drive and follow west for 3.2 miles until State Highway 54. Cross State Highway 54 onto Steckermill Road and go 0.4 mile to the intersection of Keefer Mill Road. Turn right onto Keefer Mill Road and follow north for 0.8 mile to the intersection of Mexico Road. Turn right on Mexico Road for 0.1 mile and then turn left onto Keefer Mill Road for 0.6 mile to the intersection of State Highway 254. The boundary follows State Highway 254 west for 5.5 miles to the intersection of Interstate 80. Follow Interstate 80 west for 3.4 miles to the intersection Interstate 180 and the point of origin.

[ (3) ] (2) *Hegins-Gratz Valley WPRA.* That portion of WMU 4E in Schuylkill and Dauphin Counties from Matterstown Road (Rt. 1007) to PA Rt. 901 at Taylorsville. The WPRA is bounded on the north by the Mahantango Creek. Beginning at the town of Pillow in Dauphin County, proceeding east on Market Street (Rt. 1026) to the Mahantango Creek, which is the Northumberland and Dauphin County border until entering Schuylkill County at Klingerstown. Continuing northeast along the Mahantango Creek in Schuylkill County to Taylorsville Road (Rt. 4039) at Haas, to Taylorsville and then proceeding south on PA Rt. 901. Proceeding south and southeast on PA Rt. 901 to I-81. Proceeding southwest on I-81 and then west on PA Rt. 25, then from PA Rt. 25, proceeding south and west on Dell Road and then northwest and west on Pine Drive (State Hwy. 4009), continuing west on Pine Drive, T593 and north on T592 to Pine Creek. The southern boundary then follows Pine Creek west along the northern side of Broad Mountain to Spring Glen. From Spring Glen, continuing west on PA Rt. 25, crossing into Dauphin County to Gratz, then proceeding southwest from Gratz on Specktown Road (State Hwy. 1014) to South Crossroads Road (PA Rt. 1009). Proceeding south on South Crossroads Road (PA Rt. 1009) to PA Rt. 209 and southwest to Elizabethville. From Elizabethville continue west on Main Street (PA Rt. 209), then turn north onto Botts Road (T462). At the first intersection, turn north onto Feidt Road (T461), then turn east onto West Matterstown Road (Rt. 4008), turn north

onto Matterstown Road (Rt. 1007). Turn right or east onto Berrysburg Road (PA Rt. 25) which turns into Market St. Turn left or north onto Lykens St. Turn right or east onto Mountain Road (T639). Turn left or north on PA Rt. 225 into Pillow on PA Rt. 225, ending at Market St. (Rt. 1026).

[ (4) ] (3) *Franklin County WPR*A. That portion of WMUs 4A and 5A in Franklin County from PA Rt. 30 on the northern border to the Pennsylvania/Maryland state border on the southern border, and from Cove Mountain on the western border to the towns of Laurich and Williamson and the Conococheague Creek on the eastern border. The WPR is bounded on the north by PA Rt. 30 (Lincoln Highway). Beginning at the town of Fort Loudon at the intersection of PA Rt. 30 (Lincoln Highway) and PA Rt. 75, proceed east on PA Rt. 30 (Lincoln Highway), through St. Thomas and continue east to Laurich. Just east of Laurich, proceed south along Back Creek to SR 3012 (Jack Road). Proceed west along SR 3012 (Jack Road), then south along Weber Road. Continue south and southwest along Weber Road to the intersection of Weber, Grapevine and Jacks Mill Roads. Proceed southwest along Grapevine Road and then northwest to intersection with SR 3013. Turn south onto SR 3013 (St. Thomas Williamson Road) and then west onto State Rt. 995. Proceed west and then south on State Rt. 995 through Williamson to the West Branch of the Conococheague Creek (northeast of Welsh Run). Proceed along the West Branch of the Conococheague Creek to the confluence with Conococheague Creek. Follow the Conococheague Creek south to the Pennsylvania/Maryland state border. Proceed west along the Pennsylvania/Maryland state border to State Rt. 456. Proceed northeast along State Rt. 456 to State Rt. 16. Proceed east on State Rt. 16 to Mountain Road. Proceed northeast on Mountain Road to State Rt. 75. Proceed northwest on State Rt. 75 to the intersection of State Rt. 75 and State Rt. 30 at Fort Loudon.

\* \* \* \* \*

[Pa.B. Doc. No. 18-446. Filed for public inspection March 23, 2018, 9:00 a.m.]

**GAME COMMISSION**

[ 58 PA. CODE CH. 135 ]

**Lands and Buildings; Archery Ranges**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 30, 2018, meeting to add § 135.183 (relating to archery ranges) to authorize the manners of usage of archery ranges established by the Commission.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the January 30, 2018, meeting of the Commission. Comments can be sent until April 20, 2018, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

The Commission is proposing to add § 135.183 to authorize the manners of usage of archery ranges estab-

lished by the Commission. These changes will not include a requirement that individuals using archery ranges acquire a range permit, hunting or trapping license or meet other exemption criteria.

Section 721(a) of the code (relating to control of property) provides “[t]he administration of all lands or waters owned, leased or otherwise controlled by the commission shall be under the sole control of the director, and the commission shall promulgate regulations...for its use and protection as necessary to properly manage these lands or waters.” The addition of § 135.183 is proposed under this authority.

2. *Regulatory Requirements*

This proposed rulemaking will add § 135.183 to authorize the manners of usage of archery ranges established by the Commission.

3. *Persons Affected*

Persons wishing to use State game lands archery ranges will be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

This proposed rulemaking should not result in any additional cost or paperwork.

5. *Effective Date*

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. *Contact Person*

For further information regarding this proposed rulemaking, contact Randy S. Shoup, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** 48-432. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 135. LANDS AND BUILDINGS**

**Subchapter J. SHOOTING RANGES**

**§ 135.183. Archery ranges.**

(a) *General provisions.* In addition to § 135.2 (relating to unlawful actions) the following provisions pertain to lands under Commission ownership, lease or jurisdiction designated as archery ranges:

(1) Archery ranges are open from dawn until dusk each day of the week.

(2) A range may be reserved for exclusive use by an organized group from January 1 through October 1. An application for a range reservation shall be made through the appropriate regional director or a designee at least 20 days in advance.

(3) An individual may not use the range during any period reserved by an organized group.

(4) An individual or an organized group using the range is responsible for keeping the area clean and free of debris, and may not discard, deposit, leave or throw litter

except in approved refuse containers. Range users shall remove targets from range bales when shooting is completed and prior to leaving the range.

(5) The Commission is not responsible for anyone injured on the range. Individuals using Commission-owned ranges do so at their own risk and assume all responsibility for injuries to a person or property caused by or to them.

(6) When more than one person is using the range, a range officer shall be designated.

(7) An individual under 16 years of age may not use the range unless accompanied by a person 18 years of age or older.

(8) The appropriate regional director or a designee may close a range by posting signs to that effect. An individual or organized group may not use the range during a period when it is posted as closed.

(b) *Prohibited acts.* At an archery range located on land under Commission ownership, lease or jurisdiction, except when authorized by the appropriate regional director or a designee, it is unlawful to:

(1) Discharge a bow or crossbow from any location on the range other than an established shooting station on the firing line.

(2) Discharge a bow or crossbow at any target other than a paper target placed on a permanent target bale mounted by the Commission. Users are prohibited from intentionally shooting at or damaging the frames, stands or other structures constructed by the Commission to mount permanent target bales.

(3) Discharge any arrow or bolt equipped with a broadhead or other cutting device, except at a broadhead shooting station designated by the Commission.

(4) Be intoxicated, use or possess an intoxicating beverage or controlled substance on the range.

(5) Discharge a bow or crossbow more than six times successively if another person is using the range.

(6) Discharge a firearm or use firearm ammunition or other explosive materials.

(7) Operate, manipulate or discharge a bow or crossbow in negligent disregard for the safety of other persons present at or nearby the range. This is specifically intended to include loading a bow or crossbow, operating or manipulating a loaded bow or crossbow, or discharging a bow or crossbow anywhere on the firing range while another person is downrange.

(8) Use a Commission range in violation of any other requirement of this section or posted signage.

[Pa.B. Doc. No. 18-447. Filed for public inspection March 23, 2018, 9:00 a.m.]

## GAME COMMISSION

[ 58 PA. CODE CH. 139 ]

### Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 30, 2018, meeting to amend § 139.4 (relating to seasons and bag limits for the license year) to

provide updated seasons and bag limits for the 2018-2019 hunting/trapping license year.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the January 30, 2018, meeting of the Commission. Comments can be sent until April 20, 2018, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Purpose and Authority

To effectively manage the wildlife resources and provide hunting and trapping opportunities in this Commonwealth during the upcoming license year, the Commission is proposing to amend § 139.4 to provide updated seasons and bag limits for the 2018-2019 license year. The 2018-2019 seasons and bag limits are proposed to be amended to reflect current available scientific data, population and harvest records, field surveys and professional staff observations, as well as recommendations received from staff, organized sporting groups, members of the agricultural community and others interested in the management of the wildlife resources of this Commonwealth.

In regard to small game seasons, the Commission proposes to eliminate the hen pheasant restriction in wildlife management units (WMU) 2A, 2C, 4C and 5B. Commission staff has determined that allowing harvest of male and female pheasants in these WMUs is appropriate because they do not contain wild pheasant recovery areas, there is no evidence that these units are capable of sustaining huntable populations of wild pheasants under current landscape habitat conditions, and either-sex hunting would provide additional hunting opportunity (especially for youth hunters) and allow for more efficient use and distribution of game farm pheasants. The male-only restriction would continue in WMUs 4E and 5A, which contain active wild pheasant recovery areas.

In regard to black bear seasons, the Commission proposes a new 4-day extended firearms seasons in WMUs 4A and 5A and an increase (from 4 to 6 days) in the length of the extended firearms season in WMU 3A. These proposed changes are intended to prevent increases in bear populations and bear-human conflicts within these WMUs.

In regard to furbearer seasons, the Commission proposes the opening of WMUs 4B and 4C to fisher trapping. Commission staff has determined that fisher population indices within these WMUs are comparable to those in other units where fisher harvest is occurring sustainably, and staff and constituents have recommended this expansion of harvest opportunity.

There are no proposed changes in turkey, deer or elk seasons.

Section 322(c)(1) of the code (relating to powers and duties of commission) specifically empowers the Commission to “fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife.” Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to “promulgate regulations relating to seasons and bag limits for hunting or furtaking.” The amendments to § 139.4 are proposed under this authority.



2. *Regulatory Requirements*

This proposed rulemaking will amend § 139.4 to provide updated seasons and bag limits for the 2018-2019 hunting/trapping license year.

3. *Persons Affected*

Persons wishing to hunt or trap game or wildlife within this Commonwealth during the 2018-2019 hunting/trapping license year will be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

This proposed rulemaking should not result in additional cost or paperwork.

5. *Effective Date*

The effective dates of this proposed rulemaking will be July 1, 2018, to June 30, 2019.

6. *Contact Person*

For further information regarding this proposed rulemaking, contact Randy S. Shoup, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,  
*Executive Director*

**Fiscal Note:** 48-424. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 139. SEASONS AND BAG LIMITS**

*(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to replace the table which appears in § 139.4, 58 Pa. Code pages 139-3—139-13, serial pages (387103)—(387113), with the following table.)*

**§ 139.4. Seasons and bag limits for the license year.**

**2018-2019 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT,  
FIELD POSSESSION LIMIT AND SEASON LIMIT  
OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED**

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After Second Day</i>
Squirrel—(Combined species) Eligible Junior Hunters only, with or without the required junior license	Sept. 29		Oct. 13	6	18
Squirrel—(Combined species)	Oct. 13	and	Nov. 24	6	18
	Dec. 10	and	Dec. 24		
	Dec. 26		Feb. 28, 2019		
Ruffed Grouse	Oct. 13	and	Nov. 24	2	6
	Dec. 10		Dec. 24		
Rabbit, Cottontail—Eligible Junior Hunters only, with or without the required junior license	Sept. 29		Oct. 13	4	12
Rabbit, Cottontail	Oct. 13	and	Nov. 24	4	12
	Dec. 10	and	Dec. 24		
	Dec. 26		Feb. 28, 2019		
Ring-necked Pheasant—There is no open season for the taking of pheasants in the Hegins-Gratz or Franklin County wild pheasant recovery areas. Ring-necked Pheasant Eligible Junior Hunters only, with or without the required junior license WMUs 4E and 5A—Male only	Oct. 6		Oct. 13	2	6

PROPOSED RULEMAKING

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After Second Day</i>
WMUs 1A, 1B, 2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 5B, 5C and 5D—Male or female					
Central Susquehanna Wild Pheasant Recovery Area—Male only	As authorized by Executive Order				
Ring-necked Pheasant	Oct. 20		Nov. 24	2	6
WMUs 4E and 5A—Male only	Dec. 10	and	Dec. 24		
WMUs 1A, 1B, 2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 5B, 5C and 5D—Male or female	Dec. 26	and	Feb. 28, 2019		
Bobwhite Quail	Oct. 13		Nov. 24	8	24
	Dec. 10	and	Dec. 24		
	Dec. 26	and	Feb. 28, 2019		
Hare (Snowshoe Rabbits) or Varying Hare	Dec. 26		Jan. 1, 2019	1	3
Woodchuck (Groundhog)	No closed season except during the regular firearms deer season(s). Hunting on Sundays is prohibited.			Unlimited	
<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Turkey, Fall—Male or Female				1	1
WMU 2B	Oct. 27		Nov. 16		
(Shotgun, Bow and Arrow only)	Nov. 22	and	Nov. 24		
WMU 1B	Oct. 27		Nov. 3		
WMUs 1A, 2A, 4A and 4B	Oct. 27		Nov. 3		
	Nov. 22	and	Nov. 24		
WMUs 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4C, 4D and 4E	Oct. 27		Nov. 10		
	Nov. 22	and	Nov. 24		
WMU 2C	Oct. 27		Nov. 16		
	Nov. 22	and	Nov. 24		
WMU 5A	Nov. 1		Nov. 3		
WMU 5B	Oct. 30		Nov. 1		
WMUs 5C and 5D	Closed to fall turkey hunting				
Turkey, Spring <sup>1</sup>	Apr. 20, 2019		Apr. 20, 2019	1	1
Bearded Bird only, Eligible Junior Hunters only, with the required junior license					

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Turkey, Spring <sup>1</sup> Bearded Bird only	Apr. 27, 2019		May 11, 2019	1	2
		and		May be hunted 1/2 hour before sunrise to 12 noon	
	May 13, 2019		May 31, 2019		May be hunted 1/2 hour before sunrise to 1/2 hour after sunset

**MIGRATORY GAME BIRDS**

Except as further restricted by this chapter, the seasons, bag limits, hunting hours and hunting regulations for migratory game birds shall conform to regulations adopted by the United States Secretary of the Interior under authority of the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—712) as published in the *Federal Register* on or about February 28 of each year.

Exceptions:

(a) Hunting hours in § 141.4 (relating to hunting hours).

(b) Nontoxic shot as approved by the Director of the United States Fish and Wildlife Service is required for use Statewide in hunting and taking of migratory waterfowl.

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After Second Day</i>
Crow (Hunting permitted on Friday, Saturday and Sunday only)	July 1		Apr. 14, 2019	Unlimited	
Starling and English Sparrow	No closed season except during the regular firearms deer seasons.			Unlimited	

**FALCONRY**

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After Second Day</i>
Squirrel—(Combined species)	Sept. 1		Mar. 30, 2019	6	18
Quail	Sept. 1		Mar. 30, 2019	8	24
Ruffed Grouse	Sept. 1		Mar. 30, 2019	2	6
Cottontail Rabbits	Sept. 1		Mar. 30, 2019	4	12
Snowshoe or Varying Hare	Sept. 1		Mar. 30, 2019	1	3
Ring-necked Pheasant—Male and Female—(Combined)	Sept. 1		Mar. 30, 2019	2	6
Migratory Game Bird—Seasons and bag limits shall be in accordance with Federal regulations.					

**WHITE-TAILED DEER**

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Season Limit</i>
Deer, Archery (Antlered and Antlerless) <sup>2</sup> With the required archery license	Sept. 15	and	Nov. 24	One antlered deer, and an antlerless deer with each required antlerless license.
WMUs 2B, 5C and 5D	Dec. 26		Jan. 26, 2019	
Deer, Archery (Antlered and Antlerless) <sup>2</sup> With the required archery license	Sept. 29	and	Nov. 10	One antlered deer, and an antlerless deer with each required antlerless license.
WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E, 5A and 5B	Dec. 26		Jan. 12, 2019	
Deer, Muzzleloading (Antlerless only) With the required muzzleloading license	Oct. 13		Oct. 20	An antlerless deer with each required antlerless license.

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Season Limit</i>
Deer, Special firearms (Antlerless only) Only Junior and Senior License Holders, <sup>3</sup> Commission Disabled Person Permit Holders (to use a vehicle as a blind) and Residents serving on active duty in the United States Armed Forces or United States Coast Guard	Oct. 18		Oct. 20	An antlerless deer with each required antlerless license.
Deer, Regular firearms (Antlered and Antlerless) <sup>2</sup> WMUs 2B, 5C and 5D	Nov. 26		Dec. 8	One antlered deer, and an antlerless deer with each required antlerless license.
Deer, Regular firearms (Antlered only) <sup>2</sup> WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E, 5A and 5B	Nov. 26		Nov. 30	One antlered deer.
Deer, Regular firearms (Antlered and Antlerless) <sup>2</sup> WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E, 5A and 5B	Dec. 1		Dec. 8	One antlered deer, and an antlerless deer with each required antlerless license.
Deer, Flintlock (Antlered or Antlerless) <sup>2</sup> With the required muzzleloading license WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E, 5A and 5B	Dec. 26		Jan. 12, 2019	One antlered or one antlerless deer, plus an additional antlerless deer with each required antlerless license.
Deer, Flintlock (Antlered or Antlerless) <sup>2</sup> With the required muzzleloading license WMUs 2B, 5C and 5D	Dec. 26		Jan. 26, 2019	One antlered or one antlerless deer, plus an additional antlerless deer with each required antlerless license.
Deer, Extended Regular firearms (Antlerless) Allegheny, Bucks, Chester, Delaware, Montgomery and Philadelphia Counties	Dec. 26		Jan. 26, 2019	An antlerless deer with each required antlerless license.
Deer, Antlerless (Letterkenny Army Depot, Franklin County and New Cumberland Army Depot, York County and Fort Detrick, Raven Rock Site, Adams County)	Hunting is permitted on days established by the United States Department of the Army.			An antlerless deer with each required antlerless license.

**BLACK BEAR**

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>		<i>Season Limit</i>
Bear, Archery <sup>4</sup> WMUs 2B, 5C and 5D	Sept. 15		Nov. 24		1
Bear, Archery <sup>4</sup> WMU 5B	Sept. 29		Nov. 10		1
Bear, Archery <sup>4</sup> WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E and 5A	Oct. 29		Nov. 3		1
Bear, Muzzleloader <sup>4</sup> WMUs 2B, 5B, 5C and 5D	Oct. 13		Oct. 20		1
Bear, Special firearms <sup>4</sup> Only Junior and Senior License Holders <sup>3</sup> , Commission Disabled Person Permit Holders (to use a vehicle as a blind) and Residents serving on active duty in the United States Armed Forces, or in the United States Coast Guard, with required antlerless license WMUs 2B, 5B, 5C and 5D	Oct. 18		Oct. 20		1
Bear, Regular Firearms <sup>4</sup> (Statewide)	Nov. 17		Nov. 21		1

## PROPOSED RULEMAKING

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>		<i>Season Limit</i>
Bear, Extended firearms <sup>4</sup> WMUs 3A, 3B, 3C and 3D	Nov. 26		Dec. 1		1
Bear, Extended firearms <sup>4</sup> WMUs 2B, 5B, 5C and 5D	Nov. 26		Dec. 8		1
Bear, Extended firearms <sup>4</sup> WMUs 1B, 2C, 4A, 4B, 4C, 4D, 4E and 5A	Nov. 28		Dec. 1		1

## ELK

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>		<i>Season Limit</i>
Elk, Special Conservation Tag <sup>5</sup> and Special-License Tag <sup>5</sup> (Antlered and Antlerless)	Sept. 1		Nov. 10		1
Elk, Regular <sup>5</sup> (Antlered and Antlerless)	Nov. 5		Nov. 10		1
Elk, Extended <sup>5</sup> (Antlered and Antlerless)	Nov. 12		Nov. 17		1

## FUR TAKING—TRAPPING

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Mink and Muskrat	Nov. 17		Jan. 6, 2019	Unlimited	
Beaver WMUs 1A, 1B and 3C (Combined) WMUs 2A, 2B, 2C, 2D, 2E, 2F, 3A, 3B, 3D, 5C and 5D (Combined)	Dec. 26		Mar. 31, 2019	20 20	40 20
WMUs 2G, 2H, 4A, 4B, 4C, 4D, 4E, 5A and 5B (Combined)				5	5
Coyote, Fox, Opossum, Raccoon, Striped Skunk and Weasel	Oct. 21		Feb. 17, 2019	Unlimited	
Coyote and Fox Use of cable restraint devices authorized with required certification	Dec. 26		Feb. 17, 2019	Unlimited	
Bobcat, with required bobcat permit WMUs 2A, 2C, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4C, 4D and 4E	Dec. 15		Jan. 6, 2019	1	1
Fisher, with required fisher permit WMUs 1B, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4B, 4C, 4D and 4E	Dec. 15		Dec. 26	1	1
River Otter, with required otter permit WMUs 3C and 3D	Feb. 16, 2019		Feb. 23, 2019	1	1

## FUR TAKING—HUNTING

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Coyote—(Outside of any big game season)	May be taken with a hunting license or a furtaker's license.			Unlimited	
Coyote—(During any big game season)	May be taken while lawfully hunting big game or with a furtaker's license.			Unlimited	
Opossum, Striped Skunk, Weasel	No closed season.				
Raccoon and Fox	Oct. 20		Feb. 16, 2019	Unlimited	
Bobcat, with required bobcat permit WMUs 2A, 2C, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4C, 4D and 4E	Jan. 12, 2019		Feb. 6, 2019	1	1
Porcupine	Sept. 1		March 30, 2019	3	10

No open seasons on other wild birds or wild mammals.

<sup>1</sup> Only persons who possess a special wild turkey license as provided for in section 2709 of the act (relating to license costs and fees) may take a second spring gobbler during the hunting license year; all other persons, including mentored youth hunters, may take only one spring gobbler. A maximum of 2 spring gobblers per license year may be taken by any combination of licenses or exceptions for mentored youth.

<sup>2</sup> Only one antlered deer (buck) may be taken during the hunting license year.

<sup>3</sup> Includes residents and nonresident license holders who have reached or will reach their 65th birthday in the year of the application for the license and hold a valid adult license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions).

<sup>4</sup> Only one bear may be taken during the hunting license year with the required bear license.

<sup>5</sup> Only one elk may be taken during the hunting license year with the required elk license.

[Pa.B. Doc. No. 18-448. Filed for public inspection March 23, 2018, 9:00 a.m.]

## GAME COMMISSION

[ 58 PA. CODE CH. 147 ]

### Special Permits; Pheasant Permit

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 30, 2018, meeting to amend §§ 147.316 and 147.317 (relating to application; and permit) to require junior hunters to obtain a free pheasant permit to hunt pheasants in this Commonwealth. The Commission is also proposing to amend § 147.317 to exempt additional individuals from the pheasant permit requirement, including individuals currently exempted from licensure by statute and also individuals hunting and taking privately acquired propagated pheasants on private lands.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the January 30, 2018, meeting of the Commission. Comments can be sent until April 20, 2018, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Purpose and Authority

The Commission is proposing to amend §§ 147.316 and 147.317 to require junior hunters to obtain a free pheasant permit to hunt pheasants in this Commonwealth. The Commission is also proposing to amend § 147.317 to exempt additional individuals from the pheasant permit requirement, including individuals currently exempted from licensure by statute and also individuals hunting and taking privately acquired propagated pheasants on private lands. This latter change will allow privately acquired pheasants to be hunted and killed on private property without requirement of a pheasant permit or its associated fee. This exemption will not apply to private lands designated by agreement as cooperative access lands. This exemption will also require that any pheasants hunted, taken or possessed under this paragraph shall be banded, tagged, marked or receipted in accordance with section 2930 of the act (relating to propagating permits).

Section 2901(b) of the code (relating to authority to issue permits) provides “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any

permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” The amendments to §§ 147.316 and 147.317 are proposed under this authority.

#### 2. Regulatory Requirements

This proposed rulemaking will amend §§ 147.316 and 147.317 to require junior hunters to obtain a free pheasant permit to hunt pheasants in this Commonwealth. The Commission is also proposing to amend § 147.317 to exempt additional individuals from the pheasant permit requirement, including individuals currently exempted from licensure by statute and also individuals hunting and taking privately acquired propagated pheasants on private lands.

#### 3. Persons Affected

Persons wishing to hunt or take pheasants in this Commonwealth may be affected by this proposed rulemaking.

#### 4. Cost and Paperwork Requirements

This proposed rulemaking will result in the creation of a new class of permit that will be required for junior hunters. The Commission anticipates that this free permit will be made available through the Pennsylvania Automated License System, therefore paperwork requirements to the general public will be nominal. The Commission determined that there will be limited personnel and administrative costs associated with the implementation of this new permit class. However, the Commission anticipates that these costs will be accommodated through existing staffing and existing budgets.

#### 5. Effective Date

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

#### 6. Contact Person

For further information regarding this proposed rulemaking, contact Randy S. Shoup, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** 48-430. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 58. RECREATION

## PART III. GAME COMMISSION

## CHAPTER 147. SPECIAL PERMITS

## Subchapter Q. PHEASANT PERMIT

## § 147.316. Application.

(a) *Form and content.* Applications for pheasant hunting permits issued under this subchapter shall be made through the Commission or any of its authorized license-issuing agents on the appropriate form designated by the Commission for this purpose. Each application must include the applicant's name, address, date of birth and Commission-issued Customer Identification Number, and any other information required by the Commission.

(b) *Eligibility.*

(1) Adult pheasant hunting permit applications are available for submission by applicants in possession of a valid resident or nonresident adult or senior hunting license, or a valid mentored adult hunting permit. The fee for **[ a ] an adult** pheasant hunting permit is \$25, plus any applicable transactional and issuing agent fees.

**(2) Junior pheasant hunting permit applications are available for submission by applicants in possession of a valid resident or nonresident junior hunting license. There is not a fee for a junior pheasant hunting permit.**

## § 147.317. Permit.

(a) A pheasant hunting permit is required for **[ an adult ] any person** to hunt or take pheasants by any means or manner or device, including the use of dogs, in this Commonwealth.

(b) A pheasant hunting permit shall be signed and carried on person when hunting or taking pheasants in this Commonwealth.

(c) This section and subchapter may not be construed to require a permit **[ for individuals engaged in lawful pheasant hunting activities under a valid commercial or noncommercial regulated hunting grounds issued under section 2928 of the act (relating to regulated hunting grounds permits). ] for individuals engaged in:**

**(1) Lawful pheasant hunting activities under a valid commercial or noncommercial regulated hunting grounds or special retriever training area permit issued under sections 2928 and 2942 of the act (relating to regulated hunting grounds permits; and special retriever training areas).**

**(2) Lawful dog training activities under a valid dog training area, special retriever area, field dog trial or field dog trial for retrievers permit issued under sections 2941–2944 of the act.**

**(3) Lawful hunting of pheasants they have acquired and released on private lands not otherwise designated as cooperative access lands under sections 709 and 729 of the act (relating to cooperative agreements relating to land; and public access projects). Any pheasants hunted, taken or possessed**

**under this paragraph shall be banded, tagged, marked or received in accordance with section 2930 of the act (relating to propagating permits).**

[Pa.B. Doc. No. 18-449. Filed for public inspection March 23, 2018, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CH. 54 ]

[ L-2017-2628991 ]

### Electricity Generation Customer Choice

The Pennsylvania Public Utility Commission, on December 7, 2017, adopted a proposed rulemaking order to amend customer information regulations pertaining to standards and pricing practices for retail electricity services, disclosure statements for residential and small business customers, marketing and sales activities, and notices of contract expiration or changes in terms.

#### *Executive Summary*

The Commission adopts this Proposed Rulemaking Order to amend our customer information regulations at 52 Pa. Code §§ 54.3, 54.5, 54.7 and 54.10 providing for standards and pricing practices for retail electric services; a disclosure statement for residential and small business customers; marketing/sales activities; and the provision of notices of contract expiration or changes in terms for residential and small business customers. With this Proposed Rulemaking Order, the Commission proposes to enhance these rules to provide customers ample protections and the necessary information to make informed decisions when shopping in Pennsylvania's competitive retail electricity market. As such, the Commission is proposing to amend its regulations to align its electric supplier regulations with the existing natural gas supplier regulations. In addition, the Commission is proposing to prohibit the imposition of early termination fees once a supplier provides to customers the contract expiration notices required by 52 Pa. Code § 54.10. Furthermore, the Commission is proposing to require suppliers to disclose whether a contract is assignable and how it will handle customer account information.

Public Meeting held  
December 7, 2017

*Commissioners Present:* Gladys M. Brown, Chairperson, statement follows; Andrew G. Place, Vice Chairperson, statement follows; Norman J. Kennard; David W. Sweet; John F. Coleman, Jr.

### Rulemaking Regarding Electricity Generation Customer Choice, 52 Pa. Code Chapter 54; L-2017-2628991

#### Notice of Proposed Rulemaking Order

*By the Commission:*

The Pennsylvania Public Utility Commission (Commission) adopts this Notice of Proposed Rulemaking Order to seek comments on proposed amendments to our customer information regulations at 52 Pa. Code §§ 54.3, 54.5, 54.7 and 54.10 providing for standards and pricing practices for retail electricity services; a disclosure statement for residential and small business customers; marketing/sales

activities; and the provision of notices of contract expiration or changes in terms for residential and small business customers. The existing regulations at 52 Pa. Code §§ 54.1—54.10 require that electric generation suppliers (EGSs) enable customers to make informed choices regarding the purchase of electricity offered by providing adequate and accurate customer information in an understandable format, including rules regarding the disclosure of contract terms and conditions. With this Proposed Rulemaking Order, the Commission proposes to enhance these rules to provide customers ample protections and the necessary information to make informed decisions when shopping in Pennsylvania's competitive retail electricity market.

### Background

The Public Utility Code requires EGSs to provide adequate and accurate information to customers. See 66 Pa.C.S. § 2807(d)(2). Specifically, Section 2807(d)(2) requires the Commission to:

establish regulations to require each electric distribution company, electricity supplier, marketer, aggregator and broker to provide adequate and accurate customer information to enable customers to make informed choices regarding the purchase of all electricity service offered by that provider. Information shall be provided to consumers in an understandable format that enables consumers to compare prices and services on a uniform basis.

66 Pa.C.S. § 2807(d)(2).

Pursuant to this statutory directive to enable customers to make informed choices when purchasing electricity generation, the Commission first issued Interim Requirements in 1997.<sup>1</sup> This was followed by promulgated regulations in 1998.<sup>2</sup> See 52 Pa. Code §§ 54.1—54.9 (relating to customer information). The regulations at 52 Pa. Code §§ 54.4—54.6 (relating to bill format for residential and small business customers; disclosure statement for residential and small business customers; and request for information about generation supply) were later amended in 2007, after receiving and incorporating comments from numerous stakeholders.<sup>3</sup> In 2010, the Commission adopted Interim Guidelines which provided general guidance on the timing and content of advanced notifications that give customers important information about their options prior to the expiration of or a change in terms of their current contract for generation supply.<sup>4</sup>

In 2014, the Commission adopted amendments to 52 Pa. Code § 54.5 and added 52 Pa. Code § 54.10.<sup>5</sup> The Commission amended these regulations to ensure, among other things, that future EGS disclosure statements include an EGS Contract Summary of key contractual terms and conditions; additional information regarding variable-priced products, including disclosure of the price to be charged for the first billing cycle of generation

service; customer access to historical information; and more specific explanation of limits on variability.

With this Proposed Rulemaking Order, the Commission specifically examines and updates 52 Pa. Code § 54.5 regarding disclosure statements for residential and small business customers. This Section requires that EGSs provide disclosure statements to residential and small business customers when those customers request an EGS to initiate service; when an EGS proposes to change the terms of service; or when service commences from a default service provider. See 52 Pa. Code § 54.5(b)(1—3). These disclosure statements must include, among other things: the generation charges; conditions of and any applicable limitations on variable prices; explanations of cancellation fees; and information regarding a customer's options upon the expiration of an agreement. See Annex A, § 54.5.

### History of the Commission's Review of Its Customer Information Regulations

In September of 2010, the Commission reviewed its customer information regulations and provided Interim Guidelines, as noted previously. In its Interim Guidelines, the Commission provided general guidance on the timing and content of advanced notifications that give customers important information about their options prior to the expiration of or a change in terms of their current contract for generation supply.

#### Guidelines for Use of Fixed Price Labels

The Commission addressed some supplier pricing, labeling and disclosure issues in the November 2013 Final Order regarding Guidelines for Use of Fixed Price Labels for Products with a Pass-Through Clause.<sup>6</sup> This Order, commonly referred to as the "Fixed Means Fixed" Order, finalized guidelines on the pricing labels used when selling electric generation service to residential customers. The Commission updated its "electric competition dictionary," which is available on [www.PAPowerSwitch.com](http://www.PAPowerSwitch.com). The updates provide guidance to electric generation suppliers on the appropriate use of the "fixed-price" label when presenting offers to potential customers.

The revised definitions included:

- **Fixed Price:** An all-inclusive per kWh price that will remain the same for at least three billing cycles or the term of the contract, whichever is longer.
- **Variable Price:** An all-inclusive per kWh price that can change, by the hour, day, month, etc. according to the terms and conditions in the supplier's disclosure statement.
- **Introductory Price:** For new customers, an all-inclusive per kWh price that will remain the same for a limited period of time between one and three billing cycles followed by a different fixed or variable per kWh price that will be in effect for the remaining billing cycles of the contract term, consistent with terms and conditions in the supplier's "disclosure statement."

Additionally, the Commission addressed what is meant and intended by the phrase "all-inclusive." The Commission reminded suppliers and consumers that to facilitate the comparison of prices on a uniform basis (i.e. apples-to-apples) the Commission developed the concept of the PTC, which is defined at 52 Pa. Code § 54.182:

**PTC—Price-to-compare**—A line item that appears on a retail customer's monthly bill for default service.

<sup>6</sup> See Guidelines for Use of Fixed Price Labels for Products with a Pass-Through Clause Final Order, at Docket No. M-2013-2362961 (Order entered November 14, 2013).

<sup>1</sup> See Chapter 28 Electric Generation Customer Choice and Competition Act—Customer Information—Interim Requirements, Docket No. M-00960890F0008 (Order entered July 11, 1997).

<sup>2</sup> See Final Rulemaking Order Establishing Customer Information Disclosure Requirements for Electricity Providers 52 Pa. Code, Chapter 54, Docket No. L-00970126 (Order entered May 1, 1998).

<sup>3</sup> See Final Rulemaking Order Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant To 66 Pa.C.S. § 2807(e)(2), Docket No. L-00040169 (Order entered May 10, 2007).

<sup>4</sup> See Final Order Re Interim Guidelines Regarding Advance Notification by an Electric Generation Supplier of Impending Changes Affecting Customer Service; Amendment re: Supplier Contract Renewal/Change Notices, Docket Nos. M-2010-2195286 and M-0001437 (Order entered September 23, 2010).

<sup>5</sup> See Final-Omitted Rulemaking Order Re Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10 Regulations Regarding the Provision of Notices of Contract Expiration or Changes in Terms for Residential and Small Business Customers, Docket No. L-2014-2409385 (Order entered April 3, 2014).



The PTC is equal to the sum of all unbundled generation and transmission related charges to a default service customer for that month of service.

While this definition specifies its use for default service, the intent is to provide a bundled price that a consumer can use to compare EGS prices. To make an “apples-to-apples” comparison possible, it follows that EGS prices should be similarly bundled. The Commission reiterated that the price that an EGS presents to a residential or small business customer is expected to be “all-inclusive”—including all of the pricing components found in the PTC for default service customers (generation, transmission where applicable, gross receipts tax, etc. “Sales tax” is a notable exception in that it is not bundled within the PTC—but for residential consumers this is usually of no relevance since most residential accounts are exempt from this tax).<sup>7</sup>

We also emphasized the importance of disclosure and the disclosure regulations at 52 Pa. Code § 54.5 and that disclosures need to be clear, well-organized and in plain language so that consumers have the information they need to make informed decisions. Further, we reminded everyone of the regulation at 52 Pa. Code § 54.7 that requires EGSs to calculate and present to the customer the actual per kWh rate at 500, 1,000 and 2,000 usage levels. This regulation is of relevance if the supplier is using a pricing structure that varies depending upon usage (such as a declining or inclining block rate) and/or the supplier is using flat monthly charges in addition to the PTC that are sometimes referred to as monthly “service charges” or “customer charges.” This information must be presented to the customer to allow the “apples-to-apples” comparison discussed above.<sup>8</sup>

#### *2014 Polar Vortex*

During the winter of 2014, some retail electric customers with variable-rate contracts experienced sharp price increases resulting from price fluctuations in the wholesale and retail electricity markets. In light of this and after a review of the 2010 Interim Guidelines, the Commission concluded that codifying, strengthening, and augmenting the 2010 guidelines as expeditiously as possible was in the public interest.

In an Order adopted at its February 20, 2014 Public Meeting, the Commission reaffirmed the General Assembly’s directive that EGSs provide:

adequate and accurate customer information to enable customers to make informed choices regarding the purchase of all electricity services offered by the provider. Information shall be provided to consumers in an understandable format that enables consumers to compare prices and services on a uniform basis.

Review of Rules, Policies and Consumer Education Measures Regarding Variable Rate Retail Electric Products, Order, Docket No. M-2014-2406134, (Order entered March 4, 2014) (Variable Rate Order) at 4-5 (citing 66 Pa.C.S. § 2807(d)).

In the Variable Rate Order, the Commission expressed particular concern for customers receiving their electric supply service from an EGS under a contract with a monthly adjusted variable rate. As indicated supra, some of these customers experienced sharp increases in their monthly bills during the early months of 2014 due to the demands of the winter heating season and unprecedented

price spikes in the wholesale electricity market. While acknowledging that it is important for consumers to carefully review the terms of their supplier contracts, including conditions of variability, the Commission believed that EGSs had to take further steps to ensure that customers can easily find and understand information related to price, price variability and history, as well as cancellation fees, renewal notices, and other terms and conditions.

To obtain feedback from stakeholders on the proposed changes to our regulations on customer information, the Commission issued a Secretarial Letter on March 19, 2014, alerting affected parties of the Commission’s intention to promulgate a Final-Omitted Rulemaking that would amend existing regulations at 52 Pa. Code, Chapter 54, to revise disclosure statement requirements for residential and small business customers.<sup>9</sup> This Secretarial Letter noted that while some amendments would codify, with modifications, existing contract renewal and change in terms notice requirements contained in the Interim Guidelines, other changes raise new issues that had not previously been considered. Thus, the Commission requested comments on its proposed regulations to give those entities most affected an opportunity to provide recommendations prior to the issuance of a Final-Omitted Rulemaking Order.

The Commission determined that revising the customer information regulations, 52 Pa. Code § 54.5, and adding 52 Pa. Code § 54.10 by use of a Final-Omitted rulemaking process was necessary to serve and protect the public interest. Based upon the circumstances of the situation at the time, specifically, the unusually high electric supply bills incurred by customers receiving supply service through variable-priced contracts and fluctuations in wholesale energy markets—the Commission found good cause for omitting the traditional notice and comment procedures for the revisions as they were impractical, unnecessary, and contrary to the public interest.

In response to the March 19, 2014 Secretarial Letter, twelve parties<sup>10</sup> filed comments. In addition, Pennsylvania Senators Robert M. Tomlinson and Lisa M. Boscola sent a letter notifying the Commission that they had received numerous complaints from constituents enrolled in variable-priced contracts. In their letter, Senators Tomlinson and Boscola stated that the Commission should immediately begin revising its regulations regarding variable-priced contracts and the treatment of customers who have an expiring fixed-term contract.

After careful review and consideration of the comments, the Commission on April 3, 2014, adopted a Final-Omitted Rulemaking Order Regarding the Provisions of Notices of Contract Expiration or Changes in Terms for Residential & Small Business Customers.<sup>11</sup> (Final Omitted Rulemaking). This Final Omitted Rulemaking made numerous significant changes to the Chapter 54 customer information regulations—most of which were intended to provide consumers with more detailed information concerning variable priced products.

<sup>9</sup> Secretarial Letter Re Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10 Regulations Regarding the Provision of Notices of Contract Renewal or Changes in Terms, Docket No. L-2014-240938, (served March 19, 2014) (Secretarial Letter).

<sup>10</sup> Pennsylvania Representatives Robert W. Godshall and Peter J. Daley; the Office of Consumer Advocate, the Office of Small Business Advocate, Citizen Power, UGI Energy Services, LLC, Washington Gas Energy Services, Inc., Constellation NewEnergy, Inc. and Constellation Energy Power Choice, Inc., IGS Energy, the Retail Energy Supply Association, NRG Retail Northeast Companies, Alphabuyer, the National Energy Marketers Association, and FirstEnergy Solutions Corp.

<sup>11</sup> See Final-Omitted Rulemaking Order Regarding the Provisions of Notices of Contract Expiration or Changes in Terms for Residential & Small Business Customers, Docket No. L-2014-2409385 (Order entered April 3, 2014).

<sup>7</sup> See page 28 Guidelines for Use of Fixed Price Labels for Products with a Pass-Through Clause, Final Order, at Docket No. M-2013-2362961 (Order entered November 14, 2013).

<sup>8</sup> Id. page 29.

To codify the Interim Guidelines and to ensure EGS compliance with these requirements, the Commission added Section 54.10 (Notice of Contract Renewal or Change in Terms), to the customer information regulations. At the same time, the Commission augmented the notice rules by requiring that the EGS provide the new price the customer will be charged the first billing cycle following the expiration or change in terms and that the EGS provide 30 days' notice in advance of any subsequent price change.

#### *2016 NGS Disclosure Regulation Revisions*

In April 2016, as part of the Commission's continuing efforts to enhance customer protections in the competitive energy markets, the Commission revised the Chapter 62 natural gas customer information regulations.<sup>12</sup> This rulemaking amended customer information disclosure regulations at 52 Pa. Code §§ 62.72 and 62.75 for residential and small business natural gas supply customers. Section 62.72 provides regulatory definitions while Section 62.75 discusses the disclosure statement and notice requirements of the natural gas supplier (NGS) to the customer.

The Commission noted that a principal reason for revising the NGS rules was to bring them into alignment with the analogous EGS rules that had been significantly revised in 2014 as discussed above. We believe that both customers and suppliers benefit from substantially consistent cross-industry rules. Inconsistencies between the two sets of rules can lead to customer confusion and inefficiencies for suppliers, especially for those customers who obtain both gas and electric service from the same supplier. Another important rationale for revising the natural gas rules in 2016 was the Commission's belief that concerns regarding variable rates and disclosure statements in the electric supply industry are relevant to the customer disclosure information in the natural gas industry. The Commission believes that concerns about wholesale market price spikes in the natural gas markets, similar to the electric price spikes of early 2014, cannot be dismissed.

Because of the extensive changes to the NGS disclosure rules in 2016, there are now some inconsistencies between those rules and the analogous electric disclosure rules. These differences include:

- *Introductory Pricing:* The NGS rules state that "If the price is introductory, the variable pricing statement must include a statement that the price is an introductory price, the duration of the introductory period and the price for the first billing cycle after the introductory period." 52 Pa. Code § 62.75(c)(2)(ii). Introductory pricing is not mentioned in the EGS rules.

- If prices change (such as with a variable priced product), the NGS rules require the NGS to disclose when and how a customer gets informed of the price change. "A description of when and how the customer will receive notification of price changes." 52 Pa. Code § 62.75(c)(2)(iv).

- The NGS rules address contract assignment. "If the contract is assignable, the NGS shall inform the customer at the time the parties enter into the contract. Prior to a contract assignment, the NGS shall provide notice to the affected customer, the affected NGDC and the Commission. The customer notice must include the name of the

new NGS, the contact information for the new NGS and language informing the customer that contract terms and conditions remain unchanged." 52 Pa. Code § 62.75(j).

- Most references to the NGDC were removed from the NGS disclosure statement. The EGS disclosure rules still require including some references to the EDC.

#### *Discussion*

As noted above, the Commission recognizes the value in having the EGS and NGS disclosure rules be as consistent as possible (noting that some inherent operational differences between the two industries may make complete consistency impractical). We also acknowledge that our 2014 Final-Omitted proceeding provided a limited opportunity for parties to comment on electric customer information matters. Given the emergency conditions of 2014, the Commission had no alternative but to resort to an abbreviated process. Now we have time to more fully consider these matters again based on experience with the existing regulations. Accordingly, during an April 21, 2017 CHARGE<sup>13</sup> conference call, the Commission's Office of Competitive Market Oversight (OCMO) invited stakeholders to submit informal comments on possible revisions to the EGS disclosure rules at 52 Pa. Code § 54.5—with the intent of using the informal comments to develop this Notice of Proposed Rulemaking to revise the EGS disclosure rules. Upon careful review of the informal comments received and input from various previous proceedings, and the authority granted the Commission under Sections 501 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; the Commonwealth Documents Law, 45 P.S. § 1204; the Regulatory Review Act, 71 P.S. §§ 745.1 et seq.; the Commonwealth Attorneys Act, 71 P.S. §§ 732-204; and the regulations promulgated at 1 Pa. Code § 7.4, the Commission proposes amendments to regulations at 52 Pa. Code §§ 54.3, 54.5, 54.7, and 54.10, as set forth below.

#### *§ 54.3. Standards and pricing practices for retail electricity service:*

We propose revisions to 52 Pa. Code § 54.3(1)(ii) to update the regulation by referring to the correct location where the glossary of terms can be found. We plan to propose the same revision to a similar requirement at 52 Pa. Code § 54.5(e).

We propose a new requirement at 52 Pa. Code § 54.3(2) that would in effect ban the imposition of early termination fees (ETFs) once a supplier has provided the initial contract expiration notice required by 52 Pa. Code § 54.10. We are proposing this requirement on all supplier contracts entered into after the effective date of this regulation. We are proposing this requirement in response to consumers who object to having an ETF assessed upon them simply because they acted on the expiration notices sent by the supplier. From the consumer's perspective, they are acting on the expiration notice they received from the supplier by exercising one of the following options available to them—selecting a new supplier or returning to default service. In addition, we note that the early ending of a contract can be inadvertent—the customer miss-times the switch to a new supplier or default service resulting in the ETF being imposed. This is especially true given that the customer has no actual control over the timing of the switch—it is ultimately up to the supplier and the utility as to just when a switch occurs. The switching regulations at

<sup>12</sup> See Final Rulemaking Order—Rulemaking to Amend and Add Regulations to Title 52 of the *Pennsylvania Code*, Sections 62.72, 62.75, and 62.81 Regarding Customer Information Disclosure Requirements for Natural Gas Suppliers Providing Natural Gas Supply to Residential and Small Business Customers, Docket No. L-2015-2465942 (Order entered April 21, 2016).

<sup>13</sup> CHARGE (Committee Handling Activities for Retail Growth in Electricity) participants include EDCs, EGSs, industry trade organizations, consumers, the Office of Consumer Advocate, and the Office of Small Business Advocate.

Chapter 57 provide for several possible timeframes for both the EGS and EDC to perform a switch. 52 Pa. Code § 57.173(1) allows the EGS to forward a switch request to the EDC at the end of the three-business day rescission period or a future date specified by the customer.<sup>14</sup> Section 57.174(a) provides EDCs with a three-business day window for performing a switch.<sup>15</sup> Given the latitude that EGSs and EDCs have in performing a switch—the precise timing of a switch is beyond the control or knowledge of the customer.

The imposition of an ETF under these circumstances can understandably frustrate and discourage customers from participating in the competitive market. Anything that damages the reputation of the market harms all market participants. While we acknowledge, and appreciate, that many suppliers will waive or forgo the charging of an ETF under these circumstances—we are concerned that the imposition of an ETF may still occur. Furthermore, as suppliers may waive or forgo the ETF under these circumstances, this new limitation should have minimal impact. We note that this requirement would be in effect only during the final 45–60 days of the customer’s contract with the EGS (once the initial notice has gone out). Accordingly, we think the number of days that the customer could exit the contract “early” without an ETF is limited; thus, limiting any resulting financial loss an EGS may experience. We also note that we are targeting this requirement only to the residential and small business segment of the market. We acknowledge that this kind of requirement may not be appropriate for large commercial/industrial customers—where early exits can result in significant financial loss for the EGS and where the customer is more sophisticated and more able to manage such transitions due to the costs involved. Regardless, we acknowledge that this is a new proposal and we invite parties to offer their perspectives—especially relating to any possible unintended consequences that could result from this proposed rule.

Accordingly, we propose the following changes to Section 54.3:

In furnishing retail electricity service, EDCs and EGSs or any entity that otherwise provides retail electricity service information to customers, shall comply with the following:

(1) Use common and consistent terminology in customer communications, including marketing, billing and disclosure statements.

(i) Use the term EDC as described in § 54.2 (relating to definitions) as a standard term.

(ii) Use the terms **[ as defined in the Commission’s “Consumer’s Dictionary for Electric Competition” (Dictionary), maintained on file in the Commission’s Office of Communications. EDCs shall provide this dictionary upon customer request. The “Common Electric Competition Terms” as described in subparagraph (iii) shall indicate the phone number and address to re-**

<sup>14</sup> 52 Pa. Code § 57.173. Customer contacts the EGS to request a change in electric supply service. When a customer contacts an EGS to request a change from the current EGS or default service provider to a new selected EGS, the following actions shall be taken by the selected EGS and the customer’s EDC:

(1) The selected EGS shall notify the EDC of the customer’s EGS selection at the end of the 3-business day rescission period under § 54.5(d) (relating to disclosure statement for residential and small business customers) or a future date specified by the customer. The selected EGS may notify the EDC by the end of the next business day following the customer contact upon customer consent.

<sup>15</sup> 52 Pa. Code § 57.174(a). When a customer has provided the selected EGS or current EGS with oral confirmation or written authorization to select the new EGS or default service provider, consistent with electric data transfer and exchange standards, the EDC shall make the change within 3 business days of the receipt by the EDC of the electronic enrollment transaction.

**quest the dictionary ] in accordance with the glossary posted on the [www.PaPowerswitch.com](http://www.PaPowerswitch.com) website or other successor media platform as determined by the Commission.**

**[ (iii) EDCs shall distribute the “Common Electric Competition Terms,” as part of its consumer education program. ]**

**(2) For residential and small commercial customers, contracts for retail electric service entered into after the effective date of this regulation may not include any fees to be paid by the retail electric customer for terminating a fixed duration contract between the date the initial notice required in § 54.10 (relating to notice of contract expiration or change in terms for residential and small business customers) is issued and the expiration of the fixed duration contract.**

§ 54.5. *Disclosure statement for residential and small business customers.*

Upon careful review of the informal comments received from various stakeholders, we propose the following changes to the EGS disclosure regulations at 52 Pa. Code § 54.5. Please refer to Annex A for the proposed new language—the key revisions include the following:

52 Pa. Code § 54.5(c)(1):

**“Generation charges shall be disclosed according to the actual prices per kilowatt-hour. Generation charges must include an estimate of all applicable taxes except for State sales tax and county tax.”**

This proposed revision will bring the electric rule into alignment with the natural gas rule at 52 Pa. Code § 62.75(c)(1). This requirement is also intended to ensure that the prices presented to consumers are bundled appropriately to make “apples-to-apples” comparisons possible. We recognize that as we move forward to an electric market with advanced metering technology, new products and pricing structures are possible. We invite parties to comment on the need for this regulation to accommodate these possibilities; or at the least, not to obstruct or be an obstacle to future innovations.

52 Pa. Code § 54.5(c)(2):

**“If the price is introductory, the pricing statement must include a statement that the price is an introductory price, the duration of the introductory period and the price for the first billing cycle after the introductory period.”**

This proposed revision will bring the electric rule into alignment with the natural gas rule at 52 Pa. Code § 62.75(c)(2)(ii). This requirement is also intended to provide for full price transparency when an EGS is offering an introductory price product. To make fully informed decisions in the energy marketplace, we believe it is essential that a potential customer fully understand that the product is introductory in nature—and that the customer know both the introductory price and the price they will be charged after the introductory period ends.

52 Pa. Code § 54.5(c)(3):

**“[ The ] If the price is variable, the variable pricing statement must include:”**

This proposed revision is to clarify that a variable pricing statement is only necessary if the product is a variable-priced product.

52 Pa. Code § 54.5(c)(3)(i):

“Conditions of variability (state on what basis prices will vary) **including the EGS’s specific prescribed variable pricing methodology.**”

This proposed addition reflects a long-standing similar requirement in the analogous natural gas rule at 52 Pa. Code § 62.75(c)(2)(i). The intent of this amendment is to provide greater transparency with variable-priced products; allowing the potential consumer to make a better-informed decision.

52 Pa. Code § 54.5(c)(3)(iv):

**“A description of when and how the customer will receive notification of price changes.”**

This proposed revision will bring the electric rule into alignment with the natural gas rule at 52 Pa. Code § 62.75(c)(2)(iv). We also note that while this requirement is not in the current electric disclosure rule, it has been in the electric contract summary since 2014. This requirement is intended to let the potential customer know when and how they will be informed of their variable-price changes. For example, if the customer will not be informed of the price until the time of billing—the EGS must disclose this. Or if advanced notice of price changes will be provided, the EGS must disclose the timeframe of those notices and how they are delivered (U.S. mail, electronically, etc.).

52 Pa. Code § 54.5(c)(4):

**“If the unit price changes based on customer usage or if the product includes fees in addition to the unit price, the price per kWh shall factor in all costs associated with the rate charged to the customer and show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format.”**

This proposed addition is intended to make the longstanding requirements at 52 Pa. Code § 54.7 more visible and effective. Stakeholders have noted that these requirements are often overlooked because they are not found or referenced in the disclosure rules. This requirement is intended to enable consumers to compare supplier offers on an “apples-to-apples” basis; especially when non-volumetric charges such as monthly fees or one-time fees are involved. We invite parties to comment on the need for this regulation to accommodate an evolving electric marketplace where new products and pricing structures are likely.

52 Pa. Code § 54.5(c)(6):

“The [ **length** ] **duration** of the agreement, which includes:”

As we did with the analogous gas rule and in the interest of plain language, when describing how many months/years a contract is in effect, we propose replacing the words “length” and “term” with “duration.” We note that “term” can be particularly confusing because in addition to describing “duration” it can be used more generally to discuss all contract provisions, i.e. “terms and conditions.”

52 Pa. Code § 54.5(c)(9):

**“ [ (9) The name and telephone number of the default service provider. ] ”**

As we did with the natural gas disclosure, we propose to remove all unnecessary references to the utility from the EGS disclosure statement. At the time these regula-

tions were promulgated, the EDCs had robust consumer education programs and were expected to play a key role in informing consumers about the competitive market. We now believe it is unnecessary to require a prominent display of EDC information on EGS documents, as this may invite customer confusion and even the risk of creating the false impression that the EGS is “affiliated with” or “partnering with” the EDC. As discussed extensively by many parties during the promulgation of our supplier marketing regulations, misrepresentation and customer confusion between suppliers and utilities is an ongoing concern.<sup>16</sup> Yet our regulations require the EGS to place the utility name and contact information throughout the EGS’s documents, which in part likely yields complaints from customers believing they have been “misled” or are the victim of “misrepresentation.” To help minimize this possible confusion, we propose to remove the requirement that the EGS provide references to the utility on the disclosure statement.

52 Pa. Code § 54.5(c)(11):

“An explanation of limits on price variability, penalties, fees or exceptions, printed in type size larger than the type size appearing in the terms of service. **Penalties and fees shall be disclosed in actual dollars or a specific method for determining the actual dollars shall be disclosed.**”

This proposed revision will bring the electric rule into alignment with the natural gas rule at 52 Pa. Code § 62.75(c)(9). This is intended to provide full transparency concerning the potential customer’s exposure to penalties and fees. Complex penalty or fee formulas with unspecified or unknown components make it difficult for customers to arrive at informed decisions about generation choices. In addition to early termination fees, this requirement is intended to ensure the disclosure of other fees, including non-volumetric charges such as monthly fees or one-time fees. We invite parties to comment on the sufficiency of this regulation in the context of an evolving electric marketplace where new products and pricing structures are likely.

52 Pa. Code § 54.5(c)(12):

“Customer contact information that includes the name of the [ **EDC and** ] EGS, and the EGS’s address, telephone number, Commission license number and Internet address, if available. [ **The EGS’s information must appear first and be prominent.** ]”

As discussed above, we propose to remove all unnecessary references to the utility from the EGS disclosure statement.

52 Pa. Code § 54.5(c)(13):

**[ (13) The name and telephone number for universal service program information. ]**

As discussed above, we propose to remove all unnecessary references to the utility from the EGS disclosure statement. Including universal service program information in the EGS disclosure risks the customer thinking that these programs are operated or provided by EGSs—when they are not. We reiterate that this disclosure statement governs the contract between the supplier and the customer.

<sup>16</sup> See Corrected Final Rulemaking Order: Marketing and Sales Practices for the Retail Residential Energy Market, Docket No. L-2010-2208332 (Order entered October 24, 2012).

*New 52 Pa. Code § 54.5(c)(13):*

**“A statement [ that directs a customer to the Commission if the customer is not satisfied after discussing the terms of service with the EGS ] providing that information about shopping for an electric supplier is available at www.PaPowerSwitch.com or other successor media platform as determined by the Commission, by calling the Commission at (800) 692-7380 and at www.oca.state.pa.us.”**

This proposed revision will bring the electric rule into alignment with the natural gas rule at 52 Pa. Code § 62.75(c)(11). Both the Commission’s electric shopping website, www.PaPowerSwitch.com, and the Office of Consumer Advocate’s (OCA) website, www.oca.state.pa.us, include helpful consumer education information along with access to supplier offers. We believe including a reference to these websites provides another option, in addition to the Commission’s phone number, for consumers to obtain answers to their questions.

*52 Pa. Code § 54.5(c)(14)(i):*

A telephone number and Internet address at which a customer may obtain the previous 24 months’ average monthly billed prices for that customer’s rate class and EDC service territory. If an EGS has not been providing generation service in a rate class and EDC service territory for 24 months, the EGS shall provide the average monthly billed prices for the months available to date. **If price history or representative price information is not available for the product, the EGS shall inform the customer of this fact.**

This proposed addition reflects the analogous natural gas rule at 52 Pa. Code § 62.75(c)(2)(v). It is intended to acknowledge the reality that a price history may not be available for all products. An example would include a supplier offering a variable-price product for the first time or a new supplier just entering the market. In these types of situations, the supplier would be expected to inform the customer that a price history is not available.

*52 Pa. Code § 54.5(e):*

“Definitions for generation charges and transmission charges, if applicable, are required **on electric disclosure statements** and shall be defined in accordance with the [ **“Common Electric Competition Terms.”** ] **glossary posted on the www.PaPowerSwitch.com website or other successor media platform as determined by the Commission.** Definitions for each of the **basic and nonbasic services**, if applicable, are required. The definition section of the [ **bill** ] **disclosure statement** must be distinctly separate.”

These proposed revisions are intended to update the regulation by referring to the correct location where the glossary of terms can be found. We also propose that basic charges should be defined to bring this requirement into alignment with the analogous natural gas rule at 52 Pa. Code § 62.75(e). We also propose to replace the word “bill” with “disclosure” as to correct an apparent error as this section contains requirements for electric “disclosures,” not “bills.” Requirements for electric “bills” can be found at 52 Pa. Code § 54.4 (relating to bill format for residential and small business customers).

*52 Pa. Code § 54.5(g):*

Disclosure statements must include **one of** the following customer [ **notification** ] **notifications**:

**(1) Disclosure statements for fixed duration contracts must include the following customer notification: “If you have a fixed [ term ] duration contract approaching the expiration date, or whenever we propose to change the terms of service in any type of contract, you will receive two separate written notifications that precede either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward.”**

**(2) Disclosure statements for non-fixed duration contracts must include the following customer notification: “Whenever we propose to change the terms of service in any type of contract, you will receive two separate written notifications that precede either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward.”**

This proposed change is intended to create two options for disclosure language concerning contract expiration or change notices. One option for contracts with a fixed duration; and a second option for contracts without a fixed duration, such as a month-to-month contract. Stakeholders have noted customer confusion can result from having just one standard statement that may not be applicable to all contracts.

*52 Pa. Code § 54.5(j):*

**“If the contract is assignable, the EGS shall inform the customer at the time the parties enter into the contract. Prior to a contract assignment, the EGS shall provide notice to the affected customer, the affected EDC and the Commission. The customer notice must include the name of the new EGS, the contact information for the new EGS and language informing the customer that contract terms and conditions remain unchanged.”**

This proposed addition reflects the analogous natural gas rule at 52 Pa. Code § 62.75(j). We propose adding the requirement that if the customer’s contract is assignable, the supplier must disclose this to the customer. The assignment of contracts from one supplier to another, while not common, does occur frequently enough to be a source of some customer confusion. This requirement is also consistent with the guidance provided by a Commission order addressing assignment in the electric industry.<sup>17</sup> In these guidelines, the Commission specified that “[a]ny assignment clause used in a supplier contract must be written in plain language, be prominently printed and explained fully in ‘terms of service and disclosure.’”<sup>18</sup>

*52 Pa. Code § 54.5(k):*

**“If the EGS intends on obtaining customer account information from the EDC, the EGS shall inform the customer what type of information may be obtained, the purpose for obtaining this information and inform the customer that they are consenting by entering into this contract. The EGS shall also inform the customer that the EGS will maintain the confidentiality of a customer’s personal information including their name, address, telephone number, electric usage and historic payment information as required by applicable Commission regulations and federal and State laws.”**

<sup>17</sup> See Order on the Interim Guidelines Regarding Notification by an Electric Generation Supplier of Operational Changes Affecting Customer Service and Contracts, Docket No. M-00960890F0013 (Order entered August 14, 1998).

<sup>18</sup> See id., at Appendix, Guideline (II)(B)(1).

We propose adding a new paragraph (k) requiring that the disclosure inform the customer if the EGS intends on obtaining customer account and usage information from the utility, which is usually the case (for example, the EGS needs metering information to determine how much electricity the customer has used to calculate the bill, etc.). In our experience, many EGSs already include such a provision in their disclosures. We are simply proposing to make this a uniform requirement for all disclosures. Customer privacy and third-party access to information is becoming an increasingly sensitive issue and we think that making this as transparent as possible is in the best interest of both consumers and suppliers. We acknowledge that this is a new proposal, and we invite all parties to comment on what should be included in such a provision.

§ 54.7. *Marketing/sales activities.*

In response to concerns expressed by some stakeholders about the relevance and effectiveness of the marketing and sales activities rules at 52 Pa. Code § 54.7, we propose the following changes to this section:

(a) Advertised prices shall reflect prices in disclosure statements and billed prices.

(b) **If the unit price changes based on customer usage or includes fees in addition to unit prices, [Marketing] marketing materials, including contract summaries,** that offer terms of service for acceptance by consumers shall include prices, as follows:

(1) **[ If using a fixed price, the EGS shall show in a table the price per kWh for an average customer using 500, 1,000 or 2,000 kWh of electricity.**

(2) **If using a variable price mechanism, the [The] EGS shall factor in all costs associated with the rate charged to the customer, and show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format.**

**[ (3) (2) The EGS shall note the effective date of the prices shown in the table [ provided under paragraph (1) or (2) ].**

(c) Advertising materials targeted for residential and small business sales shall be made available upon request of the Commission in the event of a formal or informal complaint or investigation.

When this section was first promulgated in 1997, electric utility rate structures often featured declining or inclining block rate structures—the unit rate (per kWh) would vary depending upon the customer’s usage. It was envisioned back in 1997 that EGS pricing structures might reflect similar rate structures. This regulation was created to inform consumers of how their supplier unit price would change depending upon their usage.

Since then, however, electric utility rate structures have been simplified—including the elimination of most block rate structures. See 52 Pa. Code § 69.1810 (relating to retail rate design).<sup>19</sup> As a result, EGSs offering block pricing structures are relatively rare—meaning that this regulation has become somewhat outdated. We propose to update this regulation by clarifying that it is only effective

if the supplier is offering a product where the unit price changes depending upon the customer’s usage—or if the supplier is charging a fee, such as a monthly customer service charge, in addition to the unit price. In these situations, we think this regulation provides important information that allows the customer to make an “apples-to-apples” comparison to another supplier’s offer. We also propose to simplify the rule by eliminating the separate requirements for fixed and variable prices as the proposed amendment applies the same rule regardless of whether the product is fixed or variable.

§ 54.10. *Notice of contract expiration or change in terms for residential and small business customers.*

We propose some minor modifications to the Notice of Contract Expiration or Change in Terms rules at 52 Pa. Code § 54.10. As we did with the disclosure rules at 52 Pa. Code § 54.5(c) and (g) and discussed above, we propose using the phrase “fixed duration” in place of “fixed term” to avoid confusion over the use of the word “term” with its multiple-meanings.

The other, more significant, proposed revision to this section is to 52 Pa. Code § 54.10(1)(vi):

(vi) A statement indicating whether the existing fixed [ **term** ] **duration** contract has a cancellation fee, and an explanation [ **of the fee amount and how to avoid the fee, if possible, including notice of the date when the customer can choose a different product from the customer’s existing EGS, choose an alternative EGS or return to default service** ] **that the customer is not subject to the cancellation fee if the customer terminates the contract at any time between the date of the initial notice and the expiration date of the fixed duration contract.**

We are proposing this revision to align with our proposed revisions to 52 Pa. Code § 54.3 (relating to standards and pricing practices for retail electricity service). As discussed previously, we are proposing a new requirement that would in effect ban the imposition of early termination fees (ETFs) once a supplier has provided the contract expiration notices required by 52 Pa. Code § 54.10. In addition to placing this new requirement in Section 54.3, we believe it is appropriate to place this same requirement in Section 54.10, since this restriction is based upon the issuing of the notices required by Section 54.10.

As discussed earlier, we are proposing this requirement in response to consumers who object to having an ETF assessed upon them simply because they acted on the expiration notices sent by the supplier. The early ending of a contract can be inadvertent—the customer mis-times the switch to a new supplier (or default service) and thus incurs an ETF. The imposition of an ETF under these circumstances can understandably frustrate and discourage customers from participating in the competitive market.

*Contract Summary*

As discussed previously, in 2014 we developed and adopted a contract summary that highlights key provisions of a supplier contract in a plain-language box format. This increased the visibility of the most important contract items—and allowed the consumer to make an easier comparison of different supplier offerings when shopping.

We did not imbed the contract summary into the regulations in 2014 because we wanted to preserve the

<sup>19</sup> 52 Pa. Code § 69.1810. Retail rate design. Retail rates should be designed to reflect the actual, incurred cost of energy and therefore encourage energy conservation. The PTC should not incorporate declining blocks, demand charges or similar elements. The PTC for a particular customer class may be converted to a time of use design if the Commission finds it to be in the public interest.

flexibility to revise it as the market evolves. However, we did commit to using a process to revise the contract summary in a way that would allow all stakeholders an opportunity to have a voice in any such revisions. Accordingly, we think this rulemaking is an appropriate venue for revising the contract summary, both to bring it into as much alignment with the natural gas contract summary as possible and to reflect changes in the market since 2014.

Among the updates, we propose clarifying that some terms outlined in the EGS Contract Summary template may not be relevant to all contracts by specifying which ones may be omitted entirely if not applicable. We also, as discussed previously, propose replacing the word “term” with “duration” when discussing length of the contract. Another general revision is the removal of information related to the utility. As discussed previously, we believe that including utility information is unnecessary and increases the risk that the consumer may confuse the supplier with the utility or get the impression that the supplier is affiliated with the utility. Omitting this information will also shorten the contract summary. We believe that the contract summary must be as concise as possible and needs to fit on no more than one page. The proposed amended Contract Summary is in Attachment One.

The key revisions include the following:

*Generation/Supply Price:* Requiring that the customer be informed if the price is introductory, what the introductory price is and what the price is upon expiration of the introductory period. As discussed previously in the context of the proposed revisions to 52 Pa. Code § 54.5(c)(2), this proposed revision will bring the electric rule into alignment with the natural gas rule and is intended to provide for full price transparency when an EGS is offering an introductory price product.

*Generation Price at Various Usage Levels:* This proposed new row will only be required if the unit price varies by usage level and/or there are fees in addition to the unit price. This is intended to align with the proposed changes to 52 Pa. Code §§ 54.5(c)(4) and 54.7.

*Incentives:* In the interest of brevity, we are proposing to clarify that if the supplier is not offering any special incentives this row can be omitted from the summary.

*End of Contract:* We propose minor revisions to the language to make this contract summary the same as the NGS contract summary. This row should be informing the customer that they should look for the two notices required by 52 Pa. Code § 54.10 as their contract nears expiration.

*Right of Rescission:* We propose adding this new row to highlight the customer’s 3-day right of rescission as found in 52 Pa. Code § 54.5(d). We believe this is a key consumer protection and needs to be visible and understandable to the customer.

In addition to the above proposed revisions, we invite parties to contribute any other changes they believe are needed to the contract summary. However, we again remind parties that in doing so, please keep in mind that the contract summary, to be effective, must be just that—a “summary.” We recognize that it can be challenging to find the correct balance between needed information and brevity—but we urge all parties to keep conciseness paramount when they consider the contract summary.

### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 13, 2018, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Consumer Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

### *Conclusion*

The proposed revisions of the standards and pricing practices for retail electricity service at Section 54.3; the disclosure statement for residential and small business customers at Section 54.5, including the proposed changes to the EGS Contract Summary; marketing/sales activities at Section 54.7; and Section 54.10, notice of contract expiration or change in terms for residential and small business customers, are intended to increase consumer protection and better inform customers about the terms and conditions of an EGS contract. The proposed changes will also make these regulations more consistent with the analogous natural gas regulations—reducing consumer confusion and costs for suppliers that provide both services. The proposed regulations, as developed after consideration of informal comments from affected parties and from the previous proceedings leading up to this, provide for enhanced information from EGSs to customers—and helps ensure that customers will have this information at hand when considering the various alternatives for purchasing future electric generation supply.

Well-informed customers are essential participants in a successful competitive retail market. By updating these regulations to provide customers with accurate, timely pricing information when they are shopping for electric generation supply, we intend to create a more user-friendly marketplace that should continue to attract increased numbers of customers.

Accordingly, under sections 501 and 1501 of the Public Utility Code (66 Pa.C.S. §§ 501 and 1501); section 204 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204), known as the Commonwealth Documents Law; the Regulatory Review Act (71 P.S. §§ 745.1—745.14); section 204 of the Commonwealth Attorneys Act (71 P.S. § 732-204); and the regulations promulgated at 1 Pa. Code § 7.4, the Commission proposes amendments to regulations at 52 Pa. Code §§ 54.3, 54.5, 54.7, and 54.10, as set forth in Annex A; *Therefore,*

### *It Is Ordered That:*

1. A proposed rulemaking be opened to consider the regulations set forth in Annex A.

2. The Law Bureau shall submit this Order, Attachment A and Annex A to the Office of Attorney General for review and approval and to the Governor’s Budget Office for review for fiscal impact.

3. The Law Bureau shall submit this Order, Attachment A and Annex A for review and comment to the Independent Regulatory Review Commission and the Legislative Standing Committees.

4. The Law Bureau shall deposit this Notice of Proposed Rulemaking Order, Attachment A and Annex A, with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. Interested parties may submit written comments referencing Docket Number L-2017-2628991 within 60 days from the date the notice is published in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary, P.O. Box 3265, Harrisburg, PA 17105-3265. Comments may also be filed electronically through the Commission's e-File System.

6. The Secretary shall serve this Order, Attachment A and Annex A, upon all licensed Electric Generation Suppliers, jurisdictional electric distribution companies, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate and the Office of Small Business Advocate.

7. The Office of Competitive Market Oversight shall electronically send a copy of this Order, Attachment A and Annex A, to all persons on the contact list for the Committee Handling Activities for Retail Growth in Electricity.

8. A copy of this Order, Attachment A and Annex A, shall be posted on the Commission's web site at the Office of Competitive Market Oversight web page.

9. The contact persons for this matter are Daniel Mumford in the Office of Competitive Market Oversight (717) 783-1957, dmumford@pa.gov; Matthew Hrivnak in Bureau of Consumer Services (717) 783-1678, mhrivnak@pa.gov, and Kriss Brown in the Law Bureau (717) 787-4518, kribrown@pa.gov.

ROSEMARY CHIAVETTA,  
*Secretary*

**Fiscal Note:** 57-319. No fiscal impact; (8) recommends adoption.

**Attachment A  
Electric Generation Supplier Contract Summary**

Electric Generation Supplier Information	<i>Name, telephone number, website, etc. Plain language statement that EGS is responsible for generation charges.</i>			
Price Structure	<i>Fixed or variable. If variable, based on what? If variable, how often is the rate expected to vary? If variable, give any applicable ranges/ceilings. If no ranges/ceilings, a plain language statement indicating this fact. If variable, describe when the customer will receive notification of price changes in relation to time of month, final monthly meter read, billing cycle or when the price takes effect.</i>			
Generation/Supply Price	<i>\$/kWh or ¢/kWh. If variable rate, the first billing cycle's rate. [ <b>Any introductory rate with length of term. Full disclosure of any introductory price, including the introductory price and the price after the introductory period expires. Full disclosure of any fees in addition to the per kWh price.</b> ]</i>			
<b>Generation Price at Various Usage Levels</b>	<b>Usage:</b>	<b>500 kWh</b>	<b>1,000 kWh</b>	<b>2,000 kWh</b>
<i>(This row is required only if the price varies by usage and/or there are fees in addition to the per kWh price. See 52 Pa. Code § 54.5(C)(4) and 54.7.)</i>	<b>Price per kWh:</b>			
Statement Regarding Savings	<i>Plain language that the supply price may not always provide savings to the customer</i>			
Deposit Requirements	<i>Any deposit requirements necessary for a customer and any terms associated with that deposit, in plain language.</i>			
Incentives <i><b>This row is required only if the supplier is offering any special incentives.</b></i>	<i>Any bonuses, discounts, cashback, etc. offers and any associated terms, in plain language.</i>			
Contract Start Date	<i>Plain language regarding start of EGS service (meter reads/billing cycles/etc.)</i>			
Contract [ <b>Term</b> ] <b>Duration</b> /Length	<i>In months, billing cycles, etc.</i>			
Cancellation/Early Termination Fees	<i>Yes or no. If yes, describe the amount of the fee and how to avoid that fee, if possible.</i>			
[ <b>Renewal Terms</b> ] <b>End of Contract</b>	<i>Treatment of customer at end of contract. Timing of notices. [ <b>No cancellation/early termination fees. In plain language.</b> ]</i>			



<p><b>[ Electric Distribution Company Information ]</b></p>	<p><i>[ Name, telephone number, website, etc.</i> <i>Plain language statement that EDC is responsible for distribution charges, as well as any emergencies/outages/etc. ]</i></p>
<p><b>Right of Rescission:</b></p>	<p><b>An explanation of the customer’s 3-day right of rescission per 52 Pa. Code § 54.5(d) and how to exercise this right.</b></p>

*Statement of Chairperson Gladys M. Brown*

Before the Commission is the Notice of Proposed Rulemaking Order (NOPR) seeking comments on proposed amendments to our regulations at 52 Pa. Code § 54. This proceeding represents another step forward in the Commission’s efforts to empower and protect retail electricity customers as they shop for electric generation services in Pennsylvania. The retail electric market continues to evolve, as this happens so to must Commission regulations evolve.

The NOPR includes proposed revisions which, inter alia; protect customers from termination fees during the days leading up to contract expiration, mandate the transparent disclosure of enrollment or monthly fees, mandate the transparent disclosure of introductory prices, and require the inclusion of any additional fees within supplier price tables to facilitate an ‘apples-to-apples’ comparison with the ‘price-to-compare.’

I would like to thank Commission Staff, including those from the Office of Competitive Market Oversight, the Law Bureau, and the Bureau of Consumer Services, for their continued work in the retail energy competition landscape.

I look forward to reviewing the comments on this NOPR.

GLADYS M. BROWN,  
*Chairperson*

*Statement of Vice Chairperson Andrew G. Place*

Before us for consideration is the Notice of Proposed Rulemaking Order (Rulemaking) seeking comments on certain revisions to our customer information regulations concerning electric generation suppliers (EGSs) at 52 Pa. Code §§ 54.3, 54.5, 54.7 and 54.10. The sections provide for standards and pricing practices for retail electricity services; a disclosure statement for residential and small business customers; marketing/sales activities; and the provision of notices of contract expiration or changes in terms for residential and small business customers. As part of this Proposed Rulemaking, the Commission seeks to remove some inconsistencies between the extensive changes to the Natural Gas Supplier (NGS) disclosure rules in 2016 and the analogous EGS disclosure rules.

As stakeholders review the proposed changes, I wish to emphasize two specific provisions that I believe can benefit from comments from the interested parties. The proposed change at 52 Pa. Code § 54.3(2) prohibits the imposition of early termination fees (ETFs) once a supplier has provided the contract expiration notices required by 52 Pa. Code § 54.10. The Commission is proposing this requirement to be enforceable on all supplier contracts entered into after the effective date of the regulation. This proposed revision is in response to consumers who object to having an ETF assessed upon them simply because they acted on the expiration notices sent by the supplier.

Secondly, the Commission is proposing several disclosure requirements, including a requirement that genera-

tion charges shall be disclosed according to the actual prices per kilowatt hour. The proposed revisions at Section 54.5(c)(4) also state that “if the unit price changes based on customer usage or if the product includes fees in addition to the unit price, the price per kWh shall factor in all costs associated with the rate charged to the customer and show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format.” I wish to highlight this issue to solicit comments that consider the continued deployment of advanced meters that can enable more sophisticated supply products, including spot pricing based on locational marginal price, Time-of-Use products, Critical Peak Pricing products, and Peak Time Rebate products. Additionally, demand-based products could be offered which enable greater incentives to reduce usage on peak summer days, in exchange for a lower long term allocation of wholesale capacity costs or transmission costs. In instances like this, is it appropriate to express prices in cents/kwh? When providing costs at various usage levels, how can the Commission best avoid customer confusion, or meet customer pricing expectations if customer billings are higher (or lower) than indicated due to changes of when and how much customers use electricity?

I want to emphasize that this is a proposed rulemaking, and actively encourage parties to provide comments to assist the Commission in providing the necessary guidance and rules to ensure that customers are fully informed regarding the purchase of electricity, including the associated contract terms and conditions.

ANDREW G. PLACE,  
*Vice Chairperson*

**Annex A**

**TITLE 52. PUBLIC UTILITIES**  
**PART I. PUBLIC UTILITY COMMISSION**  
**Subpart C. FIXED SERVICE UTILITIES**  
**CHAPTER 54. ELECTRICITY GENERATION**  
**CUSTOMER CHOICE**  
**Subchapter A. CUSTOMER INFORMATION**

**§ 54.3. Standards and pricing practices for retail electricity service.**

In furnishing retail electricity service, EDCs and EGSs or any entity that otherwise provides retail electricity service information to customers, shall comply with the following:

(1) Use common and consistent terminology in customer communications, including marketing, billing and disclosure statements.

(i) Use the term EDC as described in § 54.2 (relating to definitions) as a standard term.

(ii) Use the terms as defined in the Commission’s “Consumer’s Dictionary for Electric Competition” (Dictionary), maintained on file in the Commission’s Office of Communications. EDCs shall provide this dictionary upon customer request. The “Common Electric Competition Terms” as described

in subparagraph (iii) shall indicate the phone number and address to request the dictionary.

(iii) EDCs shall distribute the “Common Electric Competition Terms,” as part of its consumer education program. ]

(ii) Use the terms in accordance with the glossary posted at [www.PaPowerSwitch.com](http://www.PaPowerSwitch.com) or other successor media platform as determined by the Commission.

(2) For residential and small commercial customers, contracts for retail electric service entered into after \_\_\_\_\_ (Editor’s Note: The blank refers to the effective date of adoption of this proposed rulemaking.) may not include any fees to be paid by the retail electric customer for terminating a fixed duration contract between the date the initial notice required under § 54.10 (relating to notice of contract expiration or change in terms for residential and small business customers) is issued and the expiration of the fixed duration contract.

**§ 54.5. Disclosure statement for residential and small business customers.**

(a) The agreed upon prices in the disclosure statement must reflect the marketed prices and the billed prices.

(b) The EGS shall provide the customer written disclosure of the terms of service at no charge whenever:

- (1) The customer requests that an EGS initiate service.
- (2) The EGS proposes to change the terms of service.
- (3) Service commences from a default service provider.

(c) The contract’s terms of service shall be disclosed, including the following terms and conditions, if applicable:

(1) Generation charges shall be disclosed according to the actual prices per kilowatt-hour. **Generation charges must include an estimate of all applicable taxes except for State sales tax and county tax.**

**(2) If the price is introductory, the pricing statement must include a statement that the price is an introductory price, the duration of the introductory period and the price for the first billing cycle after the introductory period.**

[ (2) The ] (3) **If the price is variable, the** variable pricing statement must include:

(i) Conditions of variability (state on what basis prices will vary) **including the EGS’s specific prescribed variable pricing methodology.**

(ii) Limits on price variability:

(A) If there is a limit on price variability, such as a specific price cap, a maximum percentage increase in price between billing cycles or minimum/maximum charges per kilowatt-hour for electricity during the term of the contract, the EGS shall clearly explain the applicable limits.

(B) If there is not a limit on price variability, the EGS shall clearly and conspicuously state that there is not a limit on how much the price may change from one billing cycle to the next.

(iii) The price to be charged, per kilowatt-hour, for the first billing cycle of generation service.

**(iv) A description of when and how the customer will receive notification of price changes.**

**(4) If the unit price changes based on customer usage or if the product includes fees in addition to the unit price, the price per kWh must factor in all costs associated with the rate charged to the customer and show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format.**

[ (3) ] (5) An itemization of basic and nonbasic charges distinctly separate and clearly labeled.

[ (4) The length ] (6) **The duration** of the agreement, which includes:

- (i) The starting date.
- (ii) The expiration date, if applicable.

[ (5) ] (7) An explanation of sign-up bonuses, add-ons, limited time offers, other sales promotions and exclusions, if applicable.

[ (6) ] (8) An explanation of prices, terms and conditions for special services, including advanced metering deployment, if applicable.

[ (7) ] (9) The cancellation provisions, if applicable.

[ (8) ] (10) The renewal provisions, if applicable.

[ (9) **The name and telephone number of the default service provider.**

**(10) An explanation of limits on price variability, penalties, fees or exceptions, printed in type size larger than the type size appearing in the terms of service.**

**(11) Customer contact information that includes the name of the EDC and EGS, and the EGS’s address, telephone number, Commission license number and Internet address, if available. The EGS’s information must appear first and be prominent.**

**(12) A statement that directs a customer to the Commission if the customer is not satisfied after discussing the terms of service with the EGS.**

**(13) The name and telephone number for universal service program information. ]**

**(11) An explanation of limits on price variability, penalties, fees or exceptions, printed in type size larger than the type size appearing in the terms of service. Penalties and fees must be disclosed in actual dollars or a specific method for determining the actual dollars must be disclosed. This explanation must include a statement advising the customer that the customer will not be subject to any penalty or fee if the customer terminates the contract at any time between the date the initial notice required under § 54.10 (relating to notice of contract expiration or change in terms for residential and small business customers) is issued and the expiration of the fixed duration contract.**

**(12) Customer contact information that includes the name of the EGS, the EGS’s address, telephone number, Commission license number and Internet address, if available.**

**(13) A statement providing that information about shopping for an electric supplier is available at [www.PaPowerSwitch.com](http://www.PaPowerSwitch.com) or other successor media platform as determined by the Commission, by calling the Commission at (800) 692-7380 and at [www.oca.state.pa.us](http://www.oca.state.pa.us).**

(14) For contracts with variable pricing, the EGS must provide:

(i) A telephone number and Internet address at which a customer may obtain the previous 24 months' average monthly billed prices for that customer's rate class and EDC service territory. If an EGS has not been providing generation service in a rate class and EDC service territory for 24 months, the EGS shall provide the average monthly billed prices for the months available to date. **If price history or representative price information is not available for the product, the EGS shall inform the customer of this fact.**

(ii) In plain language, a statement that historical pricing is not indicative of present or future pricing.

(d) Customers shall be provided a 3-day right of rescission period following receipt of the disclosure statement.

(1) The 3-day right of rescission is 3 business days.

(2) The 3-day right of rescission begins when the customer receives the written disclosure.

(3) The customer may cancel in writing, orally or electronically, if available.

(4) Waivers of the 3-day right of rescission are not permitted.

(e) **[ Definitions for generation charges and transmission charges, if applicable, are required and shall be defined in accordance with the "Common Electric Competition Terms." Definitions for each of the nonbasic services, if applicable, are required. The definition section of the bill must be distinctly separate. ] Definitions for generation charges and transmission charges, if applicable, are required on electric disclosure statements and must be defined in accordance with the glossary posted at www.PaPowerSwitch.com or other successor media platform as determined by the Commission. Definitions for each of the basic and nonbasic services, if applicable, are required. The definition section of the disclosure statement must be distinctly separate.**

(f) The EGS shall include in the customer's disclosure statement the following statements which may appear together in a paragraph:

(1) "Generation prices and charges are set by the electric generation supplier you have chosen."

(2) "The Public Utility Commission regulates distribution prices and services."

(3) "The Federal Energy Regulatory Commission regulates transmission prices and services."

(g) Disclosure statements must include **one of** the following customer **[ notification ] notifications**:

**(1) Disclosure statements for fixed duration contracts must include the following customer notification: "If you have a fixed [ term ] duration contract approaching the expiration date, or whenever we propose to change the terms of service in any type of contract, you will receive two separate written notifications that precede either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward."**

**(2) Disclosure statements for nonfixed duration contracts must include the following customer notification: "Whenever we propose to change the terms of service in any type of contract, you will**

**receive two separate written notifications that precede either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward."**

(h) If the default service provider changes, the new default service provider shall notify customers of that change, and provide customers with its name, address, telephone number and Internet address, if available.

(i) The EGS shall provide, with the disclosure statement, a separate EGS contract summary in a format provided by the Commission.

**(j) If the contract is assignable, the EGS shall inform the customer at the time the parties enter into the contract. Prior to a contract assignment, the EGS shall provide notice to the affected customer, the affected EDC and the Commission. The customer notice must include the name of the new EGS, the contact information for the new EGS and language informing the customer that contract terms and conditions remain unchanged.**

**(k) If the EGS intends on obtaining customer account information from the EDC, the EGS shall inform the customer what type of information may be obtained, the purpose for obtaining this information and inform the customer that they are consenting by entering into this contract. The EGS shall also inform the customer that the EGS will maintain the confidentiality of a customer's personal information including the customer's name, address, telephone number, electric usage and historic payment information as required by applicable Commission regulations and Federal and State laws.**

#### § 54.7. Marketing/sales activities.

(a) Advertised prices **[ shall ] must** reflect prices in disclosure statements and billed prices.

**[ (b) Marketing materials that offer terms of service for acceptance by consumers shall include prices, as follows:**

**(1) If using a fixed price, the EGS shall show in a table the price per kWh for an average customer using 500, 1,000 or 2,000 kWh of electricity.**

**(2) If using a variable price mechanism, the EGS shall factor in all costs associated with the rate charged to the customer, and show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format.**

**(3) The EGS shall note the effective date of the prices shown in the table provided under paragraph (1) or (2). ]**

**(b) If the unit price changes based on customer usage or includes fees in addition to unit prices, marketing materials, including contract summaries, that offer terms of service for acceptance by consumers must include prices, as follows:**

**(1) The EGS shall factor in all costs associated with the rate charged to the customer, and show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format.**

**(2) The EGS shall note the effective date of the prices shown in the table.**

(c) Advertising materials targeted for residential and small business sales shall be made available upon request of the Commission in the event of a formal or informal complaint or investigation.

**§ 54.10. Notice of contract expiration or change in terms for residential and small business customers.**

An EGS shall provide the following notices to customers prior to the expiration of a fixed **[ term ] duration** contract or prior to a change in contract terms:

(1) An initial notice shall be provided to each affected customer 45 to 60 days prior to the expiration date of the fixed **[ term ] duration** contract or the effective date of the proposed change in terms. For customers who have elected to receive electronic communications from the EGS, the notice shall be transmitted in the manner chosen by the customer. The initial notice must include:

(i) A general description of the proposed change in terms of service.

(ii) The date a change shall be effective or when the fixed **[ term ] duration** contract is to expire.

(iii) An explanation of why a change in contract terms is necessary.

(iv) A statement indicating when a follow-up options notice shall be issued with details regarding the proposed change.

(v) A statement explaining that the options notice must discuss the customer's options to the proposed change in terms of service or expiring fixed **[ term ] duration** contract.

(vi) A statement indicating whether the existing fixed **[ term ] duration** contract has a cancellation fee, and an explanation **[ of the fee amount and how to avoid the fee, if possible, including notice of the date when the customer can choose a different product from the customer's existing EGS, choose an alternative EGS or return to default service ] that the customer is not subject to the cancellation fee if the customer terminates the contract at any time between the date of the initial notice and the expiration date of the fixed duration contract.**

(2) An options notice shall be provided, by first class mail, to each affected customer at least 30 days prior to the expiration date of the fixed **[ term ] duration** contract or the effective date of the proposed change in terms. The options notice must include:

(i) A statement advising the customer of the specific changes being proposed by the EGS and informing the customer of how to exercise the customer's options, including the customer's ability to accept the proposed changes, to choose another product offering from the customer's existing EGS, to select another EGS or to return to default service.

(ii) Information regarding new pricing or renewal pricing including the price to be charged, per kilowatt-hour, for the first billing cycle of generation service:

(A) If a customer fails to respond to the options notice and is converted to a month-to-month contract, the EGS shall provide a disclosure statement under § 54.5 (relating to disclosure statement for residential and small business customers).

(I) Notice of a subsequent change in pricing shall be provided to the customer at least 30 days prior to the new price being charged.

(II) For customers who have elected to receive electronic communications from the EGS, notice of the change in pricing shall be transmitted in the manner chosen by the customer. For all other customers, notice shall be provided by first class mail.

(B) If a customer fails to respond to the options notice and is entered into a new fixed **[ term ] duration** contract, the EGS shall provide the fixed, per kilowatt-hour price to be charged and term length of the contract.

(iii) The telephone numbers and Internet addresses, as applicable, for the Office of Consumer Advocate, the Commission and PaPowerSwitch.com.

(iv) Language clearly visible on the front of the envelope used to provide the options notice stating that it contains important information regarding the expiration or changes in terms of the customer's electric supply contract.

(3) When a customer fails to respond to either notice, the following apply:

(i) A fixed **[ term ] duration** contract shall be converted to one of the following:

(A) A month-to-month contract, either at the same terms and conditions or at revised terms and conditions, as long as the contract does not contain cancellation fees.

(B) Another fixed **[ term ] duration** contract, as long as the new contract includes a customer-initiated cancellation provision that allows the customer to cancel at any time, for any reason, and does not contain cancellation fees.

(ii) The converted contracts shall remain in place until the customer chooses one of the following options:

(A) Select another product offering from the existing EGS.

(B) Enroll with another EGS.

(C) Return to the default service provider.

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