STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
RHODE ISLAND DIVISION OF PUBLIC UTILITIES AND CARRIERS
Notice of Public Hearing

The Rhode Island Division of Public Utilities and Carriers ("Division") has under consideration a proposed ACCESS TO PUBLIC RECORDS REGULATION. The proposed regulation is promulgated in accordance with Section 38-2-1 and Chapter 42-35 of the General Laws of Rhode Island, as amended, and sets forth the specific rules and procedures applicable to access to public records maintained by the Division.

Notice is hereby given in accordance with the provisions of Chapter 42-35 of the Rhode Island General Laws, as amended, that a public hearing on the above proposed regulation shall be held on **May 3, 2010** at **10:00 a.m.** in Hearing Room A at the Division's offices at 89 Jefferson Boulevard, Warwick, Rhode Island, at which time and place all persons interested will be heard.

In the development of the proposed regulation, consideration was given to the following: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business, as defined in Chapter 42-35 of the Rhode Island General Laws, as amended, which the Division believes will not result from this regulation. No alternative approach or duplication or overlap was identified based upon available information.

Copies of the proposed regulation is available for public inspection at the offices of Division, 89 Jefferson Boulevard, Warwick, RI 02888, or by calling Mr. Thomas Kogut, Division Rules and Regulation Coordinator, or by sending an email to: TKogut@ripuc.state.ri.us. In conformance with Section 42-35-2.3 of the General Laws of Rhode Island, copies of a concise summary of the regulation being proposed are available upon request.

For the sake of accuracy, it is requested that statements made relative to any aspect of the regulation, including alternative approaches, overlap, or significant economic impact, be submitted in writing at the time of the hearing, emailed or mailed prior to the hearing date to: John Spirito, Esq., Chief Legal Counsel, Division of Rhode Island Public Utilities and Carriers, 89 Jefferson Boulevard, Warwick, RI 02888. Oral statements made at the public hearing will be considered, but should be limited to five minutes each.

Hearing Room A is accessible to individuals with disabilities. Individuals requesting interpreter services for the hearing impaired must call Ms. Luly Massaro, Division Clerk, at 941-4500, ext. 107 at least forty-eight (48) hours in advance of the hearing date.

Signed this 26th day of March, 2010

_____

Thomas F. Ahern

Administrator

RHODE ISLAND Division of Public Utilities and Carriers

ACCESS TO PUBLIC RECORDS REGULATION

Concise Explanatory Statement Pursuant to RIGL § 42-35-2.3

The Rhode Island Division of Public Utilities and Carriers ("Division") has proposed this Regulation to set forth the specific rules and procedures applicable to access to public records maintained by the Division. The Division recognizes both the public's right to access public records and the individual's right to dignity and privacy. It is the Division's policy to facilitate public access to all public records that may be disclosed in accordance with R.I. Gen. Laws § 38-2-1, *et seq*. It is also the policy of the Division to make all public records in the Division's possession available for public inspection and copying consistent with applicable State or federal law, unless otherwise prohibited by a court of competent jurisdiction.

State of Rhode Island and Providence Plantations
Division of Public Utilities and Carriers ("Division")
89 Jefferson Boulevard
Warwick, Rhode Island 02888

ACCESS TO PUBLIC RECORDS REGULATION

Table of Contents

Section 1 Authority
Section 2 Purposes
Section 3 Policy
Section 4 Procedure for Requesting Public Records
Section 5 Hours of Inspection
Section 6 Fees
Section 7 Supervision of Inspections
Section 8 Severability
Exhibit A Request Form (Use optional)
Exhibit B Department's Response Form

Section 1 *Authority*

This Regulation is promulgated pursuant to R.I. Gen. Laws § 38-2-1, *et seq. ("Access to Public Records")* and § 42-35-2(a).

Section 2 *Purposes*

The Purposes of this Regulation are:

(1) To establish a Regulation to implement R.I. Gen. Laws § 38-2-1, *et seq.* and § 42-35-2(a) relating to access to public records maintained by the Division.

(2) To identify and delineate categories of records exempt from disclosure; and

(3) To provide the public and Division personnel with a Regulation that sets forth the rules and procedures applicable to access public records maintained by the Division.

Section 3 *Policy*

The Division recognizes both the public's right to access public records and the individual's right to dignity and privacy. It is the Division's policy to facilitate public access to all public records that may be disclosed in accordance with R.I. Gen. Laws § 38-2-1, *et seq*. It is also the policy of the Division to make all public records in the Division's possession available for public inspection and copying consistent with applicable State or federal law, unless otherwise prohibited by a court of competent jurisdiction.

Section 4 ***Procedure for Requesting Public Records***

(1) Except as provided in subsection (5) below, a written request to inspect or copy public records should be sent to the Division's Clerk or, in the alternative, to the Division's Department of Legal Services at the address listed above. Written requests may be mailed, hand delivered, e-mailed or sent via facsimile. Hand delivered requests may be made during the Division's regular business hours. It is suggested, but not required, that requests be submitted on the form provided by the Division, a copy of which is attached hereto as Exhibit A and titled "Request to Inspect and/or Copy Public Records". In order to assure that the Division is able to respond to the request as efficiently and as completely as possible, the request should identify and describe the records being requested with as much specificity as possible. A written record of all requests will be maintained by the Division's Clerk.

(2) If the description of records being requested is not sufficient to allow the Division to identify and locate the requested records, the Division will notify the person requesting such records that additional information is needed in order to properly respond to the request.

(3) Upon receipt of a request for records, the Division will mark on the face of a written request the date the request was received. The Division will make every reasonable effort to honor the request within ten (10) business days of receipt of the written request.

(4) If it appears that the request can not be honored within ten (10) business days of receipt, the Division will use its best efforts to notify the requester of the status of the request within ten (10) business days. For good cause, the time to respond to the request may be extended for a period not to exceed thirty (30) business days, inclusive of the original ten (10) business days.

(5) A written request is not required to be submitted when the request is for any of the following: (i) documents prepared for or readily available to the public; (ii) rules and written statements of policy or

interpretations formulated, adopted, or used by the agency; or (iii) final orders, decisions, and opinions.

Section 5 ***Hours of Inspections***

When a request is made to inspect public records (as opposed to obtain copies), the requester will be advised when the records are available and he/she can then make an appointment to inspect those documents at the Division between the hours of 8:30 a.m. and 3:30 p.m. Monday through Friday. The time frame for the Division to respond to requests to inspect public records is the same as the time frame applicable to responding to requests for copies of public records as set forth above in Section (4) above.

Section 6 ***Fees***

(1) Official publications which the Division prepares in the discharge of its duties to inform the public on matters of public interest will be furnished free of charge when available.

(2) The Division will supply one (1) copy of any of its Rules and Regulations to an individual requesting them free of charge. Rules and Regulations of the Division are on file at the Office of the Secretary of State and certified copies thereof may be obtained from that office. Rules and Regulations of the Division are also available online from the Secretary of State's website as well as the Division's website.

(3) The Division charges a fee for copying and/or search and retrieval of requested documents consistent with applicable State law. The Division charges $0.15 per copied page; provided however, if the response to the request consists of twenty (20) or fewer copied pages, no fee will be charged. If the response to the request consists of more than twenty (20) copied pages, there will be a charge of $0.15 for each page. The Division will charge $15.00 per hour for the search and retrieval time required to respond to a request, whether the request seeks copies of records or the right to inspect records; provided however, there will be no charge for the first hour of search and retrieval time. The Division will provide the requester with an estimate of the copying costs and search and retrieval costs prior to responding to the request. The Division however, will charge the actual fees for the number of copies and the actual cost for search and retrieval time if those are more or less than estimated. The Division reserves the right to require a deposit of the estimated costs if the estimated costs are $50.00 or more.

(4) The cost of copying and search and retrieval as provided in subsection (3) above must be paid in advance of or at the time of delivery or inspection of the requested documents.

(5) Division personnel or, where applicable an outside copy service, will make copies of requested records. The Division does not have a copy machine available for use by the public to make copies.

(6) The Division may utilize the form attached hereto as Exhibit B ("Response to Request to Inspect and/or Copy Public Records") to respond to a request; provided however, in some instances it may be appropriate for the Division to write a letter addressed to the requester setting forth such additional information as deemed appropriate under the circumstances.

Section 7 ***Supervision of Inspections***

(1) The inspection of public records must be accomplished in a manner which will provide for general supervision by authorized Division staff. This is necessary to prevent the misplacement or unauthorized removal of records or any other action which may impair the integrity of the public record.

(2) The Division's Clerk shall have overall responsibility for the security of the public record. However, the Division Clerk may seek assistance from a staff member(s) to coordinate the functions and responsibilities related to the copying and inspection of public records.

(3) All Division personnel assisting in responding to requests for access to public records shall be made aware by their supervisors, of the provisions of this regulation and the procedures to be followed when an access to public records request is made. Division personnel having any questions regarding the procedures to be followed should direct inquiries to: The Division Clerk or the Division's Chief Legal Counsel.

Section 8 ***Severability***

If any provision of this Regulation or the application thereof to any individual or circumstances is held invalid, such invalidity shall not affect the provisions or application of the remaining portions of the regulation which can be given effect. The provisions of these rules and regulations are declared to be severable.

EFFECTIVE DATE:

Signed this _____th day of March, 2010

_____

Thomas F. Ahern
Administrator

EXHIBIT A

REQUEST TO INSPECT AND/OR COPY PUBLIC RECORDS
OF THE
RHODE ISLAND DIVISION OF PUBLIC UTILITIES AND CARRIERS ("Division")
PURSUANT TO R.I. Gen. Laws § 38-2-1 *et seq.*

Complete this form, sign and return to:
Rhode Island Division of Public Utilities and Carriers
ATTN: Division Clerk
89 Jefferson Boulevard
Warwick, Rhode Island 02888
Telephone number: 401-941-4500 Facsimile number: 401-941-1691

NAME OF REQUESTER: _____

ADDRESS OF REQUESTER: _____

_____

TELEPHONE NO. OF REQUESTER: _____

EMAIL: _____ FAX. NO.: _____

TITLE AND/OR DESCRIPTION OF DOCUMENT(S) REQUESTED TO BE INSPECTED_____ OR COPIED _____:
Please be as specific and descriptive as possible to assure that the Division will be able to respond to your request as efficiently and as completely as possible.

_____
_____
_____
_____

FORMAT REQUESTED:
PAPER: _____ FAX: _____ EMAIL (if available)_____

NAME AND TITLE OF PERSON OR DIVISION WITHIN THE DIVISION HAVING POSSESSION OF DOCUMENT(S), IF KNOWN:

_____

Copies of any document(s) are fifteen ($.15) cents per page (or the actual reproduction cost of paper larger than 8 ½" x 14"), plus an hourly charge of fifteen ($15.00) dollars per hour for search retrieval. There is no charge if the total number of pages is twenty (20) pages or fewer. There is no charge for the first hour of search and retrieval.

Materials requested ARE_____ARE NOT_____sought for the purpose of pending litigation involving the Division or the State of Rhode Island.

_____ _____
Date Signature of Person Making Request

EXHIBIT B

RESPONSE TO REQUEST TO INSPECT AND/OR COPY PUBLIC RECORDS OF THE RHODE ISLAND DIVISION OF PUBLIC UTILITIES AND CARRIERS ("Division") PURSUANT TO R.I. Gen. Laws § 38-2-1 *et seq.*

Dear _____:

On _____ the Division received your Request to Inspect and/or Copy Public Records Pursuant to R.I. Gen. Laws § 38-2-1 *et seq.* A copy of your request is attached.

A. RESPONSE TO REQUEST:

☐ GRANTED

☐ DENIED/DENIED IN PART because the following record(s) which were requested are exempt from disclosure pursuant to the following provisions of law:

_____

☐ NO SUCH DOCUMENT(S) EXIST IN THE DIVISION'S RECORDS

B. PROCEDURE TO INSPECT/OBTAIN COPIES OF PUBLIC RECORDS BEING RELEASED PURSUANT TO SECTION A ABOVE:

☐ A copy of the requested records will be mailed to you (or you may call to make an appointment to pick up the records during the Division's normal business hours) upon the Division's receipt of payment of $ _____ representing the copying costs i.e. $_____ and/or search and retrieval fees i.e. $ _____ pursuant to R.I. Gen. Laws § 38-2-4. Please forward payment to the address listed below.

☐ A copy of the requested records is enclosed. (Because the number of copied pages was twenty (20) or fewer pages and there were no search and/or retrieval fees there were no fees associated with the Division's response to your request.)

☐ The requested records are available for inspection between the hours of 8:30 a.m. and 3:30 p.m. Monday through Friday, at the address specified below. Please call to arrange an appointment. The search and retrieval costs associated with the request to inspect is $_____. That amount is payable at the time of the appointment to inspect the records.

☐ Not Applicable.

C. If your request, or any part thereof, is denied, you have the right to appeal to the Division's chief administrative officer. If your appeal is denied, you have the right to appeal to the Attorney General or the Superior Court.

DATED: _____

SIGNATURE: _____

Checks should be made out to "General Treasurer, State of Rhode Island"
Mail or Hand deliver Checks to:

Rhode Island Division of Public Utilities and Carriers
ATTN: Division Clerk
89 Jefferson Boulevard
Warwick, Rhode Island 02888

NOTE: When mailing a check to pay for copying and/or retrieval costs, kindly make reference to your particular record request so that the Division may properly credit the payment to your specific request for records.