

52 Pa. Code § 54.5.

Disclosure statement for residential and small business customers.

FAQ : Frequently Asked Questions

<http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/052/chapter54/s54.5.html&d=reduce>

QUESTION ONE:

Do these rules apply to brokers?

RESPONSE: The supplier that ultimately serves the customer (provides the actual electric generation service) is the entity obligated to provide a disclosure.

QUESTION TWO:

Do these rules apply to commercial customers?

RESPONSE: These rules apply to *residential* and *small business customers*. Applicability is addressed at 52 Pa. Code 54.1:

§ 54.1. Purpose.

(a) The purpose of this subchapter is to require that electricity providers enable customers to make informed choices regarding the purchase of electricity services offered by providing adequate and accurate customer information. Information shall be provided to customers in an understandable format that enables customers to compare prices and services on a uniform basis.

(b) As to the scope of this subchapter, this section and § § 54.2—54.3 apply to all customers, including large commercial and industrial customers. Sections 54.4—54.9 apply only to residential and small business customers, as the term is defined in § 54.2 (relating to definitions).

<http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/052/chapter54/s54.1.html&d=reduce>

Small business customer is defined at 52 Pa. Code 54.2:

Small business customer—The term refers to a person, sole proprietorship, partnership, corporation, association or other business entity that receives electric service under a small commercial, small industrial or small business rate classification, and whose maximum registered peak load was less than 25 kW within the last 12 months.

<http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/052/chapter54/s54.2.html&d=reduce>

We have no regulations specifically addressing contracts for large commercial customers (other than the general requirements that apply to all customers as found in the licensee code of conduct at 52

<http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/052/chapter62/s62.114.html&d=reduce> .

QUESTION THREE:

Is the table showing the price per kWh at three different usage levels required on all disclosures?

Usage:	500 kWh	1,000 kWh	2,000 kWh
Price per kWh:	X.XX cents	X.XX cents	X.XX cents

RESPONSE: No, the table is only required when:

- The price-per-kWh changes depending upon usage (such as a declining or inclining block rate structure). See 52 Pa. Code 54.5(c)(4).
- There is an add-on fee in addition to the price-per-kWh (such as monthly fees, enrollment fees, subscription fees, etc.). See 52 Pa. Code 54.5(c)(4).

(4) If the unit price changes based on actual customer usage or if the offer 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, including any fees, and show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format. If the offer includes an introductory price, the disclosure statement must show the average price per kWh of the introductory price, including any fees, and the price offered after the introductory period, including any fees, in separate tables.

- Also, if the price is a fixed, flat amount that does not change based upon usage (such as \$XX.XX per month regardless of your usage, sometimes referred to as “unlimited” plans, etc.) – then the table is required – See 52 Pa. Code 54.5(4)(i):
 - (i) If the price is a fixed monthly amount, including any fees, that does not change based on actual customer usage, the disclosure statement must show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format.
- If the price varies depending upon when the customer uses the electricity (Time-of-Use product), then a table like the following is required, per See 52 Pa. Code 54.5(c)(4)(ii):

TIME:	8:00 am – 5:00 pm	5:00 pm – 9:00 pm	9:00 pm – 8:00 am
Price per kWh:	X.XX cents	X.XX cents	X.XX cents

(ii) If the price varies based on when the customer actually uses electricity, such as a time-of-use offer, the disclosure statement must show the price per kWh for each time period in table format.

- The price displayed in the table should be the price applicable to that specific customer.

QUESTION FOUR:

Are suppliers required to submit disclosures to the PUC for review and approval?

RESPONSE: PUC staff reviews disclosures at the time a supplier applies for a residential license. Once a supplier is licensed, review and approval of subsequent disclosure revisions is not required. Of course, any subsequent revisions must still conform to the regulation. Also, our Bureau of Consumer Services is available to provide informal reviews upon request - any supplier interested in an informal review should contact our Bureau of Consumer Services and/or the Office of Competitive Market Oversight (ra-ocmo@pa.gov).

A sample disclosure statement and contract summary is part of the supplier license application package at this weblink (see Appendix J):

https://www.puc.pa.gov/General/onlineforms/pdf/EGS_Lic_App.pdf

QUESTION FIVE:

Are there limits on the amount of early termination fees?

RESPONSE: There are no express limits on early termination fees. However, such fees must be disclosed in actual dollars or a specific method for determining the fee must be disclosed. Sufficient information should be provided to allow the customer to easily determine their potential exposure. See 52 Pa. Code 54.5(c)(11)

(11) An explanation of limits on price variability, penalties, fees or exceptions, printed in font size larger than the font size appearing in the terms of service, but not less than 12-point font. 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 a penalty or fee if the customer terminates the contract at any time

between the date the options notice required under § 54.10(2) (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.

QUESTION SIX:

What is the timeframe requirement for suppliers to get the disclosure statement to the new customer?

RESPONSE: There is no specific timeframe in 52 Pa Code 54.5. However, the clock on the customer's 3-day right of rescission (business days) does not start until the customer has received the disclosure. For more information on the sending and receipt of disclosures, see 52 Pa. Code 111.11: <http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/052/chapter111/s111.11.html&d=reduce>

§ 111.11. Receipt of disclosure statement and right to rescind transaction.

(a) When a transaction is completed by a customer without the presence of or interaction with an agent and is not submitted to the verification process, a supplier shall provide the customer with a copy of its disclosure statement as soon as it is practical. A customer shall have the right to rescind the transaction within 3 business days after receiving the disclosure statement. See § 54.5(d) (relating to disclosure statement for residential and small business customers), which applies to EGSs, and § 62.75(d) (relating to disclosure statement for residential and small business customers), which applies to NGSs.

(b) After a transaction that involved an agent has been completed and verified, a supplier shall provide the customer with a copy of its disclosure statement. The disclosure statement may be provided in-person or by United States mail. The disclosure statement may be provided electronically if the customer consents to electronic delivery. A customer shall have the right to rescind the transaction within 3 business days after receiving the disclosure statement.

(c) There shall be a rebuttable presumption that a disclosure statement correctly addressed to a customer with sufficient first class postage attached shall be received by the customer 3 days after it has been properly deposited in the United States mail. If delivered in-person, the disclosure will be considered received by the customer on the date of delivery. If delivered electronically, the disclosure will be considered received by the customer on the date it was transmitted electronically.

QUESTION SEVEN:

Can CAP (Customer Assistance Program) customers shop? If so – are their disclosure rules different?

RESPONSE: CAP shopping rules and procedures can vary by EDC – you should contact the EDC for more information. Regardless, there are not separate CAP-customer disclosure rules.

QUESTION EIGHT:

Does the disclosure statement have to be in writing?

RESPONSE: Yes, disclosures have to be in writing. However, they can be provided electronically upon customer consent (see response to Question 6 and 52 Pa. Code 111.11).

<http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/052/chapter111/s111.11.html&d=reduce>

QUESTION NINE:

Is the 3-day right of rescission “calendar” days or “business days”?

RESPONSE: Business days. See 52 Pa. Code 54.5(d):

(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.

QUESTION TEN:

Suppliers are required to provide the starting and ending dates of service – per 52 Pa. Code 54.5(c)(6). Are specific dates expected?

RESPONSE: No. Given current switching rules and procedures, it is not possible for the supplier to provide or promise a specific date. An approximation is acceptable.

QUESTION ELEVEN:

52 Pa. Code 54.5(j) requires suppliers to notify the Commission of any customer assignment to another supplier. Who at the Commission should this notice be directed to?

RESPONSE: Suppliers should send formal written notice to the Commission’s Secretary:

Public Utility Commission
Secretary Rosemary Chiavetta
400 North Street
Keystone Bldg.
Harrisburg, PA 17120

During the pandemic emergency, notices can be emailed to the Secretary: rchiavetta@pa.gov .
Please CC the Office of Competitive Market Oversight at ra-ocmo@pa.gov.

QUESTION TWELVE:

52 Pa. Code 54.5(i) requires a contract summary in a “format provided by the Commission.” Where do suppliers obtain this format from?

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

RESPONSE: A sample disclosure statement and contract summary are part of the supplier license application package at this weblink (see Appendix J):

https://www.puc.pa.gov/General/onlineforms/pdf/EGS_Lic_App.pdf

Contract summaries must conform to this format – with the items in the same order as found in the sample format.

QUESTION THIRTEEN:

Does the Final Order for the rulemaking offer additional explanation, and if so, how can I find it?

RESPONSE: Yes, the final rulemaking order regarding *Electricity Generation Customer Choice, 52 Pa. Code Chapter 54* from the Public Meeting of February 27, 2020 at Docket No. L-2017-2628991 provides guidance as to the application of these rules. This order is accessible on our website via numerous methods:

- OCMO webpage: <https://www.puc.pa.gov/electricity/retail-markets/office-of-competitive-market-oversight-ocmo/>
- Use the document search feature and the docket No. L-2017-2628991 (this will also produce all the documents related to this rulemaking). <https://www.puc.pa.gov/search/document-search/>
- These weblinks: <https://www.puc.pa.gov/pcdocs/1656106.docx>
<https://www.puc.pa.gov/docket/L-2017-2628991>

QUESTION FOURTEEN:

Is there consumer-oriented information concerning disclosure available?

RESPONSE: Yes, the PaPowerSwitch.com website has information:

<https://www.papowerswitch.com/your-rights-and-protections/#>

<https://www.papowerswitch.com/understanding-rates/#>

<https://www.papowerswitch.com/understanding-rates/fixed-and-variable-rates/#>

<https://www.papowerswitch.com/about-switching-electricity/#>

SOME OTHER THINGS TO NOTE:

- EGSs and NGSs that sell both electric and gas service to the same customer (a “bundled” service) must use disclosures that clearly differentiate between the two products. While very similar, the EGS and NGS regulations do differ to some extent. See the NGS disclosure rules at 52 Pa. Code 62.75:
(<http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/052/chapter62/s62.75.html&d=reduce>).
- A sample EGS disclosure and contract summary is available in the EGS application package posted on the Commission’s website:
<https://www.puc.pa.gov/electricity/electric-companies-suppliers/supplier-application-resources/>
https://www.puc.pa.gov/media/1208/egs_lic_app102020.pdf
- Questions about the disclosure rules can be directed to:
Office of Competitive Market Oversight: ra-ocmo@pa.gov

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