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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - PUBLIC UTILITIES COMMISSION

Introduced By: Senators Sosnowski, Conley, Walaska, Jabour, and DiPalma

Date Introduced: February 25, 2015

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-1-27.7 and 39-1-27.7.1 of the General Laws in Chapter 39-1
2 entitled "Public Utilities Commission" are hereby amended to read as follows:

3 **39-1-27.7. System reliability and least-cost procurement.** -- Least-cost procurement
4 shall comprise system reliability and energy efficiency and conservation procurement as provided
5 for in this section and supply procurement as provided for in § 39-1-27.8, as complementary but
6 distinct activities that have as common purpose meeting electrical and natural gas energy needs in
7 Rhode Island, in a manner that is optimally cost-effective, reliable, prudent and environmentally
8 responsible.

9 (a) The commission shall establish not later than June 1, 2008, standards for system
10 reliability and energy efficiency and conservation procurement, which shall include standards and
11 guidelines for:

12 (1) System reliability procurement, including but not limited to:

13 (i) Procurement of energy supply from diverse sources, including, but not limited to,
14 renewable energy resources as defined in chapter 26 of this title;

15 (ii) Distributed generation, including, but not limited to, renewable energy resources and
16 thermally leading combined heat and power systems, which is reliable and is cost-effective, with
17 measurable, net system benefits;

18 (iii) Demand response, including, but not limited to, distributed generation, back-up
19 generation and on-demand usage reduction, which shall be designed to facilitate electric customer

1 participation in regional demand response programs, including those administered by the
2 independent service operator of New England ("ISO-NE") and/or are designed to provide local
3 system reliability benefits through load control or using on-site generating capability;

4 (iv) To effectuate the purposes of this division, the commission may establish standards
5 and/or rates (A) for qualifying distributed generation, demand response, and renewable energy
6 resources; (B) for net-metering; (C) for back-up power and/or standby rates that reasonably
7 facilitate the development of distributed generation; and (D) for such other matters as the
8 commission may find necessary or appropriate.

9 (2) Least-cost procurement, which shall include procurement of energy efficiency and
10 energy conservation measures that are prudent and reliable and when such measures are lower
11 cost than acquisition of additional supply, including supply for periods of high demand.

12 (b) The standards and guidelines provided for by subsection (a) shall be subject to
13 periodic review and as appropriate amendment by the commission, which review will be
14 conducted not less frequently than every three (3) years after the adoption of the standards and
15 guidelines.

16 (c) To implement the provisions of this section:

17 (1) The commissioner of the office of energy resources and the energy efficiency and
18 resources management council, either or jointly or separately, shall provide the commission
19 findings and recommendations with regard to system reliability and energy efficiency and
20 conservation procurement on or before March 1, 2008, and triennially on or before March 1,
21 thereafter through March 1, 2017. The report shall be made public and be posted electronically on
22 the website to the office of energy resources.

23 (2) The commission shall issue standards not later than June 1, 2008, with regard to
24 plans for system reliability and energy efficiency and conservation procurement, which standards
25 may be amended or revised by the commission as necessary and/or appropriate.

26 (3) The energy efficiency and resources management council shall prepare by July 15,
27 2008, a reliability and efficiency procurement opportunity report which shall identify
28 opportunities to procure efficiency, distributed generation, demand response and renewables,
29 which report shall be submitted to the electrical distribution company, the commission, the office
30 of energy resources and the joint committee on energy.

31 (4) Each electrical and natural gas distribution company shall submit to the commission
32 on or before September 1, 2008, and triennially on or before September 1, thereafter through
33 September 1, 2017, a plan for system reliability and energy efficiency and conservation
34 procurement. In developing the plan, the distribution company may seek the advice of the

1 commissioner and the council. The plan shall include measurable goals and target percentages for
2 each energy resource, pursuant to standards established by the commission, including efficiency,
3 distributed generation, demand response, combined heat and power, and renewables. The plan
4 shall be made public and be posted electronically on the website to the office of energy resources,
5 and shall also be submitted to the general assembly.

6 (5) The commission shall issue an order approving all energy efficiency measures that
7 are cost effective and lower cost than acquisition of additional supply, with regard to the plan
8 from the electrical and natural gas distribution company, and reviewed and approved by the
9 energy efficiency and resources management council, and any related annual plans, and shall
10 approve a fully reconciling funding mechanism to fund investments in all efficiency measures
11 that are cost effective and lower cost than acquisition of additional supply, not greater than sixty
12 (60) days after it is filed with the commission.

13 (6) (i) Each electrical and natural gas distribution company shall provide a status report,
14 which shall be public, on the implementation of least cost procurement on or before December
15 15, 2008, and on or before February 1, 2009, to the commission, the division, the commissioner
16 of the office of energy resources and the energy efficiency and resources management council
17 which may provide the distribution company recommendations with regard to effective
18 implementation of least cost procurement. The report shall include the targets for each energy
19 resource included in the order approving the plan and the achieved percentage for energy
20 resource, including the achieved percentages for efficiency, distributed generation, demand
21 response, combined heat and power, and renewables as well as the current funding allocations for
22 each eligible energy resource and the businesses and vendors in Rhode Island participating in the
23 programs. The report shall be posted electronically on the website of the office of energy
24 resources.

25 (ii) Beginning on November 1, 2012 or before, each electric distribution company shall
26 support the installation and investment in clean and efficient combined heat and power
27 installations at commercial, institutional, municipal, and industrial facilities. This support shall be
28 documented annually in the electric distribution company's energy efficiency program plans. In
29 order to effectuate this provision, the energy efficiency and resource management council shall
30 seek input from the public, the gas and electric distribution company, the economic development
31 corporation, and commercial and industrial users, and make recommendations regarding services
32 to support the development of combined heat and power installations in the electric distribution
33 company's annual and triennial energy efficiency program plans.

34 (iii) The energy efficiency annual plan shall include, but not be limited to, a plan for

1 identifying and recruiting qualified combined heat and power projects, incentive levels, contract
2 terms and guidelines, and achievable megawatt targets for investments in combined heat and
3 power systems. In the development of the plan, the energy efficiency and resource management
4 council and the electric distribution company shall factor into the combined heat and power plan
5 and program, the following criteria: (A) Economic development benefits in Rhode Island,
6 including direct and indirect job creation and retention from investments in combined heat and
7 power systems; (B) Energy and cost savings for customers; (C) Energy supply costs; (D)
8 Greenhouse gas emissions standards and air quality benefits; and (E) System reliability benefits.

9 (iv) The energy efficiency and resource management council shall conduct at least one
10 public review meeting annually, to discuss and review the combined heat and power program,
11 with at least seven (7) business day's notice, prior to the electric and gas distribution utility
12 submitting the plan to the commission. The commission shall evaluate the submitted combined
13 heat and power program as part of the annual energy efficiency plan. The commission shall issue
14 an order approving the energy efficiency plan and programs within sixty (60) days of the filing.

15 (d) If the commission shall determine that the implementation of system reliability and
16 energy efficiency and conservation procurement has caused or is likely to cause under or over-
17 recovery of overhead and fixed costs of the company implementing said procurement, the
18 commission may establish a mandatory rate adjustment clause for the company so affected in
19 order to provide for full recovery of reasonable and prudent overhead and fixed costs.

20 (e) The commission shall conduct a contested case proceeding to establish a performance
21 based incentive plan which allows for additional compensation for each electric distribution
22 company and each company providing gas to end-users and/or retail customers based on the level
23 of its success in mitigating the cost and variability of electric and gas services through
24 procurement portfolios: provided, however, that such additional compensation shall not exceed
25 two percent (2%) of total funding provided for in subsection (c)(5) of this section.

26 **39-1-27.7.1. Revenue decoupling.** -- (a) The general assembly finds and declares that
27 electricity and gas revenues shall be fully decoupled from sales pursuant to the provisions of this
28 chapter and further finds and declares that any decoupling proposal submitted by an electric
29 distribution company as defined in subdivision 39-1-2(12) or gas distribution company included
30 as a public utility in subdivision 39-1-2(20) that has greater than one hundred thousand (100,000)
31 customers, shall be for the following purposes:

32 (1) Increasing efficiency in the operations and management of the electric and gas
33 distribution system;

34 (2) Achieving the goals established in the electric distribution company's plan for system

1 reliability and energy efficiency and conservation procurement as required pursuant to subsection
2 39-1-27.7(c);

3 (3) Increasing investment in least-cost resources that will reduce long-term electricity
4 demand;

5 (4) Reducing risks for both customers and the distribution company including, but not
6 limited to, societal risks, weather risks and economic risks;

7 (5) Increasing investment in end-use energy efficiency;

8 (6) Eliminating disincentives to support energy efficiency programs;

9 (7) Facilitating and encouraging investment in utility infrastructure, safety, and
10 reliability; and

11 (8) Considering the reduction of fixed, recurring customer charges and transition to
12 increased unit charges that more accurately reflect the long-term costs of energy production and
13 delivery.

14 (b) Each electric distribution company as defined by subdivision 39-1-2(12) and gas
15 distribution company included as a public utility in subdivision 39-1-2(20) having greater than
16 one hundred thousand (100,000) customers shall file proposals at the commission to implement
17 the policy set forth in subsection (a) herein. The commission shall approve such proposals,
18 provided they contain the features and components set forth in subsection (c) herein, and that they
19 are consistent with the intent and objectives contained in subsection (a) herein. ~~The existence of~~
20 ~~any of the ratemaking mechanisms set forth in this section shall not be relied upon or cited for the~~
21 ~~purpose of making any adjustments in the determination of the distribution company's cost of~~
22 ~~capital.~~ Actions taken by the commission in the exercise of its ratemaking authority for electric
23 and gas rate cases shall be within the norm of industry standards ~~and recognize the need to~~
24 ~~maintain the financial health of the distribution company as a stand-alone entity in Rhode Island~~
25 and shall consider the existence of other financial remuneration or shareholder incentives.

26 (c) The proposals shall contain the following features and components:

27 (1) A revenue decoupling reconciliation mechanism that reconciles annually the revenue
28 requirement allowed in the company's base distribution rate case to revenues actually received for
29 the applicable twelve (12) month period, provided that the mechanism for gas distribution shall
30 be determined on a revenue per-customer basis, in a manner typically employed for gas
31 distribution companies in the industry. Any revenues over-recovered or under-recovered shall be
32 credited to or recovered from customers, as applicable; and

33 (2) An annual infrastructure, safety and reliability spending plan for each fiscal year and
34 an annual rate reconciliation mechanism that includes a reconcilable allowance for the anticipated

1 capital investments and other spending pursuant to the annual pre-approved budget as developed
2 in accordance with subsection (d) herein.

3 (d) Prior to the beginning of each fiscal year, gas and electric distribution companies
4 shall consult with the division of public utilities and carriers regarding its infrastructure, safety,
5 and reliability spending plan for the following fiscal year, addressing the following categories:

6 (1) Capital spending on utility infrastructure;

7 (2) For electric distribution companies, operation and maintenance expenses on
8 vegetation management;

9 (3) For electric distribution companies, operation and maintenance expenses on system
10 inspection, including expenses from expected resulting repairs; and

11 (4) Any other costs relating to maintaining safety and reliability that are mutually agreed
12 upon by the division and the company.

13 The distribution company shall submit a plan to the division and the division shall
14 cooperate in good faith to reach an agreement on a proposed plan for these categories of costs for
15 the prospective fiscal year within sixty (60) days. To the extent that the company and the division
16 mutually agree on a plan, such plan shall be filed with the commission for review and approval
17 within ninety (90) days. If the company and the division cannot agree on a plan, the company
18 shall file a proposed plan with the commission and the commission shall review and, if the
19 investments and spending are found to be reasonably needed to maintain safe and reliable
20 distribution service over the short and long-term, approve the plan within ninety (90) days.

21 (e) The commission shall have the following duties and powers in addition to its existing
22 authorities established in title 39 of the general laws:

23 (1) To maintain reasonable and adequate service quality standards, after decoupling, that
24 are in effect at the time of the proposal and were established pursuant to § 39-3-7.

25 (2) The commission may exclude the low income rate class from the revenue decoupling
26 reconciliation rate mechanism for either electric or gas distribution. The commission also may
27 exclude customers in the large commercial and industrial rate class from the gas distribution
28 mechanism.

29 (3) The commission may adopt performance incentives for the electric distribution
30 company that provides a shared savings mechanism whereby the company would receive a
31 percentage of savings realized as a result of achieving the purposes of this section while the
32 remaining savings are credited to customers.

33 (4) The commission shall review and approve with any necessary amendments
34 performance-based energy savings targets developed and submitted by the Rhode Island energy

1 efficiency and resources management council. Said performance-based targets shall also be used
2 as a consideration in any shared savings mechanism established by the commission pursuant to
3 subdivision (3) herein.

4 (f) The Rhode Island energy efficiency and resources management council shall propose
5 performance-based energy savings targets to the commission no later than September 1, 2010.
6 The targets shall include, but not be limited to, specific energy kilowatt hour savings overall and
7 peak demand savings for both summer and winter peak periods expressed in total megawatts as
8 well as appropriate targets recommended in the opportunities report filed with the commission
9 pursuant to subdivision 39-2-27.7(c)(3). The council shall revise as necessary these targets on an
10 annual basis prior to the reconciliation process established pursuant to subsection (c) of this
11 section and submit its revisions to the commission for approval.

12 (g) Reporting. - Every electric distribution company as defined in subsection (a) herein
13 shall report to the governor, general assembly, division of public utilities and public utilities
14 commission on or before September 1, 2012. Said report shall include, but not be limited to, the
15 following elements:

16 (1) A comparison of revenues from traditional rate regulation and how the revenues have
17 differed as part of an approved decoupling structure;

18 (2) A summary of how the company is achieving the performance-based targets that may
19 have been adopted pursuant to subdivision (e)(4);

20 (3) A summary of any shared savings the company may have received pursuant to the
21 performance incentives authorized in subdivision (e)(3);

22 (4) A summary of how the company is achieving the service quality standards required
23 in subdivision (e)(1);

24 (5) An overview of how decoupling is impacting revenue stabilization goals that have
25 resulted from decoupling; and

26 (6) A summary of any customer education programs provided.

27 SECTION 2. Section 39-26.6-12 of the General Laws in Chapter 39-26.6 entitled "The
28 Renewable Energy Growth Program" is hereby amended to read as follows:

29 **39-26.6-12. Annual bidding and enrollments.** -- (a) With the exception of the first
30 program year (2015), the electric-distribution company, in consultation with the board and office,
31 shall conduct at least three (3) tariff enrollments for each distributed-generation class each
32 program year. For the first program year, the board may recommend that either two (2) or three
33 (3) enrollments be conducted.

34 (b) During each program year, the tariff enrollments shall have both an annual targeted

1 amount of nameplate megawatts ("annual MW target") and a nameplate megawatt target for each
2 separate enrollment event ("enrollment MW target"). The enrollment MW target shall comprise
3 the specific portion of the annual MW target sought to be obtained in that enrollment. The
4 enrollment MW targets shall be recommended by the board each year, subject to commission
5 approval. The board shall also recommend a megawatt target for each class ("class MW target")
6 that comprises a specified portion of the enrollment MW target, subject to commission approval.
7 If the electric-distribution company, the office, and the board mutually agree, they may reallocate
8 megawatts during an enrollment from one class to another without commission approval if there
9 is an over-subscription in one class and an under-subscription in another, provided that the annual
10 MW Target is not being exceeded, except as provided in § 39-26.6-7.

11 (c) The annual MW targets shall be established as follows; provided, however that at
12 least three megawatts (3 MW) of nameplate capacity shall be carved out exclusively for small-
13 scale solar projects in each of the first four (4) program years:

14 (1) For the first program year (2015), the annual MW target shall be twenty-five (25)
15 nameplate megawatts;

16 (2) For the second program year, the annual targets shall be forty (40) nameplate
17 megawatts;

18 (3) For the third and fourth program years, the annual target shall be forty (40)
19 nameplate megawatts, subject to the conditions set forth in § 39-26.6-12(f) having been met for
20 the applicable prior program year as determined in the manner specified in § 39-26.6-12(g); and

21 (4) For the fifth program year, the annual target shall be set to obtain the balance of
22 capacity needed to achieve one hundred sixty (160) nameplate megawatts within the five-year (5)
23 distributed-generation growth program, subject to § 39-26.6-12(e) and the conditions set forth in
24 § 39-26.6-12(f) having been met for the fourth program year as determined in the manner
25 specified in § 39-26.6-12(g).

26 (d) During the fifth year of the distributed-generation growth program, the board may
27 recommend to the commission an extension of time in the event that additional time is required to
28 achieve the full one hundred sixty (160) nameplate megawatt target of the program. The
29 commission shall approve the recommendation of the board; provided, however, that the
30 commission may make any modifications to the board's recommendation that the commission
31 deems appropriate, consistent with the legislative purposes of this chapter as set forth herein.

32 (e) To the extent there was a shortfall of capacity procured under chapter 26.2 of title 39
33 from distributed generation procurements in 2014, such shortfall amount may be added to the one
34 hundred sixty megawatt (160MW) target for acquisition in the fifth program year under this

1 chapter. In no event shall the electric distribution company be required to exceed the aggregate
2 amount of one hundred sixty (160) nameplate capacity plus any such shortfall amount over the
3 five (5) years, but may do so voluntarily, in consultation with the board and subject to
4 commission approval.

5 (f) The conditions specified in subsections (c)(3) and (c)(4) of this section are as follows:

6 (1) That it is reasonable to conclude that the bid prices submitted in the procurements for the
7 large-scale solar and commercial-scale solar classes were reasonably competitive in the
8 immediately preceding program year; (2) That it is reasonable to conclude that the annual MW
9 target specified for the next program year is reasonably achievable; and (3) That the electric-
10 distribution company was able to, or with reasonably prudent efforts should have been able to,
11 perform the studies and system upgrades on a timely basis necessary to accommodate the number
12 of applications associated with the targets without materially adversely affecting other electric-
13 distribution construction projects needed to provide reliable and safe electric-distribution service.
14 To the extent the board or the commission concludes that any of these conditions have not been
15 met for the applicable program year, the board may recommend, and/or the commission may
16 adopt, a new annual MW target, based on the factors set forth in section 39-26.6-12(h).

17 (g) Before the third, fourth, and fifth program years, each year the board shall review the
18 conditions specified in § 39-26.6-12(f) and make a recommendation to the commission for
19 findings as to whether they have been met for the applicable year. The recommendation shall be
20 filed with the commission, with copies to the office and the electric distribution company, and
21 any person who has made a written request to the commission to be included in such notification,
22 such list which may be obtained from the commission clerk, and a notice of such filing shall be
23 posted by the commission on its website. If no party files an objection to the recommended
24 findings within ten (10) business days of the posting, the commission may accept them without
25 hearings. If an objection is filed with a reasonable explanation for its basis, the commission shall
26 hold hearings and make the factual determination of whether the conditions have been met.

27 (h) In the event that the conditions in § 39-26.6-12(f) have not been met for any program
28 year, then the board and the commission shall take into account the factors set forth below in
29 setting the annual MW target for the following year. In addition, for every program year the board
30 and the commission shall take into account these factors in setting the class MW targets, and the
31 enrollment MW targets for the following year: (1) That the new annual, class, and enrollment
32 levels reasonably assure that competition among projects for the applicable bidding
33 classifications remains robust and likely to yield reasonable and competitive program costs; (2)
34 That, assuming prudent management of the program, the electric-distribution company should be

1 able to perform the studies and system upgrades on a timely basis necessary to accommodate the
2 number of applications associated with the targets without materially adversely affecting other
3 electric-distribution construction projects needed to provide reliable and safe electric-distribution
4 service; and (3) Any other reasonable factors that are consistent with the legislative purpose of
5 this chapter as set forth herein, including the program purpose to facilitate the development of
6 renewable distributed generation in the load zone of the electric-distribution company at
7 reasonable cost.

8 (i) The renewable energy growth program is intended to achieve at least an aggregate
9 amount of one hundred sixty (160) nameplate megawatts over five (5) years, plus any shortfall
10 amount added in pursuant to § 39-26.6-12(e). However, after the second program year, the board
11 may, based on market data and other information available to it, including pricing received during
12 previous program years, recommend changes to the annual target for any program year above or
13 below the specified targets in § 39-26.6-12(c) if the board concludes that market conditions are
14 likely to produce favorably low or unfavorably high target pricing during the upcoming program
15 year, provided that the recommendation may not result in the five-year (5) one hundred sixty
16 megawatt (160MW) nameplate target, plus any shortfall added pursuant to § 39-26.6-12(e), being
17 exceeded. Any megawatt reduction in an annual target shall be added to the target in the fifth year
18 of the program (and any subsequent years if necessary) such that the overall program target of
19 one hundred sixty megawatt (160MW) nameplate capacity, plus any shortfall added pursuant to §
20 39-26.6-12(e), is achieved. In considering such issues, the board and the commission may take
21 into account the reasonableness of current pricing and its impact on all electric distribution
22 customers and the legislative purpose of this chapter as set forth herein, including the program
23 purpose to facilitate the development of renewable distributed generation in the load zone of the
24 electric-distribution company at reasonable cost.

25 (j) The provisions of § 39-26.1-4 shall apply to the annual value of performance-based
26 incentives (actual payments plus the value of net metering credits, as applicable) provided by the
27 electric-distribution company to all the distributed-generation projects under this chapter, subject
28 to the following conditions:

29 (1) The targets set for the applicable program year for the applicable project
30 classifications were met or, if not met, such failure was due to factors beyond the reasonable
31 control of the electric-distribution company;

32 (2) The electric-distribution company has processed applications for service and
33 completed interconnections in a timely and prudent manner for the projects under this chapter,
34 taking into account factors within the electric-distribution company's reasonable control. The

1 commission is authorized to establish more specific performance standards to implement the
2 provisions of this chapter; and

3 (3) The incentive shall be [up to](#) one and three-quarters percent (1.75%) of the annual
4 value of performance-based incentives. The commission is authorized to establish more specific
5 performance standards to implement the provisions of this paragraph.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS - PUBLIC UTILITIES COMMISSION

1 This act would grant the public utilities commission the authority to conduct a broader
2 review in the determination of electric and gas utility rates of return (profit), to consider all other
3 utility profits and to cap certain performance based profits.

4 This act would take effect upon passage.

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