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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- RENEWABLE ENERGY STANDARD

Introduced By: Representatives Segal, D Caprio, Gablinske, A Rice, and Fierro

Date Introduced: February 25, 2010

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

SECTION 1. Sections 39-26-2, 39-26-5 and 39-26-6 of the General Laws in Chapter 39-26 entitled "Renewable Energy Standard" are hereby amended to read as follows:

39-26-2. Definitions. – When used in this chapter:

(1) "Alternative compliance payment" means a payment to the Renewable Energy Development Fund of fifty dollars ($50.00) per megawatt-hour of renewable energy obligation, in 2003 dollars, adjusted annually up or down by the consumer price index, which may be made in lieu of standard means of compliance with this statute;

(2) "Commission" means the Rhode Island public utilities commission;

(3) "Compliance year" means a calendar year beginning January 1 and ending December 31, for which an obligated entity must demonstrate that it has met the requirements of this statute;

(4) "Customer-sited generation facility" means a generation unit that is interconnected on the end-use customer's side of the retail electricity meter in such a manner that it displaces all or part of the metered consumption of the end-use customer;

(5) "Educational institution" means any public school, approved private non-profit school, or institution of higher education as defined in 20 U.S.C. Chapter 28, Subchapter 1, Part A section 1001 (a).

(6) "Electrical energy product" means an electrical energy offering, including, but not limited to, last resort and standard offer service, that can be distinguished by its generation

attributes or other characteristics, and that is offered for sale by an obligated entity to end-use customers;

(7) "Eligible biomass fuel" means fuel sources including brush, stumps, lumber ends and trimmings, wood pallets, bark, wood chips, shavings, slash and other clean wood that is not mixed with other solid wastes; agricultural waste, food and vegetative material; energy crops; landfill methane; biogas; or neat bio-diesel and other neat liquid fuels that are derived from such fuel sources;

(8) "Eligible renewable energy resource" means resources as defined in section 39-26-5;

(9) "End-use customer" means a person or entity in Rhode Island that purchases electrical energy at retail from an obligated entity;

(10) "Existing renewable energy resources" means generation units using eligible renewable energy resources and first going into commercial operation before December 31, 1997;

(11) "Farm" shall be defined in accordance with section 44-27-2, except that all buildings associated with the farm shall be eligible for net metering credits as long as: (i) the buildings are owned by the same entity operating the farm or persons associated with operating the farm; and (ii) the buildings are on the same farmland as the renewable generation on either a tract of land contiguous with such farmland or across a public way from such farmland.

(12) "Generation attributes" means the nonprice characteristics of the electrical energy output of a generation unit including, but not limited to, the unit's fuel type, emissions, vintage and policy eligibility;

(13) "Generation unit" means a facility that converts a fuel or an energy resource into electrical energy;

(14) "NE-GIS" means the generation information system operated by NEPOOL, its designee or successor entity, which includes a generation information database and certificate system, and that accounts for the generation attributes of electrical energy consumed within NEPOOL;

(15) "NE-GIS certificate" means an electronic record produced by the NE-GIS that identifies the relevant generation attributes of each megawatt-hour accounted for in the NE-GIS;

(16) "NEPOOL" means the New England Power Pool or its successor;

(17) "Net metering" means the process of measuring the difference between electricity delivered by an electrical distribution company and electricity generated by a solar-net-metering facility or wind-net-metering facility, and fed back to the distribution company and small hydro net-metering facilities;

(18) "New renewable energy resources" means generation units using eligible renewable

energy resources and first going into commercial operation after December 31, 1997; or the incremental output of generation units using eligible renewable energy resources that have demonstrably increased generation in excess of ten percent (10%) using eligible renewable energy resources through capital investments made after December 31, 1997; but in no case involve any new impoundment or diversion of water with an average salinity of twenty (20) parts per thousand or less;

(19) "Non-profit affordable housing" shall mean a housing development or housing project as defined by section 42-55-3 undertaken by a non-profit entity where the residential units taking electric service are either in the same building in close proximity to the renewable energy source or, if not within the same building, are within one-half (1/2) of a mile radius from the renewable energy source; provided, however, that the application has been filed with and reviewed by the division of public utilities and carriers and the division has certified the development or project as eligible. The division shall promulgate regulations setting forth an application process and eligibility criteria to assure that the net metering allowed will benefit the low income affordable housing residents only. The renewable generation credit applicable for nonprofit affordable housing shall be calculated based on the rate class applicable to residential units.

(20) "Obligated entity" means a person or entity that sells electrical energy to end-use customers in Rhode Island, including, but not limited to: nonregulated power producers and electric utility distribution companies, as defined in section 39-1-2, supplying standard offer service, last resort service, or any successor service to end-use customers; including Narragansett Electric, but not to include Block Island Power Company as described in section 39-26-7 or Pascoag Utility District;

(21) "Off-grid generation facility" means a generation unit that is not connected to a utility transmission or distribution system;

(22) "Renewable generation credit" means credit equal to the excess kWhs by the time of use billing period (if applicable) multiplied by the sum of the distribution company's:

(i) standard offer service kWh charge for the rate class applicable to the net metering customer;

(ii) distribution kWh charge;

(iii) transmission kWh charge; and

(iv) transition kWh charge. This does not include any charges relating to conservation and load management, demand side management, and renewable energy.

(23) "Reserved certificate" means a NE-GIS certificate sold independent of a transaction

involving electrical energy, pursuant to Rule 3.4 or a successor rule of the operating rules of the NE-GIS;

(24) "Reserved certificate account" means a specially designated account established by an obligated entity, pursuant to Rule 3.4 or a successor rule of the operating rules of the NE-GIS, for transfer and retirement of reserved certificated from the NE-GIS;

(25) "Self-generator" means an end-use customer in Rhode Island that displaces all or part of its retail electricity consumption, as metered by the distribution utility to which it interconnects, through the use of a customer-sited generation facility, the ownership of any such facility shall not be considered an obligated entity as a result of any such ownership arrangement;

(26) "Small hydro facility" means a facility employing one or more hydroelectric turbine generators and with an aggregate capacity not exceeding thirty (30) megawatts. For purposes of this definition, "facility" shall be defined in a manner consistent with Title 18 of the Code of Federal Regulations, section 92.201 et seq.; provided, however, that the size of the facility is limited to thirty (30) megawatts, rather than eighty (80) megawatts.

(27) "Towns and cities" means any Rhode Island town or city with the powers set forth in title 45 of the general laws, which may exercise all such powers, including those set forth in chapter 45-40.1, in developing, owning, operating or maintaining energy generation units utilizing eligible renewable energy resources.

39-26-5. Eligible renewable energy resources. -- (a) For the purposes of the regulations promulgated under this chapter, eligible renewable energy resources are generation units in the NEPOOL control area using:

(1) Direct solar radiation;

(2) The wind;

(3) Movement or the latent heat of the ocean;

(4) The heat of the earth;

(5) Small hydro facilities;

(6) Biomass facilities using eligible biomass fuels and maintaining compliance with current air permits; eligible biomass fuels may be co-fired with fossil fuels, provided that only the renewable energy fraction of production from multi-fuel facilities shall be considered eligible;

(7) Fuel cells using the renewable resources referenced above in this section;

(8) Waste-to-energy combustion of any sort or manner shall in no instance be considered eligible except for fuels identified in section 39-26-2(6).

(b) A generation unit located in an adjacent control area outside of the NEPOOL may qualify as an eligible renewable energy resource, but the associated generation attributes shall be

applied to the renewable energy standard only to the extent that the energy produced by the generation unit is actually delivered into NEPOOL for consumption by New England customers. The delivery of such energy from the generation unit into NEPOOL must be generated by:

(1) A unit-specific bilateral contract for the sale and delivery of such energy into NEPOOL; and

(2) Confirmation from ISO-New England that the renewable energy was actually settled in the NEPOOL system; and

(3) Confirmation through the North American Reliability Council tagging system that the import of the energy into NEPOOL actually occurred; or

(4) Any such other requirements as the commission deems appropriate.

(c) NE-GIS certificates associated with energy production from off-grid generation and customer-sited generation facilities certified by the commission as eligible renewable energy resources may also be used to demonstrate compliance, provided that the facilities are physically located in Rhode Island.

39-26-6. Duties of the commission. -- The commission shall:

(a) Develop and adopt regulations on or before December 31, 2005, for implementing a renewable energy standard, which regulations shall include, but be limited to, provisions for:

(1) Verifying the eligibility of renewable energy generators and the production of energy from such generators, including requirements to notify the commission in the event of a change in a generator's eligibility status.

(2) Standards for contracts and procurement plans for renewable energy resources, to achieve the purposes of this chapter.

(3) Flexibility mechanisms for the purposes of easing compliance burdens, facilitating bringing new renewable resources on-line, and avoiding and/or mitigating conflicts with state level source disclosure requirements and green marketing claims throughout the region; which flexibility mechanisms shall allow obligated entities to: (i) demonstrate compliance over a compliance year; (ii) bank excess compliance for two (2) subsequent compliance years, capped at thirty percent (30%) of the current year's obligation; and (iii) allow renewable energy generated during 2006 to be banked by an obligated entity as early compliance, usable towards meeting an obligated entity's 2007 requirement. Generation used for early compliance must result in the retirement of NE-GIS certificate in a reserved certificate account designated for such purposes.

(4) Annual compliance filings to be made by all obligated entities within one month after NE-GIS reports are available for the fourth (4th) quarter of each calendar year. All electric utility distribution companies shall cooperate with the commission in providing data necessary to assess

the magnitude of obligation and verify the compliance of all obligated entities.

(b) Authorize rate recovery by electric utility distribution companies of all prudent incremental costs arising from the implementation of this chapter, including, without limitation, the purchase of NE-GIS certificates, the payment of alternative compliance payments, required payments to support the NE-GIS, assessments made pursuant to section 39-26-7(c) and the incremental costs of complying with energy source disclosure requirements.

(c) Certify eligible renewable energy resources by issuing statements of qualification within ninety (90) days of application. The commission shall provide prospective reviews for applicants seeking to determine whether a facility would be eligible.

(d) Determine, on or before January 1, 2010, the adequacy, or potential adequacy, of renewable energy supplies to meet the increase in the percentage requirement of energy from renewable energy resources to go into effect in 2011 and determine on or before January 1, 2014, the adequacy or potential adequacy, of renewable energy supplies to meet the increase in the percentage requirement of energy from renewable energy resources to go into effect in 2015. In making such determinations the commission shall consider among other factors the historical use of alternative compliance payments in Rhode Island and other states in the NEPOOL region. In the event that the commission determines an inadequacy or potential inadequacy of supplies for scheduled percentage increases, the commission shall delay the implementation of the scheduled percentage increase for a period of one year or recommend to the general assembly a revised schedule of percentage increases, if any, to achieve the purposes of this chapter.

(e) Establish sanctions for those obligated entities that after investigation have been found to fail to reasonably comply with the commission's regulations. No sanction or penalty shall relieve or diminish an obligated entity from liability for fulfilling any shortfall in its compliance obligation; provided, however, that no sanction shall be imposed if compliance is achieved through alternative compliance payments. The commission may suspend or revoke the certification of generation units, certified in accordance with subsection (c) above, that are found to provide false information, or that fail to notify the commission in the event of a change in eligibility status or otherwise comply with its rules. Financial penalties resulting from sanctions from obligated entities shall not be recoverable in rates.

(f) Report, by February 15, 2006, and by February 15 each year thereafter, to the governor, the speaker of the house and the president of the senate on the status of the implementation of the renewable energy standards in Rhode Island and other states, and which report shall include in 2009, and each year thereafter, the level of use of renewable energy certificates by eligible renewable energy resources and the portion of renewable energy standards

met through alternative compliance payments, and the amount of rate increases authorized pursuant to subsection (b) above.

(g) Implement the following changes regarding distributed generation from renewable energy systems by ~~June 1, 2009~~ October 1, 2010.

(1) Increase the maximum allowable distributed generation capacity for eligible net-metered energy systems ~~to 1.65 megawatts (MW); except that for eligible net-metered renewable energy systems developed but not owned by cities and towns, located on city or town owned land, and providing power solely to the city or town that the project is located in, increase said maximum to 2.25 megawatts; and except that for eligible net-metered renewable energy systems owned by cities and towns of Rhode Island, the Narragansett Bay Commission and state agencies, increase said maximum to 3.5 megawatts (MW)~~ to a name-plate capacity of 3.5 megawatts (MW).

(2) Increase the aggregate amount of net metering to a maximum ~~of two percent (2%)~~ name-plate capacity of seven percent (7%) of peak load, provided that at least one megawatt is reserved for projects less than twenty-five (25) kW.

(3) (i) With the exception of those customers described in subsection (ii), if the electricity generated by the renewable generation facility during a billing period exceeds the customer's kilowatt-hour usage during the billing period, the customer shall upon a request of the customer be billed for zero kilowatt-hour usage and the excess renewable generation credits shall be credited to the customer's account for the following billing period. Unless otherwise requested by the customer, the customer shall be compensated monthly by a check from the electric distribution company for the excess renewable generation credits pursuant to the rate specified in subdivision 39-26-2(22).

(ii) If the electricity generated by the renewable generation facility owned by a Rhode Island city or town, educational institution, nonprofit affordable housing, farm, the state or the Narragansett Bay Commission, during a billing period exceeds the customer's kilowatt-hour usage during the billing period, the customer shall be billed for zero-kilowatt-hour usage, and:

(A) Upon request of the customer, the excess renewable generation credits shall be credited to the customer's account for the following billing period; or

(B) Upon request of the customer, the excess renewable generation credits shall be applied to no more than ten (10) other accounts owned by the customer during the billing period; or

(C) Unless otherwise requested by the customer, the customer shall be compensated monthly by a check from the distribution company for the excess renewable generation credits

pursuant to the rates specified in subdivisions 39-26-2(19) and 39-26-2(22).

(iii) Nonprofit affordable housing shall use said compensation, pursuant to paragraph (ii), to benefit the residents of the housing development.

(4) If the customer's kilowatt-hour usage exceeds the electricity generated by the renewable generation facility during the billing period, the customer shall be billed for the net kilowatt-hour usage at the applicable rate. Any excess credits may be carried forward month to month for twelve (12) month periods as established by the commission. At the end of the applicable twelve (12) month period, if there are unused excess credits on the net metering customer accounts, such credits shall be used to offset recoverable utility costs. Where compensation has been provided for excess renewable generation credits, no further charge may be made to the customer against said credits.

(h) Any prudent and reasonable costs incurred by the electric distribution company pursuant to achieving compliance with subsection (g) and the annual amount of the distribution component of any renewable generation credits provided to net metering customers shall be aggregated by the distribution company and billed to all customers on an annual basis through a uniform per kilowatt-hour surcharge embedded in the distribution component of the rates reflected on customer bills.

(i) Report, by July 1, 2010 to the governor, the speaker of the house and the president of the senate on the status of the implementation of subsection (g) and (h), including if said provisions are optimally cost-effective, reliable, prudent and environmentally responsible.

(j) Consistent with the public policy objective of developing renewable generation as an option in Rhode Island, the electric distribution company is authorized to propose and implement pilot programs to own and operate no more than fifteen megawatts (15MW) of renewable generation demonstration projects in Rhode Island and include the costs and benefits in rates to distribution customers. At least two (2) demonstration projects shall include renewable generation installed at or in the vicinity of nonprofit affordable housing projects where energy savings benefits are provided to reduce electric bills of the customers at the nonprofit affordable housing projects. Any renewable generation proposals shall be subject to the review and approval of the commission. The commission shall annually make an adjustment to the minimum amounts required under the renewable energy standard under chapter 39-26 in an amount equal to the kilowatt hours generated by such units owned by the electric distribution company. The electric and gas distribution company shall also be authorized to propose and implement smart metering and smart grid demonstration projects in Rhode Island, subject to the review and approval of the commission, in order to determine the effectiveness of such new technologies for reducing and

managing energy consumption, and include the costs of such demonstration projects in distribution rates to electric customers to the extent the project pertains to electricity usage and in distribution rates to gas customers to the extent the project pertains to gas usage.

SECTION 2. 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 -- RENEWABLE ENERGY STANDARD

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This act would require the Public Utilities Commission to implement changes regarding renewable energy systems by October 1, 2010; increase the maximum allowable distributed generation capacity for eligible net-metered energy systems to a name-plate capacity of 3.5 MW's and, increase the aggregate amount of net-metering to a maximum name-plate capacity of seven percent (7%).

This act would take effect upon passage.

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