

**2010 -- H 8082 SUBSTITUTE A**

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LC02525/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2010**

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- REVENUE DECOUPLING

Introduced By: Representative D Caprio

Date Introduced: May 05, 2010

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 39-1 of the General Laws entitled "Public Utilities Commission" is  
2 hereby amended by adding thereto the following section:

3           **39-1-27.7.1. Revenue decoupling.--** (a) The general assembly finds and declares that  
4 electricity and gas revenues shall be fully decoupled from sales pursuant to the provisions of this  
5 chapter and further finds and declares that any decoupling proposal submitted by an electric  
6 distribution company as defined in subdivision 39-1-2(12) or gas distribution company included  
7 as a public utility in subdivision 39-1-2(20) that has greater than one hundred thousand (100,000)  
8 customers, shall be for the following purposes:

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

11           (2) Achieving the goals established in the electric distribution company's plan for system  
12 reliability and energy efficiency and conservation procurement as required pursuant to subsection  
13 39-1-27.7(c);

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

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

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

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

1           (7) Facilitating and encouraging investment in utility infrastructure, safety, and  
2 reliability; and

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

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

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

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

24           (2) An annual infrastructure, safety and reliability spending plan for each fiscal year and  
25 an annual rate reconciliation mechanism that includes a reconcilable allowance for the anticipated  
26 capital investments and other spending pursuant to the annual pre-approved budget as developed  
27 in accordance with subsection (d) herein.

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

31           (1) Capital spending on utility infrastructure;

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

34           (3) For electric distribution companies, operation and maintenance expenses on system

1 inspection, including expenses from expected resulting repairs; and

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

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

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

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

16 (2) The commission may exclude the low income rate class from the revenue decoupling  
17 reconciliation rate mechanism for either electric or gas distribution. The commission also may  
18 exclude customers in the large commercial and industrial rate class from the gas distribution  
19 mechanism.

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

24 (4) The commission shall review and approve with any necessary amendments  
25 performance-based energy savings targets developed and submitted by the Rhode Island energy  
26 efficiency and resources management council. Said performance-based targets shall also be used  
27 as a consideration in any shared savings mechanism established by the commission pursuant to  
28 subdivision (3) herein.

29 (f) The Rhode Island energy efficiency and resources management council shall propose  
30 performance-based energy savings targets to the commission no later than September 1, 2010.  
31 The targets shall include, but not be limited to, specific energy kilowatt hour savings overall and  
32 peak demand savings for both summer and winter peak periods expressed in total megawatts as  
33 well as appropriate targets recommended in the opportunities report filed with the commission  
34 pursuant to subdivision 39-2-27.7(c)(3). The council shall revise as necessary these targets on an

1 annual basis prior to the reconciliation process established pursuant to subsection (c) of this  
2 section and submit its revisions to the commission for approval.

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

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

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

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

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

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

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

18 SECTION 2. Section 39-1-27.7 of the General Laws in Chapter 39-1 entitled "Public  
19 Utilities Commission" is hereby amended to read as follows:

20 **39-1-27.7. System reliability and least-cost procurement.** -- Least-cost procurement  
21 shall comprise system reliability and energy efficiency and conservation procurement as provided  
22 for in this section and supply procurement as provided for in section 39-1-27.8, as complementary  
23 but distinct activities that have as common purpose meeting electrical and natural gas energy  
24 needs in Rhode Island, in a manner that is optimally cost-effective, reliable, prudent and  
25 environmentally responsible.

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

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

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

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

1 (iii) Demand response, including, but not limited to, distributed generation, back-up  
2 generation and on-demand usage reduction, which shall be designed to facilitate electric customer  
3 participation in regional demand response programs, including those administered by the  
4 independent service operator of New England ("ISO-NE") and/or are designed to provide local  
5 system reliability benefits through load control or using on-site generating capability;

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

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

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

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

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

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

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

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

1 procurement. In developing the plan, the distribution company may seek the advice of the  
2 commissioner and the council. The plan shall include measurable goals and target percentages for  
3 each energy resource, pursuant to standards established by the commission, including efficiency,  
4 distributed generation, demand response, combined heat and power, and renewables.

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

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

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

28 (e) The commission shall conduct a contested case proceeding to establish a performance  
29 based incentive plan which allows for additional compensation for each electric distribution  
30 company and each company providing gas to end-users and/or retail customers based on the level  
31 of its success in mitigating the cost and variability of electric and gas services through  
32 procurement portfolios.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
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- 1           This act would establish a mechanism for the decoupling of electricity and gas revenues
- 2   from sales in order to improve the electric and gas distribution system.
- 3           This act would take effect upon passage.

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