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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: Senators Miller, Walaska, Bates, and Lanzi

Date Introduced: April 29, 2010

Referred To: Senate Environment & Agriculture

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
RELATING TO PUBLIC UTILITIES AND CARRIERS -- REVENUE DECOUPLING

- 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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