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LC01934

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- RENEWABLE ENERGY  
STANDARD

Introduced By: Representatives Carnevale, Blazejewski, Tanzi, Edwards, and Trillo

Date Introduced: March 17, 2011

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-26-2, 39-26-3, 39-26-4 and 39-26-6 of the General Laws in  
2 Chapter 39-26 entitled "Renewable Energy Standard" are hereby amended to read as follows:

3 **39-26-2. Definitions.** – When used in this chapter:

4 (1) "Alternative compliance payment" means a payment to the Renewable Energy  
5 Development Fund of fifty dollars (\$50.00) per megawatt-hour of renewable energy obligation, in  
6 2003 dollars, adjusted annually up or down by the consumer price index, which may be made in  
7 lieu of standard means of compliance with this statute;

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

9 (3) "Compliance year" means a calendar year beginning January 1 and ending December  
10 31, for which an obligated entity must demonstrate that it has met the requirements of this statute;

11 (4) "Customer-sited generation facility" means a generation unit that is interconnected on  
12 the end-use customer's side of the retail electricity meter in such a manner that it displaces ~~all or~~  
13 part or any fraction thereof of the metered consumption of the end-use customer or displaces part  
14 or any fraction thereof of the metered consumption of a meter or meters not located on the  
15 generation site but within the load zone;

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

1 (6) "Electrical energy product" means an electrical energy offering, including, but not  
2 limited to, last resort and standard offer service, that can be distinguished by its generation  
3 attributes or other characteristics, and that is offered for sale by an obligated entity to end-use  
4 customers;

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

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

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

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

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

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

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

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

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

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

32 (17) "Net metering" means the process of measuring the difference between electricity  
33 delivered by an electrical distribution company and electricity generated by a ~~solar net metering~~  
34 ~~facility or wind net metering facility~~ renewable energy generation system, and fed back to the

1 distribution company;

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

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

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

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

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

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

32 (ii) distribution kWh charge;

33 (iii) transmission kWh charge; and

34 (iv) transition kWh charge. This does not include any charges relating to conservation

1 and load management, demand side management, and renewable energy.

2 (23) "Reserved certificate" means a NE-GIS certificate sold independent of a transaction  
3 involving electrical energy, pursuant to Rule 3.4 or a successor rule of the operating rules of the  
4 NE-GIS;

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

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

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

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

22 (28) "Renewable energy public/private partnership" means an ownership structure that  
23 includes a private entity or entities and at least one or more public entities, including without  
24 limitation, the State of Rhode Island, operating departments within the State of Rhode Island,  
25 cities, towns, municipalities, universities and colleges within the State of Rhode Island, sovereign  
26 nations, non-profit entities and quasi-public entities (such as RIPTA) and other such  
27 organizations.

28 (29) "Multi-municipality nonprofit energy consortium" is an entity made up of two (2) or  
29 more cities or towns that seek to develop, whether owned by them or not, a renewable energy  
30 generation project or system.

31 **39-26-3. Purposes.** -- The purpose of this chapter is to facilitate the development of new  
32 renewable energy resources to supply electricity to customers in Rhode Island with goals of  
33 stabilizing long-term energy prices, diversifying the state's energy generation sources, enhancing  
34 environmental quality, and creating jobs in Rhode Island in the renewable energy sector by using

1 [electricity as an economic development tool](#).

2 **39-26-4. Renewable energy standard.** -- (a) Starting in compliance year 2007, all  
3 obligated entities shall obtain at least three percent (3%) of the electricity they sell at retail to  
4 Rhode Island end-use customers, adjusted for electric line losses, from eligible renewable energy  
5 resources, escalating, according to the following schedule:

6 (1) At least three percent (3%) of retail electricity sales in compliance year 2007;

7 (2) ~~An~~ [At least an](#) additional one half of one percent (0.5%) of retail electricity sales in  
8 each of the following compliance years 2008, 2009, 2010;

9 (3) ~~An~~ [At least an](#) additional one percent (1%) of retail electricity sales in each of the  
10 following compliance years 2011, 2012, 2013, 2014, provided that the commission has  
11 determined the adequacy, or potential adequacy, of renewable energy supplies to meet these  
12 percentage requirements;

13 (4) ~~An~~ [At least an](#) additional one and one half percent (1.5%) of retail electricity sales in  
14 each of the following compliance years 2015, 2016, 2017, 2018 and 2019, provided that the  
15 commission has determined the adequacy, or potential adequacy of renewable energy supplies to  
16 meet these percentage requirements;

17 (5) In 2020 and each year thereafter, the minimum renewable energy standard established  
18 in 2019 shall be maintained unless the commission shall determine that such maintenance is no  
19 longer necessary for either amortization of investments in new renewable energy resources or for  
20 maintaining targets and objectives for renewable energy.

21 ~~(b) For each obligated entity and in each compliance year, the amount of retail electricity~~  
22 ~~sales used to meet obligations under this statute that is derived from existing renewable energy~~  
23 ~~resources shall not exceed two percent (2%) of total retail electricity sales.~~

24 ~~(e)~~[\(b\)](#) The minimum renewable energy percentages set forth in subsection (a) above shall  
25 be met for each electrical energy product offered to end-use customers, in a manner that ensures  
26 that the amount of renewable energy of end-use customers voluntarily purchasing renewable  
27 energy is not counted toward meeting such percentages.

28 ~~(d)~~[\(c\)](#) To the extent consistent with the requirements of this chapter, compliance with the  
29 renewable energy standard may be demonstrated through procurement of NE-GIS certificates  
30 relating to generating units certified by the commission as using eligible renewable energy  
31 sources, as evidenced by reports issued by the NE-GIS administrator. Procurement of NE-GIS  
32 certificates from off-grid and customer-sited generation facilities, if located in Rhode Island and  
33 verified by the commission as eligible renewable energy resources, may also be used to  
34 demonstrate compliance. With the exception of contracts for generation supply entered into prior

1 to 2002, initial title to NE-GIS certificates from off-grid and customer-sited generation facilities  
2 and from all other eligible renewable energy resources shall accrue to the owner of such a  
3 generation facility, unless such title has been explicitly deemed transferred pursuant to contract or  
4 regulatory order.

5 ~~(e)~~(d) In lieu of providing NE-GIS certificates pursuant to subsection ~~(e)~~(c) of this  
6 section, an obligated entity may also discharge all or any portion of its compliance obligations by  
7 making an alternative compliance payment to the Renewable Energy Development Fund  
8 established pursuant to section 39-26-7.

9 **39-26-6. Duties of the commission.** -- The commission shall:

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

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

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

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

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

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

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

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

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

24 (f) Report, by February 15, 2006, and by February 15 each year thereafter, to the  
25 governor, the speaker of the house and the president of the senate on the status of the  
26 implementation of the renewable energy standards in Rhode Island and other states, and which  
27 report shall include in 2009, and each year thereafter, the level of use of renewable energy  
28 certificates by eligible renewable energy resources and the portion of renewable energy standards  
29 met through alternative compliance payments, and the amount of rate increases authorized  
30 pursuant to subsection (b) above.

31 (g) Implement the following changes regarding distributed generation from renewable  
32 energy systems by ~~June 1, 2009~~ March 30, 2011.

33 (1) Increase the maximum allowable distributed generation capacity for eligible net-  
34 metered energy systems to ~~1.65~~ 5.0 megawatts (MW); except that for eligible net-metered

1 renewable energy systems developed but not owned by cities and towns, the Narragansett Bay  
2 Commission, the State of Rhode Island, universities and colleges, non-profit entities, quasi-public  
3 entities, sovereign nations or renewable energy public/private partnerships ~~located on city or town~~  
4 ~~owned land~~, and providing power solely to the city or town, the Narragansett Bay Commission,  
5 the State of Rhode Island, universities and colleges, non-profit entities, quasi-public entities,  
6 sovereign nations or renewable energy public/private partnerships ~~that the project is located in,~~  
7 increase said maximum to ~~2.25~~ 10 megawatts; and except that for eligible net-metered renewable  
8 energy systems owned by cities and towns of Rhode Island, the Narragansett Bay Commission,  
9 ~~and~~ state agencies, universities and colleges, non-profit entities, quasi-public entities, sovereign  
10 nations or renewable energy public/private partnerships, increase said maximum to ~~3.5~~ 15  
11 megawatts (MW).

12 (2) Increase the aggregate amount of net metering to a maximum of ~~two percent (2%)~~  
13 five percent (5%) of peak load, ~~provided that at least one megawatt is reserved for projects less~~  
14 ~~than twenty five (25) kW.~~

15 (3) (i) ~~With the exception of those customers described in subsection (ii), if~~ If the  
16 electricity generated by the renewable generation facility during a billing period exceeds the  
17 customer's kilowatt-hour usage during the billing period, the customer shall upon a request of the  
18 customer be billed for zero kilowatt-hour usage and the excess renewable generation credits shall  
19 be credited to the customer's account for the following billing period. Or upon request of the  
20 customer, the excess renewable generation credits shall be applied to no more than ten (10) other  
21 accounts within the same load zone during the billing period. Unless otherwise requested by the  
22 customer, the customer shall be compensated monthly by a check from the electric distribution  
23 company for the excess renewable generation credits pursuant to the rate specified and as  
24 amended to reflect increases in generating capacities in subdivision 39-26-2(22).

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

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

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

33 ~~or~~

34 ~~(C) Unless otherwise requested by the customer, the customer shall be compensated~~



1 ~~monthly by a check from the distribution company for the excess renewable generation credits~~  
2 ~~pursuant to the rates specified in subdivisions 39-26-2(19) and 39-26-2(22).~~

3 ~~(iii)~~(ii) Nonprofit affordable housing shall use said compensation, pursuant to paragraph  
4 ~~(iii)~~(3), to benefit the residents of the housing development.

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

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

19 (i) Report, by July 1, ~~2010~~ 2011 to the governor, the speaker of the house and the  
20 president of the senate on the status of the implementation of subsection (g) and (h), including if  
21 said provisions are optimally cost-effective, reliable, prudent and environmentally responsible.

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

1 commission, in order to determine the effectiveness of such new technologies for reducing and  
2 managing energy consumption, and include the costs of such demonstration projects in  
3 distribution rates to electric customers to the extent the project pertains to electricity usage and in  
4 distribution rates to gas customers to the extent the project pertains to gas usage.

5 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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1           This act would diversify the state's energy generation sources by increasing maximum  
2 allowable distributed generation capacities and would provide for public/private partnerships and  
3 multi-municipal nonprofit energy consortiums.

4           This act would take effect upon passage.

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