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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - THE DISTRIBUTED GENERATION
GROWTH PROGRAM

Introduced By: Representatives Ruggiero, Handy, Marshall, and Finn

Date Introduced: February 27, 2014

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 26.6

4 THE DISTRIBUTED GENERATION GROWTH PROGRAM

5 **39-26.6-1. Purpose. --** The purpose of this chapter is to facilitate and promote installation
6 of grid-connected generation of renewable energy; support and encourage development of
7 distributed renewable energy generation systems; reduce environmental impacts; reduce carbon
8 emissions that contribute to climate change by encouraging the siting of renewable energy
9 projects in the load zone of the electric distribution company; diversify the energy generation
10 sources within the load zone of the electric distribution company; stimulate economic
11 development; improve distribution system resilience and reliability within the load zone of the
12 electric distribution company; and reduce distribution system costs.

13 **39-26.6-2. Distributed Generation Growth Program Established. --** To carry out these
14 purposes, a tariff-based renewable energy distributed generation financing program, hereinafter
15 referred to as the distributed generation growth program, is hereby established with the intention
16 of continuing the development of renewable energy distributed generation in the load zone of the
17 electric distribution company at reasonable cost. The program shall be designed to finance the
18 development, construction, and operation of renewable energy distributed generation projects

1 over five (5) years through a performance based incentive system that is designed to achieve
2 specified megawatt targets at reasonable cost through competitive processes. The distributed
3 generation growth program shall be implemented by the electric distribution company, and
4 guided by the distributed generation board, in consultation with the office of energy resources,
5 subject to the review and supervision of the commission.

6 **39-26.6-3. Definitions. --** When used in this chapter, the following terms shall have the
7 following meanings:

8 (1) "Commission" means the Rhode Island public utilities commission.

9 (2) "Board" shall mean the distributed generation board as established pursuant to the
10 provisions of chapter 39-26.2-9 under the title distributed generation standard contract board, but
11 shall also fulfill the responsibilities set forth in this chapter.

12 (3) "Commercial scale solar project" means a solar distributed generation project with the
13 nameplate capacity specified in section 7 of this chapter.

14 (4) "Distributed generation facility" means an electrical generation facility located in the
15 electric distribution company's load zone with a nameplate capacity no greater than five
16 megawatts (5 MW), using eligible renewable energy resources as defined by § 39-26-5, including
17 biogas created as a result of anaerobic digestion, but, specifically excluding all other listed
18 eligible biomass fuels, and connected to an electrical power system owned, controlled, or
19 operated by the electric distribution company. For purposes of this chapter, a distributed
20 generation facility must be a new resource that: (i) Has not begun operation; (ii) Is not under
21 construction, but excluding preparatory site work that is less than twenty-five percent (25%) of
22 the estimated total project cost; and (iii) Does not have in place investment or lending agreements
23 necessary to finance the construction of the facility prior to the submittal of an application or bid
24 for which the payment of performance based incentives are sought under this chapter except to
25 the extent that such financing agreements are conditioned upon the project owner being awarded
26 performance based incentives under the provisions of this chapter. For purposes of this definition,
27 pre-existing hydro generation shall be exempt from the first condition in paragraph of this
28 subsection (i), regarding operation, if the hydro generation facility will need a material
29 investment to restore or maintain reliable and efficient operation and meet all regulatory,
30 environmental or operational requirements. To be eligible for this exemption, the hydro project
31 developer at the time of submitting a bid in the applicable procurement must provide reasonable
32 evidence with its bid application showing the level of investment needed along with any other
33 facts that support a finding that the investment is material, the determination of which shall be a
34 part of the bid review process set forth in § 39-26.6-16 for the award of bids.

1 (5) "Distributed generation project" means a distinct installation of a distributed
2 generation facility. An installation will be considered distinct if it does not violate the
3 segmentation prohibition set forth in § 39-26.6-9.

4 (6) "Electric distribution company" means a company defined in § 39-1-2(12), supplying
5 standard offer service, last resort service, or any successor service to end-use customers, but not
6 including the Block Island Power Company or the Pascoag Utility District.

7 (7) "ISO-NE" means Independent System Operator-New England, the Regional
8 Transmission Organization for New England designated by the Federal Energy Regulatory
9 Commission.

10 (8) "Large distributed generation project" means a distributed generation project that has
11 a nameplate capacity that exceeds the size of a small distributed generation project in a given
12 year, but is no greater than five megawatts (5 MW) nameplate capacity.

13 (9) "Large scale solar project" means a solar distributed generation project with the
14 nameplate capacity specified in § 39-26.6-7.

15 (10) "Medium scale solar project" means a solar distributed generation project with the
16 nameplate capacity specified in § 39-26.6-7.

17 (11) "Office" means the Rhode Island office of energy resources.

18 (12) "Program year" means a calendar year beginning January 1 and ending December
19 31, except for the first program year, which may commence on or after April 1, 2015 and end
20 December 31, 2015, subject to commission approval.

21 (13) "Renewable energy classes" means categories for different renewable energy
22 technologies using eligible renewable energy resources as defined by § 39-26-5 , including biogas
23 created as a result of anaerobic digestion, but, specifically excluding all other listed eligible
24 biomass fuels. For each program year, in addition to the classes of solar distributed generation
25 specified in § 39-26.6-7, the board shall determine the renewable energy classes as are reasonably
26 feasible for use in meeting distributed generation objectives from renewable energy resources and
27 are consistent with the goal of meeting the annual target for the program year. The board may
28 make recommendations to the commission to add, eliminate, or adjust renewable energy classes
29 for each program year, provided that the solar classifications set forth in § 39-26.6-7 shall remain
30 in effect for at least the first two (2) program years and no distributed generation project may
31 exceed five megawatts (5MW) of nameplate capacity.

32 (14) "Renewable energy certificate" means a New England Generation Information
33 System renewable energy certificate as defined in § 39-26-2(15).

34 (15) "Small scale solar project" means a solar distributed generation project with the

1 nameplate capacity specified in § 39-26.6-7.

2 (16) "Small distributed generation project" means a distributed generation renewable
3 energy project that has a nameplate capacity within the following: Wind: fifty kilowatts (50 KW)
4 to one and one-half megawatts (1.5 MW); small scale solar projects and medium scale solar
5 projects with the capacity limits as specified in § 39-26.6-7. For technologies other than solar and
6 wind, the board shall set the nameplate capacity size limits, but such limits may not exceed one
7 (1MW) megawatt.

8 (17) "Ceiling price" means the bidding price cap applicable to an enrollment for a given
9 distributed generation class, which shall be approved annually for each renewable energy class
10 pursuant to the procedure established in this chapter. The ceiling price for each technology should
11 be a price that would allow a private owner to invest in a given project at a reasonable rate of
12 return, based on recently reported and forecast information on the cost of capital, and the cost of
13 generation equipment. The calculation of the reasonable rate of return for a project shall include,
14 where applicable, any state or federal incentives including, but not limited to, tax incentives.

15 **39-26.6-4. Continuation of Board. --** (a) The distributed generation standard contract
16 board shall remain fully constituted and authorized as provided in chapter 26.2; provided,
17 however, that the name shall be changed to the "Distributed Generation Board." Additional
18 purposes of the board shall be to:

19 (1) Evaluate and make recommendations to the commission regarding ceiling prices and
20 annual targets, the make-up of renewable energy classifications eligible under the distributed
21 generation growth program, the terms of the tariffs, and other duties as set forth in this chapter;

22 (2) Provide consistent, comprehensive, informed and publicly accountable involvement
23 by representatives of all interested stakeholders affected by, involved with, or knowledgeable
24 about the development of distributed generation projects that are eligible for performance-based
25 incentives under the distributed generation growth program; and

26 (3) Monitor and evaluate the effectiveness of the distributed generation growth program.

27 (b) The office, in consultation with the board, shall be authorized to hire or to request the
28 electric distribution company to hire the services of qualified consultants to perform ceiling price
29 studies. The cost of such studies shall be recoverable through the rate reconciliation provisions of
30 the electric distribution company set forth in § 39-26.6-25, subject to commission approval. In
31 addition, the office, in consultation with the board, may request the commission to approve other
32 costs incurred by the board or the electric distribution company to perform any other studies and
33 reports, subject to the review and approval of the commission, which shall be recoverable through
34 the same reconciliation provisions.

1 **39-26.6-5. Tariffs Proposed and Approved.** -- (a) Each year for a period of at least five
2 (5) program years, the electric distribution company shall file tariffs with the commission that are
3 designed to provide a multi-year stream of performance-based incentives to eligible renewable
4 distributed generation projects for a term of years, under terms and conditions set forth in the
5 tariffs and approved by the commission. The tariffs shall set forth the rights and obligations of the
6 owner of the distributed generation project and the conditions upon which payment of
7 performance-based incentives by the electric distribution company will be paid. The tariffs shall
8 include the non-price conditions set forth in §§ 39-26.2-7(2)(i) – (vii) for small distributed
9 generation projects (other than small and medium scale solar), and large distributed generation
10 projects; provided, however, that the time periods for such projects to reach ninety percent (90%)
11 of output shall be extended to twenty-four (24) months (other than eligible small-scale hydro
12 which shall be forty-eight (48) months). The non-price conditions in the tariffs for small and
13 medium scale solar shall take into account the different circumstances for distributed generation
14 projects of the smaller sizes.

15 (b) In addition to the tariff(s) the filing shall include the rules governing the solicitation
16 and enrollment process. The solicitation rules will be designed to ensure the orderly functioning
17 of the distributed generation growth program and shall be consistent with the legislative purposes
18 of this chapter.

19 (c) In proposing the tariff(s) and solicitation rules applicable to each year, the tariff(s) and
20 rules shall be developed by the electric distribution company and will be reviewed by the office
21 and the board before being sent to the commission for its approval. The proposed tariffs shall
22 include the ceiling prices and term lengths for each tariff that are recommended by the board. The
23 term lengths shall be from fifteen (15) to twenty (20) years, provided, however, that the board
24 may recommend shorter terms for small scale solar projects. Whatever term lengths between
25 fifteen (15) and twenty (20) years are chosen for any given tariff, the evaluation of the bids for
26 that tariff shall be done on a consistent basis such that the same term lengths for competing bids
27 are used to determine the winning bids.

28 (d) The board shall use the same standards for setting ceiling prices as set forth in § 39-
29 26.2-5. In setting the ceiling prices, the board may specifically consider:

- 30 (1) Transactions for newly developed renewable energy resources, by technology and
31 size, in the ISO-NE control area and the northeast corridor;
32 (2) Pricing from bids received during the previous program year;
33 (3) Environmental benefits, including, but not limited to, reducing carbon emissions;
34 (4) System benefits; and

1 (5) Cost effectiveness.

2 (e) At least forty-five (45) days before filing the tariff(s) and solicitation rules, the
3 electric distribution company shall provide the tariff(s) and rules in draft form to the board for
4 review. The commission shall have the authority to determine the final terms and conditions in
5 the tariff and rules. Once approved, the commission shall retain exclusive jurisdiction over the
6 performance based incentive payments, terms, conditions, rights, enforcement, and
7 implementation of the tariffs and rules, subject to appeals pursuant to chapter 39-5.

8 **39-26.6-6. Permanence of Tariff Terms Once Set. --** It is the intention of the general
9 assembly in enacting this chapter that the developers, owners, investors, customers, and lenders
10 of the distributed generation projects receiving performance based incentives under the tariffs be
11 able to rely on the tariffs for the entire term of the applicable tariff for purposes of obtaining
12 financing. Consistent with that intention and expectation, the terms under the tariffs for a given
13 program year, once approved by the commission, shall not be altered in any way that would
14 undermine such reliance on those tariffs during the applicable terms of the tariffs; and in no
15 circumstance will the performance-based incentive rate paid to a renewable energy project
16 developer or owner be reduced during the term of the tariff once a renewable energy project has
17 qualified to receive a tariff under the terms of this chapter.

18 **39-26.6-7. Solar Project Size Categories. –** (a) Tariff(s) shall be proposed for each of
19 the following solar distributed generation classes:

- 20 (1) Small scale solar projects;
- 21 (2) Medium scale solar projects;
- 22 (3) Commercial scale solar projects; and
- 23 (4) Large scale solar projects.

24 (b) Such classes of solar distributed generation projects shall be established based on
25 nameplate megawatt size as follows:

26 (1) Large scale: solar projects from one megawatt (1 MW) up to and including five
27 megawatts (5MW) nameplate capacity;

28 (2) Commercial scale: solar projects greater than two hundred fifty kilowatts (250 kW),
29 but less than one megawatt (1 MW) nameplate capacity;

30 (3) Medium scale: solar projects greater than twenty-five kilowatts (25 kW) up to and
31 including two hundred fifty kilowatts (250 kW) nameplate capacity; and

32 (4) Small scale: solar projects up to and including twenty-five kilowatts (25 kW)
33 nameplate capacity.

34 Other classifications of solar projects may also be proposed by the board, subject to the

1 approval of the commission. After the second program year, the board may make
2 recommendations to the commission to adjust the size categories of the solar classes, provided
3 that the medium scale solar projects may not exceed two hundred fifty kilowatts (250 kW).

4 **39-26.6-8. Renewable Technologies Other Than Solar.** -- Tariffs also shall be proposed
5 for on-shore wind and any other distributed generation technologies permissible under this
6 chapter that the board, in its discretion, recommends; provided, however, that no project shall
7 exceed five megawatts (5 MW) nameplate capacity. The electric distribution company shall file
8 tariffs for each technology and size categories recommended by the board pursuant to the
9 procedures set forth in this chapter.

10 **39-26.6-9. Project Segmentation Prohibition.** -- In no case may a project developer be
11 allowed to segment a distributed generation project on the same parcel or contiguous parcels into
12 smaller sized projects in order to fall under a smaller size project classification. Notwithstanding
13 this prohibition, a project developer may designate a generation unit on the same parcel or
14 contiguous parcel for net metering or other means of participating in electricity markets, provided
15 that such unit or portion of such unit designated for net metering or other market participation is
16 not receiving performance-based incentives under this chapter, is capable of being segregated
17 electrically, is configured with such electrical segregation, and is separately metered. Further, a
18 project shall not be considered to have been segmented if:

19 (1) There is a lapse of at least twenty-four (24) months between: (i) The commencement
20 of construction of new distributed generation units on a parcel that is the same as or is contiguous
21 with a parcel upon which a distributed generation project has already been constructed; and (ii)
22 The operation date of the pre-existing project; or

23 (2) The new project is a different renewable technology.

24 **39-26.6-10. Timing and Schedule of Tariff Filings.** -- (a) The electric distribution
25 company shall file with the commission the first set of tariffs and solicitation rules pursuant to
26 this chapter no later than November 15, 2014. Thereafter, the electric distribution company shall
27 make annual tariff and solicitation rules filings with the commission no later than November 15
28 prior to the beginning of the applicable program year, which tariffs and rules shall be applicable
29 for the next program year.

30 (b) Upon receiving the filing from the electric distribution company, the commission
31 shall open a docket to consider the filing. The commission shall issue an order approving the
32 proposed tariffs and solicitation rules; provided, however, that the commission may make any
33 modifications that it deems appropriate consistent with the legislative purposes of this chapter as
34 set forth herein.

1 (c) For the first program year, the commission shall issue its order approving tariff(s) and
2 solicitation rules by no later than March 31, 2015. Thereafter, the commission shall approve
3 them by February 15 of each succeeding year.

4 (d) During the course of any program year, the electric distribution company may, at any
5 time, in consultation with the office and the board, propose tariff or solicitation rules
6 modifications. The commission shall consider such proposed modifications through an already
7 open or new docket, and shall issue its order within one hundred five (105) days of the filing of
8 the proposed modification. If approved, the proposed modification shall take effect for the next
9 enrollment event following the issuance of the commission's order.

10 **39-26.6-11. Power Purchase Agreements Not Required.** -- The distributed generation
11 growth program shall be implemented and administered exclusively through the tariff structure
12 and procedures set forth in this chapter, and the electric distribution company shall not be
13 required to execute power purchase agreements for the procurement of the renewable energy
14 distributed generation capacity requirements set forth in this chapter.

15 **39-26.6-12. Annual Bidding and Enrollments.** -- (a) With the exception of the first
16 program year (2015), the electric distribution company, in consultation with the board and office,
17 shall conduct at least three (3) tariff enrollments for each distributed generation class each
18 program year. For the first program year, the board may recommend that either two (2) or three
19 (3) enrollments be conducted.

20 (b) During each program year the tariff enrollments shall have both an annual targeted
21 amount of nameplate megawatts ("annual MW target") and a nameplate megawatt target for each
22 separate enrollment event ("enrollment MW target"). The enrollment MW target shall comprise
23 the specific portion of the annual MW target sought to be obtained in that enrollment. The
24 enrollment MW targets shall be recommended by the board each year, subject to commission
25 approval. The board shall also recommend a megawatt target for each class ("class MW target")
26 that comprises a specified portion of the enrollment MW target, subject to commission approval.
27 If the electric distribution company, the office, and the board mutually agree, they may reallocate
28 megawatts during an enrollment from one class to another without commission approval if there
29 is an over-subscription in one class and an under-subscription in another, provided that the
30 Annual MW Target is not being exceeded, except as provided in § 39-26.6-7.

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

34 (1) For the first program year (2015), the annual MW target shall be twenty-five (25)

1 nameplate megawatts;

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

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

7 (4) For the fifth program year, the annual target shall be set to obtain the balance of
8 capacity needed to achieve one hundred sixty (160) nameplate megawatts within the five (5) year
9 distributed generation growth program, subject to § 39-26.6-12(e) and the conditions set forth in §
10 39-26.6-12(f) having been met for the fourth program year as determined in the manner specified
11 in § 39-26.6-12(g).

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

18 (e) To the extent there was a shortfall of capacity procured under chapter 39-26.2 from
19 distributed generation procurements in 2014, such shortfall amount may be added to the one
20 hundred sixty megawatt (160MW) target for acquisition in the fifth program year under this
21 chapter. In no event shall the electric distribution company be required to exceed the aggregate
22 amount of one hundred sixty (160) nameplate capacity plus any such shortfall amount over the
23 five (5) years, but may do so voluntarily, in consultation with the board and subject to
24 commission approval.

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

26 (1) That it is reasonable to conclude that the bid prices submitted in the procurements for the
27 large scale solar and commercial scale solar classes were reasonably competitive in the
28 immediately preceding program year; (2) That it is reasonable to conclude that the annual MW
29 target specified for the next program year is reasonably achievable; and (3) That the electric
30 distribution company was able to, or with reasonably prudent efforts should have been able to,
31 perform the studies and system upgrades on a timely basis necessary to accommodate the number
32 of applications associated with the targets without materially adversely affecting other electric
33 distribution construction projects needed to provide reliable and safe electric distribution service.
34 To the extent the board or the commission concludes that any of these conditions have not been

1 met for the applicable program year, the board may recommend and/or the commission may
2 adopt a new annual MW target, based on the factors set forth in § 39-26.6-12(h).

3 (g) Before the third, fourth, and fifth program years, each year the board shall review the
4 conditions specified in § 39-26.6-12(f) and make a recommendation to the commission for
5 findings as to whether they have been met for the applicable year. The recommendation shall be
6 filed with the commission, with copies to the office and the electric distribution company, and a
7 notice of such filing shall be posted by the commission on its website. If no party files an
8 objection to the recommended findings within ten (10) business days of the posting, the
9 commission may accept them without hearings. If an objection is filed with a reasonable
10 explanation for its basis, the commission shall hold hearings and make the factual determination
11 of whether the conditions have been met.

12 (h) In the event that the conditions in § 39-26.6-12(f) have not been met for any program
13 year, then the board and the commission shall take into account the factors set forth below in
14 setting the annual MW target for the following year. In addition, for every program year the board
15 and the commission shall take into account these factors in setting the class MW targets, and the
16 enrollment MW targets for the following year: (1) That the new annual, class, and enrollment
17 levels reasonably assure that competition among projects for the applicable bidding
18 classifications remains robust and likely to yield reasonable and competitive program costs; (2)
19 That, assuming prudent management of the program, the electric distribution company should be
20 able to perform the studies and system upgrades on a timely basis necessary to accommodate the
21 number of applications associated with the targets without materially adversely affecting other
22 electric distribution construction projects needed to provide reliable and safe electric distribution
23 service; and (3) Any other reasonable factors that are consistent with the legislative purpose of
24 this chapter as set forth herein, including the program purpose to facilitate the development of
25 renewable distributed generation in the load zone of the electric distribution company at
26 reasonable cost.

27 (i) The distributed generation growth program is intended to achieve at least an aggregate
28 amount of one hundred sixty (160) nameplate megawatts over five (5) years, plus any shortfall
29 amount added in pursuant to § 39-26.6-12(e). However, after the second program year the board
30 may, based on market data and other information available to it, including pricing received during
31 previous program years, recommend changes to the annual target for any program year above or
32 below the specified targets in § 39-26.6-12(c) if the board concludes that market conditions are
33 likely to produce favorably low or unfavorably high target pricing during the upcoming program
34 year, provided that the recommendation may not result in the five (5)-year one hundred sixty

1 megawatt (160MW) nameplate target, plus any shortfall added pursuant to § 39-26.6-12(e), being
2 exceeded. Any megawatt reduction in an annual target shall be added to the target in the fifth year
3 of the program (and any subsequent years if necessary) such that the overall program target of
4 one hundred sixty megawatt (160MW) nameplate capacity, plus any shortfall added pursuant to §
5 39-26.6-12(e), is achieved. In considering such issues, the board and the commission may take
6 into account the reasonableness of current pricing and its impact on all electric distribution
7 customers and the legislative purpose of this chapter as set forth herein, including the program
8 purpose to facilitate the development of renewable distributed generation in the load zone of the
9 electric distribution company at reasonable cost.

10 (j) The provisions of § 39-26.1-4 shall apply to the annual value of performance based
11 incentives (actual payments plus the value of net metering credits, as applicable) provided by the
12 electric distribution company to all the distributed generation projects under this chapter, subject
13 to the following conditions: (1) The targets set for the applicable program year for the applicable
14 project classifications were met or, if not met, such failure was due to factors beyond the
15 reasonable control of the electric distribution company; and (2) The electric distribution company
16 has processed applications for service and completed interconnections in a timely and prudent
17 manner for the projects under this chapter, taking into account factors within the electric
18 distribution company's reasonable control.

19 **39-26.6-13. Cost reconciliation. --** To the extent the electric distribution company incurs
20 incremental costs to meet the program objectives or make billing system improvements that are
21 required to facilitate payments of performance-based incentives and administering net metering,
22 the electric distribution company may elect to recover those incremental costs through the annual
23 charge set forth in § 39-26.6-25, subject to commission review and approval.

24 **39-26.6-14. Existing powers of agencies and advocacy rights of parties unchanged. --**
25 Nothing in this chapter shall be construed to derogate from the statutory authority of the
26 commission or the division of public utilities and carriers, including, but not limited to, the
27 authority to protect ratepayers from unreasonable rates. Nothing in this chapter shall be construed
28 to preclude any party from advocating a position in commission proceedings that differs from the
29 recommendations made by the board to the commission or in any filing with the commission
30 relating to this chapter, including without limitation (1) Individual or organizational members of
31 the board; (2) Participants in board deliberations; (3) The office; and (4) The electric distribution
32 company, unless such party has consented by vote to the execution or executed a settlement
33 agreement agreeing to the terms, policy proposals, or any other matter proposed to the
34 commission.

1 **39-26.6-15. Bidding and Incentive Award Processes for Solar DG Projects. -- (a)**

2 Large scale and commercial scale solar projects and distributed generation projects for other
3 eligible technologies shall bid a price per kilowatt-hour for the entire output of the facility (net of
4 any station service), which price shall not exceed the applicable ceiling price. Small and medium
5 scale solar projects will submit an enrollment application to receive a standard performance-based
6 incentive for the period of years in the applicable tariff, which shall be a price per kilowatt-hour
7 for the entire output of the facility. Except for megawatts that may be allocated to the energy
8 efficiency program pursuant to § 39-26.6-19, small and medium scale projects shall be selected
9 on a first come, first served basis, or by means of a commission-approved lottery system, or such
10 other method as may be recommended by the board and approved by the commission.

11 (b) Except for the first program year, the board shall determine, subject to commission
12 approval, the standard performance based incentive for small and medium sized solar projects
13 from the average bid price from the last two (2) procurement enrollments conducted in the
14 commercial scale and/or large scale solar projects class. For the first program year, the board
15 may derive the standard performance incentive for small and medium sized solar projects from
16 the bidding data obtained from the distributed generation program in effect in 2014 under the
17 provisions of chapter 39-26.2, until there is bidding data from the first procurement under the new
18 program which shall then be used to set a new standard performance incentive. The standard
19 performance incentive may be set at a higher rate than payments for commercial scale and large
20 scale solar projects in order to take into account the potentially higher per-unit cost of smaller
21 projects. The standard performance incentive also shall be adjusted upward or downward, as
22 needed, in order to take into account the term length over which the incentive shall be paid for the
23 small and medium scale solar projects if such terms are different than the terms applicable to the
24 classes from which the standard performance incentive was derived.

25 (c) For each program year, the board shall recommend to the commission a standard
26 performance incentive for each of the small scale and medium scale solar project classifications.
27 Upon receiving the recommendations from the board, the commission shall open a docket to
28 consider the recommendations or address the recommendations in its approval process for the
29 program year in a consolidated docket, as provided in § 39-26.6-10. The commission shall issue
30 its order approving the recommendations no later than concurrently with approval of the entire
31 program and tariffs applicable to the program year; provided, however, that the commission may
32 make modifications or changes to the board's recommendations consistent with the legislative
33 purposes of this chapter.

34 (d) If after the first program year the applications for the medium scale solar projects are

1 significantly over-subscribed, then the board and the electric distribution company, in
2 consultation with the office, may propose to the commission a bidding process for medium scale
3 projects or a subset of the medium scale projects under which project selections would be made
4 based on the lowest bids rather than first come first served or such other method previously
5 approved by the commission. The commission shall approve the proposal from the board and
6 electric company within ninety (90) days; provided, however, that the commission may make
7 changes to the proposal consistent with the legislative purposes of this chapter.

8 (e) The commission shall approve the bidding process for medium scale solar projects
9 recommended by the board only if the commission finds that such bidding process is in a
10 sufficiently simple form that is not administratively burdensome to bidders, and will not have the
11 effect of discouraging participation in the distributed generation growth program by developers of
12 medium scale solar projects who may be unrepresented by counsel.

13 **39-26.6-16. Enrollment Program. --** (a) Each enrollment shall be open for a two (2)
14 week period during which the electric distribution company is required to receive standard short-
15 form applications. The standard short-form application shall require the applicant to provide the
16 following information: the project owner's identity; the location of the proposed project; the
17 nameplate capacity of the proposed project; and renewable energy class of the proposed project.
18 The standard short-form application shall allow project owners to provide additional information
19 relative to the permitting, financial feasibility, ability to build, and timing for deployment of the
20 proposed projects. The applicant must submit an affidavit with the standard short-form
21 application confirming that the project is not in violation of the rules that prohibit project
22 segmentation, as set forth in § 39-26.6-9.

23 (b) For large distributed generation projects only, the standard short-form application
24 shall also require the applicant to bid a bundled price that applies to the energy, renewable energy
25 certificates, and all other environmental attributes and market products that are available or may
26 become available from the distributed generation facility, on a per kilowatt-hour basis measured
27 from the output of the project. At the election of the electric distribution company, and subject to
28 the approval of the commission, the bid may be required to include the sale of capacity.

29 (c) For (i) small distributed generation projects other than small scale and medium scale
30 solar projects and (ii) large distributed generation projects, the electric distribution company shall
31 select projects based on the lowest proposed prices received that do not exceed the ceiling price
32 from the distributed generation projects which meet the requirements of all applicable tariffs and
33 regulations, and meet the criteria of the renewable energy class in effect, until the class target is
34 met. Performance based incentives shall be awarded to the winning bidders based on their bids

1 submitted.

2 (d) For small scale and medium scale solar projects, awards shall be made in the manner
3 set forth in §§ 39-26.6-15 and 39-26.6-19.

4 (e) If there are more projects bidding at the same price than the capacity that is specified
5 for a class target, the electric distribution company shall, in consultation with the board and the
6 office, select first those projects that appear to be the furthest along in development and that are
7 most likely to be deployed. Those projects that are likely to be deployed at the earliest time shall
8 be selected first. To the extent the electric distribution company is unable to make a clear
9 distinction on this basis, the electric distribution company shall report its findings to the board
10 and not award bids for those projects that are tied on pricing. In such case, the board may take
11 such action as it deems appropriate for the selection of projects, including seeking more
12 information from the projects.

13 (f) Should the electric distribution company determine that it has made sufficient awards
14 to achieve a program-year class target, it shall immediately report this fact to the board, the
15 office, and the commission, and may cease making awards for that renewable energy class for the
16 remainder of the program year. In any event, the electric distribution company may exceed the
17 renewable energy class target if the last award may cause the total purchased to exceed the target.

18 (g) The board, the office, and the electric distribution company shall enter into a
19 memorandum of understanding regarding the sharing of the information and data related to the
20 distributed generation growth program, including, without limitation, information on bids
21 received, details regarding project ownership, and pricing. At the request of the board, the office,
22 or the electric distribution company, the commission shall have the authority to protect from
23 public disclosure individual bid information for any projects that have not been awarded
24 performance based incentives.

25 (h) The electric distribution company is authorized to award bids up to the applicable
26 ceiling price. As long as the terms of the tariff are met and the pricing is no higher than the
27 applicable ceiling price, such awards shall be deemed prudent and approved by the commission
28 for purposes of recovering the costs in rates.

29 (i) With respect to any procurement that includes bids from pre-existing hydro-electric
30 generation, the electric distribution company, in consultation with the office, shall have the
31 authority to accept the applicant's representation that its investment is material, within the
32 meaning of § 39-26.6-3(4). However, if the electric distribution company or the office questions
33 whether the material investment standard has been met or the application is otherwise rejected,
34 the application shall be submitted to the board for review and the board shall draw its own

1 conclusion and make a recommendation to the commission at the time the commission is
2 approving awards from the procurement to which the application pertains. The commission shall
3 have the final authority to make the determination as to whether the material investment standard
4 has been met. Nothing in this paragraph shall preclude a project developer from seeking a
5 preliminary confirmation of eligibility for the material investment exemption from the electric
6 distribution company, the office, and the board prior to the submittal of a bid. In such case, if
7 there is any disagreement, the final determination shall be submitted to the commission.

8 **39-26.6-17. Excess enrollment not required.** -- The electric distribution company shall
9 not be required to award bids in excess of the annual target for the applicable program year and
10 shall not be required to procure projects in excess of any limit set by the board and approved by
11 the commission for a given enrollment. However, the electric distribution company, in
12 consultation with the board and the office, may voluntarily exceed an enrollment period limit as
13 long as it does not exceed an annual target for the applicable program year. At its election, the
14 electric distribution company may exceed an annual target for the applicable program year after
15 review by the board and approval by the commission.

16 **39-26.6-18. Utility Right to Separately Meter.** -- Owners of medium scale, commercial
17 scale, and large scale solar projects and other distributed generation technologies shall be required
18 to provide at their cost a revenue quality meter to standards approved by the division of public
19 utilities and carriers and provide access to the information from the meter to the electric
20 distribution company to measure the output of the generation. The electric distribution company
21 shall have the discretion to install the second meter in a parallel configuration to the retail meter
22 or behind the meter, provided that a parallel installation shall have no effect on the right of the
23 customer to net meter using the net of the two meters. The electric distribution company also
24 shall have the right to install its own revenue quality meter for small scale solar projects if not
25 being supplied by the owner. The electric distribution company shall recover the installation and
26 capital cost of the separate meters it installs for small scale solar projects in the annual
27 reconciliation of solar costs under § 39-26.6-25.

28 **39-26.6-19. Coordination with Energy Efficiency Programs.** -- (a) In consultation with
29 the office, the electric distribution company may make a request to the commission that up to half
30 of the megawatts for the small and medium scale solar project enrollments be allocated by the
31 commission for selection through a process coordinated with the energy efficiency program in
32 order that specified solar incentives may be tied with energy efficiency program incentives in
33 order to allow the electric distribution company to implement a coordinated energy efficiency and
34 solar program offering. In such case, the electric distribution company will propose criteria for

1 eligibility for performance based incentives for solar that requires certain energy efficiency
2 standards be met at the customer location in order to be eligible for performance based incentives
3 for a small scale and/or medium scale solar installation.

4 (b) The electric distribution company must also include program parameters that do not
5 disrupt competition among small and/or medium scale solar developers, including, without
6 limitation, safeguards against any one or subset of developers in this market being given
7 exclusive rights or other market advantages over competitors. In approving the proposal, the
8 commission must find that there is no such small and medium solar-market disruption.

9 (c) The commission shall approve the request of the distribution company within ninety
10 (90) days, making such modifications as it deems reasonable, provided such modifications are
11 consistent with the legislative purposes of this chapter and the state's energy efficiency goals.

12 (d) The allocation of megawatts is for implementation purposes only and shall not
13 authorize funds to be shifted from the distributed generation growth program to energy efficiency
14 programs, nor will implementation of the electric distribution company's request cause a
15 reduction of the annual or cumulative capacity goals established for the distributed generation
16 growth program. To the extent that the megawatts allocated to the energy efficiency program
17 pursuant to this section are not committed during a program year, such uncommitted megawatts
18 shall be allocated back to the distributed generation growth program in the following year or such
19 year the board recommends to the commission. Funding for the energy efficiency measures that
20 are tied to the solar installations must be obtained separately from the energy efficiency program
21 budget funded through applicable energy efficiency charges.

22 (e) Should the small and medium scale project classes in the distributed generation
23 growth program be oversubscribed in two (2) consecutive enrollments and there are megawatts
24 that have not been committed through the process coordinated with the energy efficiency program
25 after the second enrollment, the board, after consultation with the office and the electric
26 distribution company, shall have the authority to move all or a portion of the uncommitted
27 megawatts out of the coordinated program back to the distributed generation growth program to
28 meet the demand of the oversubscription, subject to commission approval. If, in such case, the
29 board does not exercise the authority, any party may file a petition to the commission requesting
30 action to be taken.

31 **39-26.6-20. Issuance of certificates and right to incentive payments.** -- (a) For small
32 scale and medium scale solar projects, the electric distribution company shall provide certificates
33 of eligibility to the selected projects without commission confirmation of approval ("Distribution
34 Company Awarded Certificates"), subject to the review and consent of the office. The electric

1 distribution company shall file with the commission a list of all such distribution company
2 awarded certificates.

3 (b) For commercial and large scale solar and all other distributed generation projects, the
4 electric distribution company shall file with the commission a list of the distributed generation
5 projects selected together with the corresponding pricing information. Within sixty (60) days of
6 receipt of the list, the commission shall issue an order awarding certificates of eligibility to the
7 distributed generation projects ("PUC Awarded Certificates").

8 (c) Upon receipt of a PUC awarded certificate or a distribution company certificate, a
9 distributed generation project shall be entitled to receive, and the electric distribution company
10 shall pay and/or credit (as applicable), the performance-based incentives for the specified term
11 and under the terms and conditions of the applicable tariff in the manner set forth below.

12 (d) The performance based incentive shall be the price per kilowatt-hour that was bid and
13 awarded or established as a standard incentive, as applicable. The performance-based incentive
14 shall be applied as a price per kilowatt-hour for all kilowatt-hours actually produced from the
15 distributed generation (net of station service, if any) for the term of years specified in the
16 applicable tariff, less the value of any kilowatt-hour charges that were off-set by any net metering
17 (if applicable) for the host customer associated with the distributed generation for the billing
18 month.

19 (e) In every case where a distributed generation project can be configured for net
20 metering it shall be the election of the owner of such generation to choose one of two (2) separate
21 methods through which the owner will be compensated for the performance based incentive:

22 (1) The owner is compensated solely through direct payments under the performance-
23 based incentive provisions of this chapter for the life of the tariff term with no net metering
24 implemented; or

25 (2) The owner is compensated through a combination of direct payments and the bill
26 credit value of net metering for the life of the term of the tariff under the provisions of this
27 chapter.

28 In either option, the total value of the performance incentive per kilowatt-hour is the
29 same. An owner shall have a one-time right to switch the compensation methods after the
30 generation commences operation, provided that at least sixty (60) days notice is given to the
31 electric distribution company. Thereafter, any further compensation method switches shall be at
32 the sole discretion of the electric distribution company if requested again by the owner.

33 (f) Every owner who elects the compensation method shall:

34 (1) Receive compensation solely in the form of a check from the electric distribution

1 company or such other payment method that is mutually agreed between the electric distribution
2 company and the owner; and

3 (2) Shall receive compensation in the form of offsets against its electricity bill from the
4 electric distribution company from net metering and the balance in the form of a check from the
5 electric distribution company or such other payment method that is mutually agreed upon
6 between the electric distribution company and the owner; provided, however, that no owner of a
7 distributed generation project may be compensated twice for the same kilowatt hour of electricity,
8 and that every self-generator shall receive the full pecuniary benefit of its election to participate
9 in the performance-based incentive program.

10 (g) Every owner of a distributed generation project that can be configured for net
11 metering that elects the first option for compensation under the provisions of § 39-26.6-20(e)
12 shall become eligible to net meter its output in conformity with the provisions of existing law
13 upon the completion of the full term of the applicable tariff. Nothing in this section shall preclude
14 a customer from electing not to participate in the performance based program and electing simply
15 to net meter under the provisions of existing law; provided, however, once an election is made to
16 participate, the customer will remain subject to the performance based tariff conditions and may
17 not terminate the arrangement without the consent of the electric distribution company.

18 (h) As provided in § 39-26.6-9, any project developer may designate a generation unit on
19 the same parcel or contiguous parcel for net metering, provided that such unit or portion of such
20 unit designated for net metering is not receiving performance-based incentives under this chapter,
21 is capable of being segregated electrically, is configured with such electrical segregation, and is
22 separately metered.

23 (i) All distributed generation projects accepting certificates shall be obligated to abide by
24 all the terms and conditions of the approved applicable tariff.

25 **39-26.6-21. Ownership of output, other attributes, and renewable energy**
26 **certificates.** -- (a) Distributed generation projects participating in the distributed generation
27 growth program shall transfer to the electric distribution company the rights and title to: (1)
28 Those renewable energy certificates generated by the project during the term of the applicable
29 performance-based incentive tariff; (2) All energy produced by the generation that is not
30 otherwise consumed on site under a net metering arrangement; and (3) Rights to any other
31 environmental attributes or market products that are created or produced by the project; provided,
32 however, that it shall be the election of the electric distribution company whether it chooses to
33 acquire the capacity of the distributed generation projects under the tariffs set forth in this chapter
34 and no ceiling prices recommended by the board and approved by the commission will be

1 adjusted downward in light of the electric distribution company's election. When a generator
2 reverts to net metering after the end of the tariff term under the distributed generation growth
3 program, the net metering generator shall retain title to the renewable energy certificates
4 generated by the project.

5 (b) For the accounting purposes of the electric distribution company in treating the
6 performance-based incentives, the cost of the energy that is procured shall be the real time market
7 price of energy and the balance of the performance-based incentive shall be attributable to the
8 purchase of environmental and any other attributes acquired. This accounting shall have no effect
9 on the total bundled performance-based incentive to which the distributed generation project is
10 entitled under the provisions of this chapter.

11 **39-26.6-22. Zonal and other incentive payments.** -- In order to provide the electric
12 distribution company with the flexibility to encourage distributed generation projects to be
13 located in designated geographical areas within its load zone where there is an identifiable system
14 benefit, reliability benefit, or cost savings to the distribution system in that geographical area, the
15 electric distribution company, in consultation with board and office, may propose to include an
16 incentive payment adder to the bid price of any winning bidder that proposes a distributed
17 generation project in the desired geographical area. The electric distribution company also may
18 propose other incentive payments to achieve other technical or public policy objectives that
19 provide identifiable benefits to customers. Any incentive payment adders must be approved by
20 the commission and shall not be counted as part of the bid price when the bids are selected at an
21 enrollment event.

22 **39-26.6-23. Intersection of distributed generation and net metering.** -- (a) Net
23 metering credits for excess generation shall not be credited during the term of the tariff when the
24 distributed generation project is receiving performance-based incentive payments under the tariff.
25 After the end of the term of the performance-based incentive tariff applicable to a distributed
26 generation project, net metering credits for excess generation in any given month shall be credited
27 to the net metered account at the applicable rate allowed under the law.

28 (b) All distributed generation projects that had begun development prior to the date the
29 commission approves the first set of ceiling price recommendations from the board and that are in
30 operation by no later than July 1, 2016, shall be eligible to continue operation under the net
31 metering rules that would have been applicable to that self-generation project absent the change
32 in law set forth in this section, provided that such project does not otherwise participate in the
33 performance based incentive program set forth in this chapter.

34 **39-26.6-24. Rate design review by the commission.** -- (a) On or after July 1, 2015, the

1 commission shall open a docket to consider rate design and distribution cost allocation among
2 rate classes in light of net metering and the changing distribution system that is expected to
3 include more distributed energy resources, including, but not limited to, distributed generation.
4 The commission will determine the appropriate cost responsibility and contributions to the
5 operation, maintenance, and investment in the distribution system that is relied upon by all
6 customers, including, without limitation, non-net metered and net metered customers. In that
7 docket, the commission shall require the electric distribution company to file a revenue-neutral
8 allocated cost of service study for all rate classes and a proposal for new rates for all customers in
9 each rate class. The electric distribution company shall use the distribution revenue requirement
10 upon which the then-current distribution rates were set. The electric distribution company may
11 use the allocated cost of service that was filed with the compliance filing from the rate case when
12 the then current distribution rates were set. The commission may also address the rate design for
13 the equitable recovery of costs associated with energy efficiency and any renewable energy
14 programs that are recovered in rates.

15 (b) In establishing any new rates the commission may deem appropriate, the commission
16 shall take into account and balance the following factors:

17 (1) The benefits of distributed energy resources;

18 (2) The distribution services being provided to net metered customers when the
19 distributed generation is not producing electricity;

20 (3) Simplicity, understandability and transparency of rates to all customers, including
21 non-net metered and net-metered customers;

22 (4) Equitable ratemaking principles regarding the allocation of the costs of the
23 distribution system;

24 (5) Cost causation principles;

25 (6) The general assembly's legislative purposes in creating the distributed generation
26 growth program; and

27 (7) Any other factors the commission deems relevant and appropriate in establishing a
28 fair rate structure. The rates shall be designed for each proposed rate class in accordance with
29 industry-standard cost allocation principles. The commission may consider any reasonable rate
30 design options, including without limitation, fixed charges, minimum monthly charges, demand
31 charges, volumetric charges, or any combination thereof, with the purpose of assuring recovery of
32 costs fairly across all rate classes.

33 (c) The commission shall issue an order in the docket by no later than December 1, 2015.

34 Any new rates shall take effect for usage on and after January 1, 2016; provided, however, that

1 the electric distribution company may seek an extension if necessary to make the billing system
2 changes necessary to implement a new rate structure. After new revenue-neutral rates are set in
3 the docket specified above, the commission may approve changes to the rate design in any future
4 distribution base rate cases when a fully allocated embedded cost of service study is being
5 reviewed in the rate case, subject to the principles set forth in subsection (b) of this section.

6 **39-26.6-25. Forecasted rate and reconciliation.** -- (a) Three (3) months prior to the
7 beginning of the first program year, the electric distribution company shall file a forecast of the
8 total amount of payments that is likely to be paid out to distributed generation projects in the
9 coming program year within the electric distribution company's load zone, along with any costs
10 permitted for recovery pursuant to §§ 39-26.6-4, 39-26.6-13 and 39-26.6-18. The total of all
11 forecasted payments and costs shall be aggregated, net of forecasted revenues from the sale of the
12 energy, renewable energy certificates, and any other market products from the distributed
13 generation projects participating in the performance based incentive program. The forecasted net
14 aggregate amount shall be used to design a fixed monthly charge per customer to recover the net
15 forecast in rates charged to all distribution customers during the prospective calendar year, which
16 fixed charge may be different by rate class in order to reasonably and equitably spread the
17 program costs across all customer classes. The fixed rate shall stay in effect until changed after
18 the first reconciliation filing set forth below and the rate reconciliation process shall be repeated
19 annually, as set forth below.

20 (b) Within three (3) months after the end of each program year, the electric distribution
21 company shall reconcile the total amount recovered from distribution customers against the total
22 of net payments and costs for the program year. The electric distribution company shall file the
23 reconciliation with a report along with a new forecast of payments to be made for the next twelve
24 (12) month period, net of forecasted revenues for the resale of energy, renewable energy
25 certificates, or any other market attributes sold by the electric distribution company. The forecast
26 shall be used to set a new rate in the same manner as set forth above and the new rate shall remain
27 in effect until rates are reset in the next annual reconciliation and the reconciliation balance shall
28 be reflected in the new rate.

29 SECTION 2. Section 39-26.1-3 of the General Laws in Chapter 39-26.1 entitled "Long-
30 Term Contracting Standard for Renewable Energy" is hereby amended to read as follows:

31 **39-26.1-3. Long-term contract standard.** -- (a) Beginning on or before July 1, 2010,
32 each electric distribution company shall be required to annually solicit proposals from renewable
33 energy developers and, provided commercially reasonable proposals have been received, enter
34 into long-term contracts with terms of up to fifteen (15) years for the purchase of capacity, energy

1 and attributes from newly developed renewable energy resources. Subject to commission
2 approval, the electric distribution company may enter into contracts for term lengths longer than
3 fifteen (15) years. Notwithstanding any other provisions of this chapter, on or before August 15,
4 2009, the electric distribution company shall solicit proposals for one newly developed renewable
5 energy resources project as required in ~~section~~ § 39-26.1-7. Proposals for the sale of output from
6 an offshore wind project received under the provisions of this section shall be diligently and fully
7 considered without prejudice, regardless of the status of any proceedings under ~~sections~~ §§ 39-
8 26.1-7 or 39-26.1-8.

9 (b) The timetable and method for solicitation and execution of such contracts shall be
10 proposed by the electric distribution company, and shall be subject to review and approval by the
11 commission prior to issuance by the company; ~~provided that the timetable is reasonably designed~~
12 ~~to result in the electric distribution company having the minimum long-term contract capacity~~
13 ~~under contract within four (4) years of the date of the first solicitation; it is not necessary that the~~
14 ~~projects associated with these contracts be operational within these four (4) years, as the~~
15 ~~operational dates shall be specified in the contract.~~ The electric distribution company shall,
16 subject to review and approval of the commission, select a reasonable method of soliciting
17 proposals from renewable energy developers, which shall include, at a minimum, an annual
18 public solicitation, but may also include individual negotiations. The solicitation process shall
19 permit a reasonable amount of negotiating discretion for the parties to engage in commercially
20 reasonable arms-length negotiations over final contract terms. Each long-term contract entered
21 into pursuant to this section shall contain a condition that it shall not be effective without
22 commission review and approval. The electric distribution company shall file such contract, along
23 with a justification for its decision, within a reasonable time after it has executed the contract
24 following a solicitation or negotiation. The commission shall hold public hearings to review the
25 contract within forty-five (45) days of the filing and issue a written order approving or rejecting
26 the contract within sixty (60) days of the filing; in rejecting a contract the commission may advise
27 the parties of the reason for the contract being rejected and direct the parties to attempt to address
28 the reasons for rejection in a revised contract within a specified period not to exceed ninety (90)
29 days. The commission shall approve the contract if it determines that: (1) the contract is
30 commercially reasonable; (2) the requirements for the annual solicitation have been met; and (3)
31 the contract is consistent with the purposes of this chapter. A report on each solicitation shall be
32 filed with the commission each year within a reasonable time after decisions are made by the
33 electric distribution company regarding the solicitation results, even if no contracts are executed
34 following the solicitation.

1 (c) (1) No electric distribution company shall be obligated to enter into long-term
2 contracts for newly developed renewable energy resources on terms which the electric
3 distribution company reasonably believes to be commercially unreasonable; provided, however, if
4 there is a dispute about whether these terms are commercially unreasonable, the commission shall
5 make the final determination after an evidentiary hearing. The electric distribution company shall
6 not be obligated to enter into long-term contracts pursuant to this section that would, in the
7 aggregate, exceed the minimum long-term contract capacity, but may do so voluntarily subject to
8 commission approval. As long as the electric distribution company has entered into long-term
9 contracts in compliance with this section, the electric distribution company shall not be required
10 by regulation or order to enter into power purchase contracts with renewable generation projects
11 for power, renewable energy certificates, or any other attributes with terms of more than three (3)
12 years in meeting its applicable annual renewable portfolio standard requirements set forth in
13 section 39-26-4 or pursuant to any other provision of the law.

14 (2) Except as provided in section 39-26.1-7 and 39-26.1-8, an electric distribution
15 company shall not be required to enter into long-term contracts for newly developed renewable
16 energy resources that exceed the following five (5) year phased schedule:

17 By December 30, 2010: Twenty-five percent (25%) of the minimum long-term contract
18 capacity;

19 By December 30, 2011: Fifty percent (50%) of the minimum long-term contract
20 capacity;

21 By December 30, 2012: Seventy-five percent (75%) of the minimum long-term contract
22 capacity;

23 ~~By~~ After December 30, ~~2014~~ 2013: One hundred percent (100%) of the minimum long-
24 term contract capacity; ~~but may do so earlier voluntarily, subject to commission approval~~ subject
25 to subsection (f) of this section.

26 (d) Compliance with the long-term contract standard shall be demonstrated through
27 procurement pursuant to the provisions of a long-term contract of energy, capacity and attributes
28 reflected in NE-GIS certificates relating to generating units certified by the commission as using
29 newly developed renewable energy resources, as evidenced by reports issued by the NE-GIS
30 administrator and the terms of the contract; provided, however, that the NE-GIS certificates were
31 procured pursuant to the provisions of a long-term contract. The electric distribution company
32 also may purchase other attributes from the generator as part of the long-term contract.

33 (e) After the adoption of the rules and regulations promulgated by the commission
34 pursuant to this chapter, an electric distribution company may, at its sole election, immediately

1 and from time to time, procure additional commercially reasonable long-term contracts for newly
2 developed renewable energy resources on an earlier timetable or above the minimum long-term
3 contract capacity, subject to commission approval.

4 (f) At least once per year beginning in 2014, the electric distribution company shall
5 conduct solicitations until one hundred percent (100%) of the minimum long-term contract
6 capacity is met; provided, however, that no contracts shall be awarded unless the pricing under
7 such contract(s) is below the forecasted market price of energy and renewable energy certificates
8 over the term of the proposed contract, using industry standard forecasting methodologies as have
9 been used to evaluate pricing in the past solicitation processes reviewed by the commission under
10 this section. In such solicitations, the electric distribution company may elect not to acquire
11 capacity, but shall acquire all environmental attributes and energy.

12 SECTION 3. Section 39-26.4-3 of the General Laws in Chapter 39-26.4 entitled "Net
13 Metering" is hereby amended to read as follows:

14 **39-26.4-3. Net metering.** -- (a) The following policies regarding net metering of
15 electricity from eligible net metering systems and regarding any person that is a renewable self-
16 generator shall apply:

17 (1) The maximum allowable capacity for eligible net metering systems, based on
18 nameplate capacity, shall be five megawatts (5 mw).

19 ~~(2) The aggregate amount of net metering in Rhode Island shall not exceed three percent~~
20 ~~(3%) of peak load, provided that at least two megawatts (2 mw) are reserved for projects of less~~
21 ~~than fifty kilowatts (50 kw).~~

22 ~~(3)~~(2) For ease of administering net metered accounts and stabilizing net metered
23 account bills, the electric distribution company may elect (but is not required) to estimate for any
24 twelve (12) month period:

25 (i) The production from the eligible net metering system; and

26 (ii) Aggregate consumption of the net metered accounts at the eligible net metering
27 system site and establish a monthly billing plan that reflects the expected credits that would be
28 applied to the net metered accounts over twelve (12) months. The billing plan would be designed
29 to even out monthly billings over twelve (12) months, regardless of actual production and usage.
30 If such election is made by the electric distribution company, the electric distribution company
31 would reconcile payments and credits under the billing plan to actual production and
32 consumption at the end of the twelve (12) month period and apply any credits or charges to the
33 net metered accounts for any positive or negative difference, as applicable. Should there be a
34 material change in circumstances at the eligible net metering system site or associated accounts

1 during the twelve (12) month period, the estimates and credits may be adjusted by the electric
2 distribution company during the reconciliation period. The electric distribution company also may
3 elect (but is not required) to issue checks to any net metering customer in lieu of billing credits or
4 carry forward credits or charges to the next billing period. For residential eligible net metering
5 systems twenty-five kilowatts (25 kw) or smaller, the electric distribution company, at its option,
6 may administer renewable net metering credits month to month allowing unused credits to carry
7 forward into following billing period.

8 ~~(4)~~(3) If the electricity generated by an eligible net metering system during a billing
9 period is equal to or less than the net metering customer's usage during the billing period for
10 electric distribution company customer accounts at the eligible net metering system site, the
11 customer shall receive renewable net metering credits, which shall be applied to offset the net
12 metering customer's usage on accounts at the eligible net metering system site.

13 ~~(5)~~(4) If the electricity generated by an eligible net metering system during a billing
14 period is greater than the net metering customer's usage on accounts at the eligible net metering
15 system site during the billing period, the customer shall be paid by excess renewable net metering
16 credits for the excess electricity generated beyond the net metering customer's usage at the
17 eligible net metering system site up to an additional twenty-five percent (25%) of the renewable
18 self-generator's consumption during the billing period; unless the electric distribution company
19 and net metering customer have agreed to a billing plan pursuant to subdivision (3).

20 ~~(6)~~(5) The rates applicable to any net metered account shall be the same as those that
21 apply to the rate classification that would be applicable to such account in the absence of net
22 metering including customer and demand charges and no other charges may be imposed to offset
23 net metering credits.

24 (b) The commission shall exempt electric distribution company customer accounts
25 associated with an eligible net metering system from back-up or standby rates commensurate with
26 the size of the eligible net metering system, provided that any revenue shortfall caused by any
27 such exemption shall be fully recovered by the electric distribution company through rates.

28 (c) Any prudent and reasonable costs incurred by the electric distribution company
29 pursuant to achieving compliance with subsection (a) and the annual amount of the distribution
30 component of any renewable net metering credits or excess renewable net metering credits
31 provided to accounts associated with eligible net metering systems, shall be aggregated by the
32 distribution company and billed to all distribution customers on an annual basis through a
33 uniform per kilowatt-hour (kwh) surcharge embedded in the distribution component of the rates
34 reflected on customer bills.

1 ~~(7)~~(6) The billing process set out in this section shall be applicable to electric distribution
2 companies thirty (30) days after the enactment of this chapter.

3 SECTION 4. This act shall take effect upon passage.

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LC004759
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - THE DISTRIBUTED GENERATION
GROWTH PROGRAM

1 This act would create a tariff-based renewable energy distributed generation financing
2 program, or "Distributed Generation Growth Program", with the intention of continuing the
3 development of renewable energy distributed generation in the load zone of the electric
4 distribution company at reasonable cost.

5 This act would take effect upon passage.

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LC004759
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