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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - PUBLIC UTILITIES COMMISSION

Introduced By: Representatives Handy, Ruggiero, Carson, Gallison, and McKiernan

Date Introduced: March 13, 2015

Referred To: House Corporations

(Administration)

It is enacted by the General Assembly as follows:

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

3 **39-1-27.7. System reliability and least-cost procurement.** -- Least-cost procurement
4 shall comprise system reliability and energy efficiency and conservation procurement as provided
5 for in this section and supply procurement as provided for in § 39-1-27.8, as complementary but
6 distinct activities that have as common purpose meeting electrical and natural gas energy needs in
7 Rhode Island, in a manner that is optimally cost-effective, reliable, prudent and environmentally
8 responsible.

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

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

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

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

18 (iii) Demand response, including, but not limited to, distributed generation, back-up
19 generation and on-demand usage reduction, which shall be designed to facilitate electric customer

1 participation in regional demand response programs, including those administered by the
2 independent service operator of New England ("ISO-NE") and/or are designed to provide local
3 system reliability benefits through load control or using on-site generating capability;

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

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

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

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

17 (1) The commissioner of the office of energy resources and the energy efficiency and
18 resources management council, either or jointly or separately, shall provide the commission
19 findings and recommendations with regard to system reliability and energy efficiency and
20 conservation procurement on or before March 1, 2008, and triennially on or before March 1,
21 thereafter through March 1, ~~2017~~ 2029. The report shall be made public and be posted
22 electronically on the website to the office of energy resources.

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

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

31 (4) Each electrical and natural gas distribution company shall submit to the commission
32 on or before September 1, 2008, and triennially on or before September 1, thereafter through
33 September 1, ~~2017~~ 2029, a plan for system reliability and energy efficiency and conservation
34 procurement. In developing the plan, the distribution company may seek the advice of the

1 commissioner and the council. The plan shall include measurable goals and target percentages for
2 each energy resource, pursuant to standards established by the commission, including efficiency,
3 distributed generation, demand response, combined heat and power, and renewables. The plan
4 shall be made public and be posted electronically on the website to the office of energy resources,
5 and shall also be submitted to the general assembly.

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

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

25 (ii) Beginning on November 1, 2012 or before, each electric distribution company shall
26 support the installation and investment in clean and efficient combined heat and power
27 installations at commercial, institutional, municipal, and industrial facilities. This support shall be
28 documented annually in the electric distribution company's energy efficiency program plans. In
29 order to effectuate this provision, the energy efficiency and resource management council shall
30 seek input from the public, the gas and electric distribution company, the economic development
31 corporation, and commercial and industrial users, and make recommendations regarding services
32 to support the development of combined heat and power installations in the electric distribution
33 company's annual and triennial energy efficiency program plans.

34 (iii) The energy efficiency annual plan shall include, but not be limited to, a plan for

1 identifying and recruiting qualified combined heat and power projects, incentive levels, contract
2 terms and guidelines, and achievable megawatt targets for investments in combined heat and
3 power systems. In the development of the plan, the energy efficiency and resource management
4 council and the electric distribution company shall factor into the combined heat and power plan
5 and program, the following criteria: (A) Economic development benefits in Rhode Island,
6 including direct and indirect job creation and retention from investments in combined heat and
7 power systems; (B) Energy and cost savings for customers; (C) Energy supply costs; (D)
8 Greenhouse gas emissions standards and air quality benefits; and (E) System reliability benefits.

9 (iv) The energy efficiency and resource management council shall conduct at least one
10 public review meeting annually, to discuss and review the combined heat and power program,
11 with at least seven (7) business day's notice, prior to the electric and gas distribution utility
12 submitting the plan to the commission. The commission shall evaluate the submitted combined
13 heat and power program as part of the annual energy efficiency plan. The commission shall issue
14 an order approving the energy efficiency plan and programs within sixty (60) days of the filing.

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

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

25 SECTION 2. Section 39-2-1.2 of the General Laws in Chapter 39-2 entitled "Duties of
26 Utilities and Carriers" is hereby amended to read as follows:

27 **39-2-1.2. Utility base rate -- Advertising, demand side management and renewables.**

28 == (a) In addition to costs prohibited in § 39-1-27.4(b), no public utility distributing or providing
29 heat, electricity, or water to or for the public shall include as part of its base rate any expenses for
30 advertising, either direct or indirect, which promotes the use of its product or service, or is
31 designed to promote the public image of the industry. No public utility may furnish support of
32 any kind, direct, or indirect, to any subsidiary, group, association, or individual for advertising
33 and include the expense as part of its base rate. Nothing contained in this section shall be deemed
34 as prohibiting the inclusion in the base rate of expenses incurred for advertising, informational or

1 educational in nature, which is designed to promote public safety conservation of the public
2 utility's product or service. The public utilities commission shall promulgate such rules and
3 regulations as are necessary to require public disclosure of all advertising expenses of any kind,
4 direct or indirect, and to otherwise effectuate the provisions of this section.

5 (b) Effective as of January 1, 2008, and for a period of ten (10) years thereafter, each
6 electric distribution company shall include charges per kilowatt-hour delivered to fund demand
7 side management programs and 0.3 mills per kilowatt-hour delivered to fund renewable energy
8 programs. The electric distribution company shall establish and after July 1, 2007, maintain two
9 (2) separate accounts, one for demand side management programs, which shall be administered
10 and implemented by the distribution company, subject to the regulatory reviewing authority of the
11 commission, and one for renewable energy programs, which shall be administered by the
12 economic development corporation pursuant to § 42-64-13.2 and, shall be held and disbursed by
13 the distribution company as directed by the economic development corporation for the purposes
14 of developing, promoting and supporting renewable energy programs.

15 During the ten (10) year period the commission may, in its discretion, after notice and
16 public hearing, increase the sums for demand side management and renewable resources;
17 thereafter, the commission shall, after notice and public hearing, determine the appropriate charge
18 for these programs. The office of energy resources and/or the administrator of the renewable
19 energy programs may seek to secure for the state an equitable and reasonable portion of
20 renewable energy credits or certificates created by private projects funded through those
21 programs. As used in this section, "renewable energy resources" shall mean: (1) power generation
22 technologies as defined in § 39-26-5, "eligible renewable energy resources", including off-grid
23 and on-grid generating technologies located in Rhode Island as a priority; (2) research and
24 development activities in Rhode Island pertaining to eligible renewable energy resources and to
25 other renewable energy technologies for electrical generation; or (3) projects and activities
26 directly related to implementing eligible renewable energy resources projects in Rhode Island.
27 Technologies for converting solar energy for space heating or generating domestic hot water may
28 also be funded through the renewable energy programs. Fuel cells may be considered an energy
29 efficiency technology to be included in demand sided management programs. Special rates for
30 low-income customers in effect as of August 7, 1996 shall be continued, and the costs of all of
31 these discounts shall be included in the distribution rates charged to all other customers. Nothing
32 in this section shall be construed as prohibiting an electric distribution company from offering
33 any special rates or programs for low-income customers which are not in effect as of August 7,
34 1996, subject to the approval by the commission.

1 Effective January 1, 2018, and for a period of twelve (12) years thereafter, each electric
2 distribution company shall include charges per kilowatt-hour delivered to fund demand side
3 management programs. The electric distribution company shall maintain an account for demand
4 side management programs, which shall be administered and implemented by the distribution
5 company, subject to the regulatory reviewing authority of the commission. Special rates for low-
6 income customers in effect as of August 7, 1996, shall be continued, and the costs of all of these
7 discounts shall be included in the distribution rates charged to all other customers. Nothing in
8 this section shall be construed as prohibiting an electric distribution company from offering any
9 special rates or programs for low-income customers which are not in effect as of August 7, 1996,
10 subject to the approval by the commission.

11 (1) The renewable energy investment programs shall be administered pursuant to rules
12 established by the economic development corporation. Said rules shall provide transparent criteria
13 to rank qualified renewable energy projects, giving consideration to:

- 14 (i) the feasibility of project completion;
15 (ii) the anticipated amount of renewable energy the project will produce;
16 (iii) the potential of the project to mitigate energy costs over the life of the project; and
17 (iv) the estimated cost per kilo-watt hour (kwh) of the energy produced from the project.
18 (c) [Deleted by P.L. 2012, ch. 241, § 14].

19 (d) The executive director of the economic development corporation is authorized and
20 may enter into a contract with a contractor for the cost effective administration of the renewable
21 energy programs funded by this section. A competitive bid and contract award for administration
22 of the renewable energy programs may occur every three (3) years and shall include as a
23 condition that after July 1, 2008 the account for the renewable energy programs shall be
24 maintained and administered by the economic development corporation as provided for in
25 subdivision (b) above.

26 (e) Effective January 1, 2007, and for a period of eleven (11) years thereafter, each gas
27 distribution company shall include, with the approval of the commission, a charge per deca therm
28 delivered to demand side management programs, including, but not limited to, programs for cost-
29 effective energy efficiency, energy conservation, combined heat and power systems, and
30 weatherization services for low income households.

31 (f) Effective January 1, 2018, and for a period of twelve (12) years thereafter, each gas
32 distribution company shall include, with the approval of the commission, a charge per deca therm
33 delivered to demand side management programs, including, but not limited to, programs for cost-
34 effective energy efficiency, energy conservation, combined heat and power systems, and

1 [weatherization services for low income households.](#)

2 ~~(g)~~ The gas company shall establish a separate account for demand side management
3 programs, which shall be administered and implemented by the distribution company, subject to
4 the regulatory reviewing authority of the commission. The commission may establish
5 administrative mechanisms and procedures that are similar to those for electric demand side
6 management programs administered under the jurisdiction of the commissions and that are
7 designed to achieve cost-effectiveness and high life-time savings of efficiency measures
8 supported by the program.

9 ~~(g)~~(h) The commission may, if reasonable and feasible, except from this demand side
10 management charge:

11 ~~(h)~~(1) gas used for distribution generation; and

12 ~~(h)~~(2) gas used for the manufacturing processes, where the customer has established a
13 self-directed program to invest in and achieve best effective energy efficiency in accordance with
14 a plan approved by the commission and subject to periodic review and approval by the
15 commission, which plan shall require annual reporting of the amount invested and the return on
16 investments in terms of gas savings.

17 ~~(h)~~(i) The commission may provide for the coordinated and/or integrated administration
18 of electric and gas demand side management programs in order to enhance the effectiveness of
19 the programs. Such coordinated and/or integrated administration may after March 1, 2009, upon
20 the recommendation of the office of energy resources, be through one or more third-party entities
21 designated by the commission pursuant to a competitive selection process.

22 ~~(h)~~(j) Effective January 1, 2007, the commission shall allocate from demand-side
23 management gas and electric funds authorized pursuant to this § 39-2-1.2, an amount not to
24 exceed two percent (2%) of such funds on an annual basis for the retention of expert consultants,
25 and reasonable administrations costs of the energy efficiency and resources management council
26 associated with planning, management, and evaluation of energy efficiency programs, renewable
27 energy programs, system reliability least-cost procurement, and with regulatory proceedings,
28 contested cases, and other actions pertaining to the purposes, powers and duties of the council,
29 which allocation may by mutual agreement, be used in coordination with the office of energy
30 resources to support such activities.

31 ~~(h)~~(k) Effective January 1, ~~2013~~ 2016, the commission shall annually allocate from the
32 administrative funding amount allocated in ~~(h)~~(j) from the demand-side management program as
33 described in subsection ~~(h)~~(j) as follows: ~~sixty percent (60%)~~ [fifty percent \(50%\)](#) for the purposes
34 identified in subsection ~~(h)~~(j) and ~~forty percent (40%)~~ [fifty percent \(50%\)](#) annually to the office of

1 energy resources for activities associated with planning management, and evaluation of energy
2 efficiency programs, renewable energy programs, system reliability, least-cost procurement, and
3 with regulatory proceedings, contested cases, and other actions pertaining to the purposes, powers
4 and duties of the office of energy resources.

5 ~~(k)~~(l) On April 15, of each year the office and the council shall submit to the governor,
6 the president of the senate, and the speaker of the house of representatives, separate financial and
7 performance reports regarding the demand-side management programs, including the specific
8 level of funds that were contributed by the residential, municipal, and commercial and industrial
9 sectors to the overall programs, the businesses, vendors, and institutions that received funding
10 from demand-side management gas and electric funds used for the purposes in § 39-2-1.2; and the
11 businesses, vendors, and institutions that received the administrative funds for the purposes in
12 sections 39-2-1.2~~(j)~~(i) and 39-2-1.2~~(k)~~(l). These reports shall be posted electronically on the
13 websites of the office of energy resources and the energy efficiency resources management
14 council.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO PUBLIC UTILITIES AND CARRIERS - PUBLIC UTILITIES COMMISSION

1 This act would extend the least cost procurement and system reliability programs
2 reporting requirements, regarding utility base rates and adds a charge per kilowatt to be charged
3 to customers to fund demand like management programs.

4 This act would take effect upon passage.

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