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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS

Introduced By: Representatives Carnevale, Blazejewski, Regunberg, McKiernan, and  
O'Brien

Date Introduced: January 06, 2016

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-26.3-2 of the General Laws in Chapter 39-26.3 entitled  
2 "Distributed Generation Interconnection" is hereby amended to read as follows:

3 **39-26.3-2. Definitions.** -- The following terms shall have the meanings given below for  
4 purposes of this chapter:

5 (1) "Applicant" means an electric distribution customer or distributed generation  
6 developer who submits an application to the electric distribution company for the installation of a  
7 renewable distributed generation interconnection to the distribution system for a renewable  
8 distributed generation project that, as contemplated, meets the eligibility requirements for net  
9 metering contained within title 39 or the eligibility requirements for a standard contract contained  
10 within title 39.

11 (2) "Impact study" means an engineering study that includes an estimate of the cost of  
12 interconnecting to the distribution system that would be assessed on the applicant for an  
13 interconnection that is based on an engineering study of the details of the proposed generation  
14 project. Such estimate generally will have a probability of accuracy of plus or minus twenty five  
15 percent (25%). Such an estimate may be relied upon by the applicant for purposes of determining  
16 the expected cost of interconnection, but the distribution company may not be held liable or  
17 responsible if the actual costs exceed the estimate as long as the estimate was provided in good  
18 faith and the interconnection was implemented prudently by the electric distribution company.

19 (3) "Impact study fee" means a fee that shall be charged to the applicant to obtain an

1 impact study as specified in § 39-26.2-4 of this chapter.

2 (4) "Feasibility study" means a high-level project assessment that includes an estimate of  
3 the cost of interconnecting to the distribution system that would be assessed on the applicant for  
4 an interconnection. Such estimate is not based on any engineering study, but is based on past  
5 experience and judgment of the electric distribution company, taking into account the information  
6 in the application, the location of the interconnection, and general knowledge of the distribution  
7 and transmission system. Such estimate cannot be relied upon by the applicant for purposes of  
8 holding the electric distribution company liable or responsible for its accuracy as long as the  
9 electric distribution company has provided the estimate in good faith. The feasibility study  
10 estimate shall be a range within which the electric distribution company believes the  
11 interconnection costs are likely to be and shall include a disclaimer that explains the nature of the  
12 estimate.

13 (5) "Feasibility study fee" means a fee that shall be charged to the applicant to obtain a  
14 feasibility study as specified in § 39-26.2-4 of this chapter.

15 (6) "Renewable energy resource" has the same meaning as defined in §39-26-5.

16 SECTION 2. Chapter 39-26.3 of the General Laws entitled "Distributed Generation  
17 Interconnection" is hereby amended by adding thereto the following section:

18 **39-26.3-4.1. Interconnection standards.** -- (a) The electric distribution company may  
19 only charge an interconnecting renewable energy customer for any system modifications to its  
20 electric power system specifically necessary for and directly related to its interconnection. Any  
21 system modifications benefiting other customers shall be included in rates as determined by the  
22 public utilities commission.

23 (b) If the public utilities commission determines that a specific system modification  
24 benefiting other customers has been accelerated due to an interconnection request, it may order  
25 the interconnecting customer to fund the modification subject to repayment of the depreciated  
26 value of the modification as of the time the modification would have been necessary as  
27 determined by the public utilities commission.

28 (c) If an interconnecting renewable energy customer is required to pay for system  
29 modifications and a subsequent renewable energy or commercial customer relies on those  
30 modifications to connect to the distribution system within ten (10) years of the earlier  
31 interconnecting renewable energy customer's payment, the subsequent customer will make a  
32 prorated contribution toward the cost of the system modifications which will be credited to the  
33 earlier interconnecting renewable energy customer as determined by the public utilities  
34 commission.

1           (d) All interconnection work must be performed no longer than two hundred seventy  
2 (270) calendar days from completion of the renewable energy customer's interconnection impact  
3 study pursuant to §39-26.3-3, if required, or else no more than three hundred sixty (360) calendar  
4 days from the customer's initial application for interconnection. These deadlines cannot be  
5 extended due to customer delays in providing required information, all of which must be  
6 requested and obtained before completion of the impact study. The electric distribution company  
7 will be liable to the interconnecting customer for all actual and consequential damages resulting  
8 from the noncompliant interconnection delay including, but not limited to, the full value of any  
9 lost energy production, and any reasonable legal fees and costs associated with the recovery of  
10 those damages. These penalties and damages shall be borne by the electric distribution company's  
11 shareholders, not by the electric distribution company's ratepayers.

12           (e) The interconnection of any new renewable energy resource that replaces the same  
13 existing renewable energy resource of the same or less nameplate capacity shall not be considered  
14 a material modification requiring interconnection study or approval other than a review to  
15 determine consistency with this section and to establish any costs specifically necessary to  
16 interconnect the replacement renewable energy resource, which shall not include any system  
17 modifications or system improvements. This review shall take no longer than sixty (60) days  
18 subject to the penalties provided in subsection (d) of this section.

19           (f) The electric distribution company shall not require interconnecting customers that do  
20 not propose to and will not make direct sales to the wholesale market, including, but not limited  
21 to, those enrolled under chapters 26.2, 26.4, and 26.6 of title 39, to comply with regulatory  
22 requirements applicable to wholesale customers or sales, as defined according to 16 U.S.C. §824.  
23 If the electric distribution company sells any electricity generated by such interconnecting  
24 customers in the wholesale markets, the electric distribution company will be the designated  
25 market participant and designated entity for such sales, complying with all applicable, regulatory  
26 requirements without any delay to the interconnection schedule set forth in subsection (d) of this  
27 section. The interconnecting customer shall assist the electric distribution company by providing  
28 information and access for such compliance if/as necessary and appropriate.

29           SECTION 3. Sections 39-26.4-2 and 39-26.4-3 of the General Laws in Chapter 39-26.4  
30 entitled "Net Metering" are hereby amended to read as follows:

31           **39-26.4-2. Definitions.** -- Terms not defined in this section herein shall have the same  
32 meaning as contained in chapter 26 of title 39 of the general laws. When used in this chapter:

33           (1) "Eligible net metering resource" means eligible renewable energy resource as defined  
34 in § 39-26-5 including biogas created as a result of anaerobic digestion, but, specifically

1 excluding all other listed eligible biomass fuels;

2 (2) "Eligible Net Metering System" means a facility generating electricity using an  
3 eligible net metering resource that is reasonably designed and sized to annually produce  
4 electricity in an amount that is equal to or less than the renewable self-generator's usage at the  
5 eligible net metering system site measured by the three (3) year average annual consumption of  
6 energy over the previous three (3) years at the electric distribution account(s) located at the  
7 eligible net metering system site. A projected annual consumption of energy may be used until  
8 the actual three (3) year average annual consumption of energy over the previous three (3) years  
9 at the electric distribution account(s) located at the eligible net metering system site becomes  
10 available for use in determining eligibility of the generating system. The eligible net metering  
11 system must be owned by the same entity that is the customer of record on the net metered  
12 accounts. Notwithstanding any other provisions of this chapter, any eligible net metering  
13 resource: (i) owned by a public entity or multi-municipal collaborative or (ii) owned and operated  
14 by a renewable generation developer on behalf of a public entity or multi-municipal collaborative  
15 through public entity net metering financing arrangement shall be treated as an eligible net  
16 metering system and all accounts designated by the public entity or multi-municipal collaborative  
17 for net metering shall be treated as accounts eligible for net metering within an eligible net  
18 metering system site.

19 (3) "Eligible Net Metering System Site" means the site where the eligible net metering  
20 system is located or is part of the same campus or complex of sites contiguous to one another and  
21 the site where the eligible net metering system is located or a farm in which the eligible net  
22 metering system is located. Except for an eligible net metering system owned by or operated on  
23 behalf of a public entity or multi-municipal collaborative through a public entity net metering  
24 financing arrangement, the purpose of this definition is to reasonably assure that energy generated  
25 by the eligible net metering system is consumed by net metered electric service account(s) that  
26 are actually located in the same geographical location as the eligible net metering system. [All](#)  
27 [energy generated from any eligible net metering system is and will be considered consumed at the](#)  
28 [meter where the renewable energy resource is interconnected for valuation purposes.](#) Except for  
29 an eligible net metering system owned by or operated on behalf of a public entity or multi-  
30 municipal collaborative through a public entity net metering financing arrangement, all of the net  
31 metered accounts at the eligible net metering system site must be the accounts of the same  
32 customer of record and customers are not permitted to enter into agreements or arrangements to  
33 change the name on accounts for the purpose of artificially expanding the eligible net metering  
34 system site to contiguous sites in an attempt to avoid this restriction. However, a property owner

1 may change the nature of the metered service at the accounts at the site to be master metered in  
2 the owner's name, or become the customer of record for each of the accounts, provided that the  
3 owner becoming the customer of record actually owns the property at which the account is  
4 located. As long as the net metered accounts meet the requirements set forth in this definition,  
5 there is no limit on the number of accounts that may be net metered within the eligible net  
6 metering system site.

7 (4) "Excess Renewable Net Metering Credit" means a credit that applies to an eligible  
8 net metering system for that portion of the renewable self-generator's production of electricity  
9 beyond one hundred percent (100%) and no greater than one hundred twenty-five percent (125%)  
10 of the renewable self-generator's own consumption at the eligible net metering system site during  
11 the applicable billing period. Such excess renewable net metering credit shall be equal to the  
12 electric distribution company's avoided cost rate, which is hereby declared to be the electric  
13 distribution company's standard offer service kilo-watt hour (kWh) charge for the rate class and  
14 time-of-use billing period (if applicable) applicable to the distribution customer account(s) at the  
15 eligible net metering system site. Where there are accounts at the eligible net metering system site  
16 in different rate classes, the electric distribution company may calculate the excess renewable net  
17 metering credit based on the average of the standard offer service rates applicable to those on- site  
18 accounts. The electric distribution company has the option to use the energy received from such  
19 excess generation to serve the standard offer service load. The commission shall have the  
20 authority to make determinations as to the applicability of this credit to specific generation  
21 facilities to the extent there is any uncertainty or disagreement.

22 (5) "Farm" shall be defined in accordance with § 44-27-2, except that all buildings  
23 associated with the farm shall be eligible for net metering credits as long as: (i) The buildings are  
24 owned by the same entity operating the farm or persons associated with operating the farm; and  
25 (ii) The buildings are on the same farmland as the project on either a tract of land contiguous with  
26 or reasonably proximate to such farmland or across a public way from such farmland.

27 (6) "Multi-municipal collaborative" means a group of towns and/or cities that enter into  
28 an agreement for the purpose of co-owning a renewable generation facility or entering into a  
29 financing arrangement pursuant to subdivision (7).

30 (7) "Public entity net metering financing arrangement" means arrangements entered into  
31 by a public entity or multi-municipal collaborative with a private entity to facilitate the financing  
32 and operation of a net metering resource, in which the private entity owns and operates an eligible  
33 net metering resource on behalf of a public entity or multi-municipal collaborative, where: (i) The  
34 eligible net metering resource is located on property owned or controlled by the public entity or

1 one of the municipalities, as applicable, and (ii) The production from the eligible net metering  
2 resource and primary compensation paid by the public entity or multi-municipal collaborative to  
3 the private entity for such production is directly tied to the consumption of electricity occurring at  
4 the designated net metered accounts.

5 (8) "Net metering" means using electricity generated by an eligible net metering system  
6 for the purpose of self-supplying power at the eligible net metering system site and thereby  
7 offsetting consumption at the eligible net metering system site through the netting process  
8 established in this chapter.

9 (9) "Net metering customer" means a customer of the electric distribution company  
10 receiving and being billed for distribution service whose distribution account(s) are being net  
11 metered.

12 (10) "Person" means an individual, firm, corporation, association, partnership, farm,  
13 town or city of the State of Rhode Island, multi-municipal collaborative, or the State of Rhode  
14 Island or any department of the state government, governmental agency or public instrumentality  
15 of the state.

16 (11) "Project" means a distinct installation of an eligible net metering system. An  
17 installation will be considered distinct if it is installed in a different location, or at a different  
18 time, or involves a different type of renewable energy.

19 (12) "Public entity" means the state of Rhode Island, municipalities, wastewater  
20 treatment facilities, public transit agencies or any water distributing plant or system employed for  
21 the distribution of water to the consuming public within this state including the water supply  
22 board of the city of Providence.

23 (13) "Renewable Net Metering Credit" means a credit that applies to an Eligible Net  
24 Metering System up to one hundred percent (100%) of the renewable self-generator's usage at the  
25 Eligible Net Metering System Site over the applicable billing period. This credit shall be equal to  
26 the total kilowatt hours of electricity generated and consumed on-site during the billing period  
27 multiplied by the sum of the distribution company's:

28 (i) Standard offer service kilowatt hour charge for the rate class applicable to the net  
29 metering customer;

30 (ii) Distribution kilowatt hour charge;

31 (iii) Transmission kilowatt hour charge; and

32 (iv) Transition kilowatt hour charge.

33 (14) "Renewable self-generator" means an electric distribution service customer who  
34 installs or arranges for an installation of renewable generation that is primarily designed to

1 produce electricity for consumption by that same customer at its distribution service account(s).

2 (15) "Municipality" means any Rhode Island town or city, including any agency or  
3 instrumentality thereof, with the powers set forth in title 45 of the general laws.

4 **39-26.4-3. Net metering.** -- (a) The following policies regarding net metering of  
5 electricity from eligible net metering systems and regarding any person that is a renewable self-  
6 generator shall apply:

7 (1) The maximum, allowable capacity for eligible net-metering systems, based on  
8 nameplate capacity, shall be ~~five~~ ten megawatts (~~5 mw~~) (10 MW). The aggregate amount of net  
9 metering in the Block Island Power Company and the Pascoag Utility District shall not exceed  
10 three percent (3%) of peak load for each utility district.

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

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

15 (ii) Aggregate consumption of the net-metered accounts at the eligible net-metering  
16 system site and establish a monthly billing plan that reflects the expected credits that would be  
17 applied to the net-metered accounts over twelve (12) months. The billing plan would be designed  
18 to even out monthly billings over twelve (12) months, regardless of actual production and usage.  
19 If such election is made by the electric-distribution company, the electric-distribution company  
20 would reconcile payments and credits under the billing plan to actual production and  
21 consumption at the end of the twelve-month (12) period and apply any credits or charges to the  
22 net-metered accounts for any positive or negative difference, as applicable. Should there be a  
23 material change in circumstances at the eligible net-metering system site or associated accounts  
24 during the twelve-month (12) period, the estimates and credits may be adjusted by the electric-  
25 distribution company during the reconciliation period. The electric-distribution company also  
26 may elect (but is not required) to issue checks to any net metering customer in lieu of billing  
27 credits or carry forward credits or charges to the next billing period. For residential eligible net  
28 metering systems twenty-five kilowatts (25 kw) or smaller, the electric-distribution company, at  
29 its option, may administer renewable net-metering credits month to month allowing unused  
30 credits to carry forward into following billing period.

31 (3) If the electricity generated by an eligible net-metering system during a billing period  
32 is equal to, or less than the net-metering customer's usage during the billing period for electric-  
33 distribution-company customer accounts at the eligible net-metering system site, the customer  
34 shall receive renewable net-metering credits, that shall be applied to offset the net-metering

1 customer's usage on accounts at the eligible net-metering-system site.

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

9 (5) The rates applicable to any net-metered account shall be the same as those that apply  
10 to the rate classification that would be applicable to such account in the absence of net-metering,  
11 including customer and demand charges, and no other charges may be imposed to offset net  
12 metering credits.

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

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

24 (d) The billing process set out in this section shall be applicable to electric-distribution  
25 companies thirty (30) days after the enactment of this chapter.

26 SECTION 4. This act shall take effect sixty (60) days after passage and shall apply to all  
27 interconnection or net metering applications submitted and any interconnection impact studies  
28 issued on or after January 1, 2016.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO PUBLIC UTILITIES AND CARRIERS

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1           This act would prohibit electrical distribution companies from charging an  
2   interconnecting renewable energy customer for system modifications that are not directly related  
3   to the interconnection, except accelerated modifications for which the developer is repaid when  
4   the modification would have otherwise been made. It would require that any interconnection  
5   work must be completed no later than two hundred seventy (270) days from the applicant's  
6   impact study or three hundred sixty (360) days from its initial application. The act would enable  
7   replacement of a renewable energy resource without study or system improvement costs and  
8   would require the electric distribution company to take responsibility for regulatory obligations it  
9   creates when it elects to resell in the wholesale markets electricity it receives from customers that  
10   do not directly participate in the wholesale markets.

11           This act would also allow a maximum project size of ten megawatts (10 MW) for net  
12   metered projects in Rhode Island, and would ensure that net metered electricity is properly treated  
13   as consumed at the meter or meters designated for net metering, for regulatory and valuation  
14   purposes.

15           This act would take effect sixty (60) days after passage, and would apply to all  
16   interconnection or net metering applications submitted and any interconnection impact studies  
17   issued on or after January 1, 2016.

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