

2016 -- S 2181

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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 - RENEWABLE ENERGY GROWTH PROGRAM

Introduced By: Senators Walaska, Sosnowski, Paiva Weed, Conley, and Kettle

Date Introduced: January 27, 2016

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-26.6-12 of the General Laws in Chapter 39-26.6 entitled "The  
2 Renewable Energy Growth Program" is hereby amended to read as follows:

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

8 (b) During each program year, the tariff enrollments shall have both an annual targeted  
9 amount of nameplate megawatts ("annual MW target") and a nameplate megawatt target for each  
10 separate enrollment event ("enrollment MW target"). The enrollment MW target shall comprise  
11 the specific portion of the annual MW target sought to be obtained in that enrollment. The  
12 enrollment MW targets shall be recommended by the board each year, subject to commission  
13 approval. The board shall also recommend a megawatt target for each class ("class MW target")  
14 that comprises a specified portion of the enrollment MW target, subject to commission approval.  
15 If the electric-distribution company, the office, and the board mutually agree, they may reallocate  
16 megawatts during an enrollment from one class to another without commission approval if there  
17 is an over-subscription in one class and an under-subscription in another, provided that the annual  
18 MW Target is not being exceeded, except as provided in § 39-26.6-7.

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

4 (1) For the first program year (2015), the annual MW target shall be twenty-five (25)  
5 nameplate megawatts;

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

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

11 (4) For the fifth program year, the annual target shall be set to obtain the balance of  
12 capacity needed to achieve one hundred sixty (160) nameplate megawatts within the five-year (5)  
13 distributed-generation growth program, subject to § 39-26.6-12(e) and the conditions set forth in  
14 § 39-26.6-12(f) having been met for the fourth program year as determined in the manner  
15 specified in § 39-26.6-12(g).

16 (5) For the sixth and nine subsequent program years thereafter, the annual target for each  
17 year shall be forty (40) nameplate megawatts.

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

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

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

32 (1) That it is reasonable to conclude that the bid prices submitted in the procurements for the  
33 large-scale solar and commercial-scale solar classes were reasonably competitive in the  
34 immediately preceding program year; (2) That it is reasonable to conclude that the annual MW

1 target specified for the next program year is reasonably achievable; and (3) That the electric-  
2 distribution company was able to, or with reasonably prudent efforts should have been able to,  
3 perform the studies and system upgrades on a timely basis necessary to accommodate the number  
4 of applications associated with the targets without materially adversely affecting other electric-  
5 distribution construction projects needed to provide reliable and safe electric-distribution service.  
6 To the extent the board or the commission concludes that any of these conditions have not been  
7 met for the applicable program year, the board may recommend, and/or the commission may  
8 adopt, a new annual MW target, based on the factors set forth in section 39-26.6-12(h).

9 (g) Before the third, fourth, and fifth program years, each year the board shall review the  
10 conditions specified in § 39-26.6-12(f) and make a recommendation to the commission for  
11 findings as to whether they have been met for the applicable year. The recommendation shall be  
12 filed with the commission, with copies to the office and the electric distribution company, and  
13 any person who has made a written request to the commission to be included in such notification,  
14 such list which may be obtained from the commission clerk, and a notice of such filing shall be  
15 posted by the commission on its website. If no party files an objection to the recommended  
16 findings within ten (10) business days of the posting, the commission may accept them without  
17 hearings. If an objection is filed with a reasonable explanation for its basis, the commission shall  
18 hold hearings and make the factual determination of whether the conditions have been met.

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

34 (i) The renewable energy growth program is intended to achieve at least an aggregate

1 amount of one hundred sixty (160) nameplate megawatts over five (5) years, plus any shortfall  
2 amount added in pursuant to § 39-26.6-12(e). However, after the second program year, the board  
3 may, based on market data and other information available to it, including pricing received during  
4 previous program years, recommend changes to the annual target for any program year above or  
5 below the specified targets in § 39-26.6-12(c) if the board concludes that market conditions are  
6 likely to produce favorably low or unfavorably high target pricing during the upcoming program  
7 year, provided that the recommendation may not result in the five-year (5) one hundred sixty  
8 megawatt (160MW) nameplate target, plus any shortfall added pursuant to § 39-26.6-12(e), being  
9 exceeded. Any megawatt reduction in an annual target shall be added to the target in the fifth year  
10 of the program (and any subsequent years if necessary) such that the overall program target of  
11 one hundred sixty megawatt (160MW) nameplate capacity, plus any shortfall added pursuant to §  
12 39-26.6-12(e), is achieved. In considering such issues, the board and the commission may take  
13 into account the reasonableness of current pricing and its impact on all electric distribution  
14 customers and the legislative purpose of this chapter as set forth herein, including the program  
15 purpose to facilitate the development of renewable distributed generation in the load zone of the  
16 electric-distribution company at reasonable cost.

17 (j) The provisions of § 39-26.1-4 shall apply to the annual value of performance-based  
18 incentives (actual payments plus the value of net metering credits, as applicable) provided by the  
19 electric-distribution company to all the distributed-generation projects under this chapter, subject  
20 to the following conditions:

21 (1) The targets set for the applicable program year for the applicable project  
22 classifications were met or, if not met, such failure was due to factors beyond the reasonable  
23 control of the electric-distribution company;

24 (2) The electric-distribution company has processed applications for service and  
25 completed interconnections in a timely and prudent manner for the projects under this chapter,  
26 taking into account factors within the electric-distribution company's reasonable control. The  
27 commission is authorized to establish more specific performance standards to implement the  
28 provisions of this chapter; and

29 (3) The incentive shall be one and three-quarters percent (1.75%) of the annual value of  
30 performance-based incentives. The commission is authorized to establish more specific  
31 performance standards to implement the provisions of this paragraph.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - RENEWABLE ENERGY GROWTH  
PROGRAM

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1           This act would expand the renewable energy growth program for an additional ten (10)  
2 years after the fifth program year, with an annual target of forty (40) nameplate megawatts for  
3 each year of the ten (10) year period.

4           This act would take effect upon passage.

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