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RELATING TO PUBLIC UTILITIES AND CARRIERS -- PUBLIC UTILITIES COMMISSION

Introduced By: Representative Raymond H. Johnston

DateIntroduced: May 03, 2017

Referred To: House Corporations

(Lieutenant Governor)

It is enacted by the General Assembly as follows:

SECTION 1. Section 39-1-27 of the General Laws in Chapter 39-1 entitled “Public Utilities Commission” is hereby amended to read as follows:

39-1-27. Electric distribution companies required to file restructuring plans.

(a) Each electric distribution company shall file with the commission a plan for transferring ownership of generation facilities into a separate affiliate of the electric distribution company. The transmission facilities owned by the electric distribution company also may be transferred to an affiliated electric transmission company at a price that shall equal the book value of the transmission facilities on the electric distribution company's accounts net of depreciation and deferred taxes as the date of transfer, but such a transfer is not required. The generation plant, equipment, and facilities owned by an electric distribution company shall be transferred to an affiliate that is a nonregulated power producer at a price that shall equal the book value of the generation plant, equipment, and facilities on the electric distribution company's accounts net of depreciation and deferred taxes as of the date of the transfer. Consistent with the schedule for implementing retail access in § 39-1-27.3, each electric transmission company shall file tariffs with the federal energy regulatory commission (FERC) and electric distribution companies shall file tariffs with the commission. The tariffs will provide the terms, conditions and rates for nondiscriminatory access to transmission and distribution facilities to wholesale and retail customers and to nonregulated power producers. The tariffs shall (1) conform to the standards, policies, and requirements of the federal energy regulatory commission or the commission as
appropriate with respect to nondiscriminatory access to transmission and distribution services, (2) fulfill such standards with respect to both transmission and distribution services for the benefit of both wholesale and retail customers and their suppliers, and (3) provide retail access in accordance with the schedule set forth in § 39-1-27.3. For purposes of this section, "nondiscriminatory access" means access to transmission and distribution services on rates, terms and conditions found to be reasonable by the FERC or the commission as appropriate and applied consistently to all customers in a rate class regardless of their supplier. When establishing terms and conditions for distribution service, the commission shall implement standards, policies, and requirements consistent with those established by the federal energy regulatory commission for transmission service unless it determines that alternative terms and conditions are in the public interest.

(b) The commission shall review the plan within six (6) months of filing and if the plan is in compliance with chapter 3 of this title, shall authorize the property transfers, securities issuances, and affiliate transactions pursuant to this title and shall grant all necessary regulatory approvals. All existing state and local rights, authorizations, and approvals, including but not limited to, permits, licenses, locations, indentures, leases, orders, or similar rights associated with the ownership and operation of plant and equipment, shall be deemed transferred with the associated plant and equipment upon the commission's authorization of the transfer effective as of the date of transfer. Notwithstanding any provisions of this section, if the electric distribution company's wholesale power supplier chooses to transfer its generation assets to a nonaffiliate of the electric distribution company for purposes of carrying out the market valuation required by § 39-1-27.4(g), and such transfer to a nonaffiliate is specified in the electric distribution company's restructuring plan filed with the commission pursuant to subsection (a) of this section, the transfer of the electric distribution company's interest in the generation facilities may be made directly to the nonaffiliate. In the case of such a transfer directly to a nonaffiliate, all of the state and local rights, authorizations and approvals, including those enumerated above, shall be deemed transferred with the associated plant and equipment upon the commission's authorization of the transfer effective as of the date of the transfer.

(c) The electric distribution company shall implement the corporate reorganizations and property transfers specified in such restructuring plan, terminate its all requirements contract with its wholesale power supplier on the terms set forth in § 39-1-27.4 and provide retail access for all customers in Rhode Island with a standard offer as set forth in § 39-1-27.3 no later than three (3) months after retail access is available to forty percent (40%) or more of the kilowatt-hour sales in New England. The commission may extend this time if it determines that additional time is
necessary to implement the transactions on reasonable terms and in accordance with a reasonable
schedule; provided, however, that nothing in this section shall be construed to limit the effect of §
39-1-27.3 or permit the commission to unduly discriminate in providing retail access among or
within rate classes.

(d) Following the complete implementation of the restructuring plans, electric
distribution companies shall be prohibited from selling electricity at retail and from owning,
operating, or controlling generating facilities, although such facilities may be owned by affiliates
of electric distribution companies. For purposes of this paragraph providing the standard offer
service and last resort power supply in accordance with subsections (d) and (f) of § 39-1-27.3
shall not be construed as selling electricity at retail.

(1) The commission shall not approve ratepayer-backed, long-term contracts by electric
distribution companies for gas capacity; and

(2) The commission shall not approve any rate increase for an electric distribution
company to finance the construction or expansion of natural gas pipelines or related facilities.

(e) Following the termination of the electric distribution company's contracts with its
wholesale power supplier, the wholesale power supplier shall become a nonregulated power
producer, and shall be free, subject to the requirements of the standard offer set forth in § 39-1-
27.3(e) and retail electric licensing commission plan requirements pursuant to § 39-1-27.1 to sell
electricity generated from each of its facilities on either the wholesale or retail markets at market
prices, either directly or through an affiliate, which shall also become a nonregulated power
producer. The former wholesale power supplier and its affiliates shall be free to apply to become
exempt wholesale generators pursuant to section 32 of the Public Utility Holding Company Act
of 1935, 15 U.S.C. § 79z-5a, and other federal law, rules and regulations, and each and every
generating facility of the former wholesale power supplier shall become an eligible facility
pursuant to that statute. Accordingly, the legislature hereby finds and declares that the division
has sufficient regulatory authority, resources, access to books and records to exercise its duties;
and that the full participation of former wholesale power suppliers and affiliated nonregulated
power producers in the market and the designation of each of the former wholesale power
supplier's facilities as eligible facilities will benefit consumers, is consistent with state law, will
not provide any unfair competitive advantage by virtue of their status as a former wholesale
power supplier or as affiliates of electric distribution companies, and is in the public interest.

(f) Although reducing air emissions from power plants is a goal of electricity industry
restructuring, power plants in Rhode Island already have low emissions relative to their
counterparts in other states. For this reason, it is unnecessary for the restructuring plans required
by this section to address in-state air emission reductions. However, to the extent a wholesale
power supplier receiving contract termination fees pursuant to § 39-1-27.4(b)(4) owns and
operates as of December 31, 1995 fossil fired generation in another state which does not meet air
emission standards applicable as of that date to new electric generating facilities in that state, such
wholesale power suppliers shall cooperate with the appropriate environmental officials in the
state or states where such generating facilities are located to develop a plan for reducing the
emissions of nitrogen oxides, sulfur dioxide, and particulate matter from such plants on an overall
basis through retirements, replacements, controls or offsets or any combination of the above
toward the air emissions standards applicable to new electric generating facilities in effect in the
state or states where the plants are located as of January 1, 1996. Such plans shall be implemented
in connection with electric industry restructuring in the state or states where the generating
facilities are located.

(g) An electric distribution company, whether public, quasi-municipal or investor owned,
that as of January 1, 1996 did not purchase power at wholesale from a wholesale power supplier
under an all requirements contract shall include proposals for recovering transition costs
consistent with the elements which would be comparable in nature to the elements included in
termination fees pursuant to § 39-1-27.4(b) through (g) and for providing a standard offer
consistent with requirements of § 39-1-27.3(d) in its plan filed with the commission pursuant to
this section. The filing by an electric distribution company that is a quasi-municipal corporation
shall also address any unique circumstances affecting the electric distribution company including
special contract requirements or charter restrictions and the conditions that the quasi-municipal
corporation must satisfy in order to participate in retail competition. In reviewing the filing and
determining the appropriate level of transition cost recovery, the commission shall apply
standards consistent with those contained in § 39-1-27.4(b) through (g) and with this subsection.
The commission shall be authorized to take any action or to grant any approval necessary to
maintain hydro-electric power purchases from the Niagara and St. Lawrence power projects by
quasi-municipal corporations. Notwithstanding any other provision of this section, quasi-
municipal electric distribution companies that purchase hydro-electric power from the Niagara
and St. Lawrence power projects shall be authorized to continue to resell such power to
residential customers within their service territories. After notice and public hearing, the
commission may exempt electric distribution companies subject to this paragraph from: (1) the
requirement to transfer ownership of generation and transmission facilities to affiliated companies
pursuant to subsection (a); and (2) the prohibition against selling electricity at retail pursuant to
subsection (d) of this section with respect to sales within the service territory of such electric
distribution company, if it determines that such exemptions are in the public interest.

(h) With the exception of the requirements of the standard offer set forth in § 39-1-
27.3(e) and (f) and retail electric licensing commission plan requirements pursuant to § 39-1-27.1,
nothing in this section shall be construed or interpreted to constrain the application of anti-trust
laws to nonregulated power producers, whether affiliated or not with an electric distribution
company.

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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1 This act would preclude electric distribution companies from including their gas transmission contracts or cost of facilities in the rate base for electricity customers.

2 This act would take effect upon passage.

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