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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- RENEWABLE ENERGY GROWTH PROGRAM

Introduced By: Senators Euer, Pearson, Conley, DiPalma, and Coyne

Date Introduced: February 15, 2018

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.**

4 (a) With the exception of the first program year (2015), the electric-distribution company,
5 in consultation with the board and office, shall conduct at least three (3) tariff enrollments for
6 each distributed-generation class each program year. For the first program year, the board may
7 recommend that either two (2) or three (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) nameplate
9 megawatts, subject to the conditions set forth in subsection (f) of this section having been met for
10 the applicable prior program year as determined in the manner specified in subsection (g) of this
11 section and in the event that in the fourth program year, the small-scale solar class, as defined in §
12 39-26.6-7(b), is fully subscribed by or before the close of the third quarter of the program year
13 and reallocations from undersubscribed classes in that program year would not be sufficient to
14 maintain installations in that small-scale solar class, the electric distribution company with the
15 approval of the office may add up to two megawatts (2 MW) nameplate capacity to the program
16 year megawatt allocation for that small-scale solar class from the shortfall amount of capacity
17 procured under chapter 26.2 of title 39, in order to provide for installations in that small-scale
18 solar class during the fourth quarter of the program year; such added capacity shall not increase
19 the total amount of capacity authorized to be installed under this chapter and shall be deducted
20 from the amount of shortfall capacity that may be added to the aggregate amount of nameplate
21 capacity to be achieved in accordance with subsection (e) of this section; and

22 (4) For the fifth program year, the annual target shall be set to obtain the balance of
23 capacity needed to achieve one hundred sixty (160) nameplate megawatts within the five-year (5)
24 distributed-generation growth program, subject to § 39-26.6-12(e) and the conditions set forth in
25 § 39-26.6-12(f) having been met for the fourth program year as determined in the manner
26 specified in § 39-26.6-12(g); and

27 (5) From the year 2020 through the year 2029, the annual target for each program year
28 shall be ~~an additional~~ forty (40) nameplate megawatts ~~above the annual target for the preceding~~
29 ~~program year.~~ The total program capacity authorized to be installed under this chapter from 2015
30 through 2029 is five hundred sixty megawatts (560 MW) nameplate capacity, plus any shortfall
31 amount added pursuant to subsection (e) of this section. Notwithstanding the foregoing, in the
32 event that in the fifth program year (2019), and/or any subsequent program year up to and
33 including the fourteenth program year (2028), any small-scale solar class is fully subscribed by or
34 before the close of the third quarter of the program year and reallocations from undersubscribed

1 classes in that program year would not be sufficient to maintain installations in that small-scale
2 solar class, the electric distribution company with the approval of the office may add up to two
3 megawatts (2 MW) nameplate capacity to the program year megawatt allocation for the small-
4 scale solar class in order to provide for installations in the small-scale solar class during the fourth
5 quarter of the program year, provided that such added capacity shall not increase the total amount
6 of capacity authorized to be installed under this chapter and shall be deducted from the final
7 program year (2029). Any capacity unenrolled, terminated, or otherwise cancelled from
8 enrollment may be aggregated and added to the capacity available in 2024 and 2029, and may be
9 added to program years in the years between 2019, 2024 and 2029, at the discretion of the board.

10 (d) During the ~~fifth~~ fifteenth year (2029) of the distributed-generation growth program,
11 the board may recommend to the commission an extension of time in the event that additional
12 time is required to achieve the full ~~one hundred sixty (160)~~ five hundred sixty (560) nameplate
13 megawatt capacity target of the program, plus any shortfall amount added pursuant to subsection
14 (e) of this section. The commission shall approve the recommendation of the board; provided,
15 however, that the commission may make any modifications to the board's recommendation that
16 the commission deems appropriate, consistent with the legislative purposes of this chapter as set
17 forth herein.

18 (e) To the extent there was a shortfall of capacity procured under chapter 26.2 of title 39
19 from 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 subsection (h) of this section.

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

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

29 (i) The renewable energy growth program is intended to achieve at least an aggregate
30 amount of one hundred sixty (160) nameplate megawatts over five (5) years, plus any shortfall
31 amount added in pursuant to subsection (e) of this section. However, after the second program
32 year, the board may, based on market data and other information available to it, including pricing
33 received during previous program years, recommend changes to the annual target for any
34 program year above or below the specified targets in subsection (c) of this section if the board

1 concludes that market conditions are likely to produce favorably low or unfavorably high target
2 pricing during the upcoming program year, provided that the recommendation may not result in
3 the five-year (5) one hundred sixty megawatt (160MW) nameplate target, plus any shortfall added
4 pursuant to subsection (e) of this section, being exceeded. Any megawatt reduction in an annual
5 target shall be added to the target in the fifth year of the program (and any subsequent years if
6 necessary) such that the overall program target of one hundred sixty megawatt (160MW)
7 nameplate capacity, plus any shortfall added pursuant to subsection (e) of this section, is
8 achieved. In considering such issues, the board and the commission may take into account the
9 reasonableness of current pricing and its impact on all electric distribution customers and the
10 legislative purpose of this chapter as set forth herein, including the program purpose to facilitate
11 the development of renewable distributed generation in the load zone of the electric-distribution
12 company at reasonable cost.

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

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

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

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

28 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

1 This act would amend the provisions of the annual bidding and enrollment process
2 provided pursuant to this chapter for the renewable energy growth program to provide for
3 oversubscribed classes in any program year by adding megawatt nameplate capacity.

4 This act would take effect upon passage.

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