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LC000867

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO PUBLIC UTILITIES -- POWERS DURING STATE OF EMERGENCY

Introduced By: Representatives Kazarian, Solomon, Fogarty, Alzate, Chippendale,
Henries, Edwards, Kislak, McGaw, and Potter

Date Introduced: February 26, 2021

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 2.3

4 POWERS DURING STATE OF EMERGENCY

5 **39-2.3-1. Activation by the governor.**

6 (a) Upon declaration by the governor pursuant to the provisions of § 30-15-9 that a state of
7 emergency exists, the governor may authorize the chair of the public utilities commission (PUC)
8 to take such action that the chair may consider necessary to assure public safety and welfare through
9 the priority restoration or continuing availability of gas, electric and water utility services.

10 (b) Under such authority, the chair may issue operational and management directives and
11 order expenditures or other measures by any investor-owned utility that the chair considers
12 necessary to respond to the state of emergency, including, but not limited to, expenditures for the
13 deployment of personnel, equipment and other assets or property of an alternative utility to assume
14 responsibility for the restoration of service if, in the judgment of the chair, the affected utility is
15 incapable of restoring service.

16 (c) The chair shall have immediate access to all utility documents, information and
17 personnel necessary to respond to the state of emergency; provided, however, that document and
18 information provided to the chair during such state of emergency shall be subject to the extent
19 necessary to protect the public safety.

1 (d) The chair may temporarily suspend any division of public utilities and carriers (DPUC)
2 rule or regulation and implement any emergency rule, procedure or protocol that is necessary to
3 respond to the emergency. Any orders issued by the chair shall expire within thirty (30) business
4 days unless ratified by the PUC prior to the thirty (30) day expiration; provided, however, that said
5 ratification by the PUC shall prescribe an end date for each order.

6 (e) Expenses authorized by the chair under this chapter may be recognized by the PUC for
7 all purposes as proper business expenses of the affected utility or alternative utility subject to
8 investigation and recovery through rates. The affected utility shall be required to reimburse the
9 alternative utility for all its costs incurred within ninety (90) days of the receipt of invoices for the
10 cost of service.

11 (f) Failure of any investor-owned utility to carry out an order by the chair authorized under
12 this chapter shall be subject to investigation and a penalty of up to one million dollars (\$1,000,000)
13 per violation. A penalty levied by the PUC shall be returned to ratepayers through distribution rates.
14 Any investor-owned utility aggrieved by an order or directive issued by the chair under this chapter
15 may request a hearing within ninety (90) days from the date the state of emergency ends.

16 **39-2.3-2. Appointment of a receiver.**

17 (a)(1) As used in this section, "emergency" means a situation or condition which presents
18 a threat to the public safety and welfare of the company's customers. An organized labor activity
19 conducted for union recognition or as a tactic in contract negotiations shall not, of itself, constitute
20 an emergency.

21 (2) The attorney general on his or her own initiative, or upon petition by the division of
22 public utilities and carriers (DPUC) or by the city or town council in an affected city or town, may
23 bring an action in superior court requesting the appointment of a receiver to oversee the operation
24 of an investor-owned electric distribution, transmission or natural gas distribution company who
25 serves less than fifty thousand (50,000) customers in the state.

26 (b) The court may appoint a receiver to operate the company, provided that the court finds
27 that an emergency exists, and that the company has:

28 (1) Materially violated standards for responding to emergencies; or

29 (2) Based on other compelling evidence that the company will not be able to comply with
30 such standards without a receivership.

31 (c) The court may appoint as a receiver any person appearing on a list established for the
32 purpose by the chair after the chair consults with representatives of investor-owned electric
33 distribution, transmission and natural gas distribution companies.

34 (d) The purpose of a receivership created under this section shall be to safeguard the health,

1 safety and welfare of the company's customers. A receiver appointed hereunder shall not take any
2 actions or assume any responsibilities inconsistent with this purpose.

3 (e) No person shall impede the operation of a receivership created under this section. There
4 shall be an automatic stay for a one hundred twenty (120) day period subsequent to the appointment
5 of a receiver, of any action that would interfere with the functioning of the company, including, but
6 not limited to, cancellation of insurance policies issued to the company or repossession of
7 equipment used in the facility.

8 (f) Unless the court determines otherwise, a receivership created under this section shall
9 not exceed one year.

10 (g) A receiver appointed pursuant to this section shall have access to all company utility
11 assets and records and may manage the company's assets in a manner which will restore or maintain
12 an acceptable level of service. The receiver may hire, direct or manage any employee, discharge
13 any non-union employee, order an internal management audit, expend existing company utility
14 revenues for labor and materials and make additional expenditures essential to providing an
15 acceptable level of service; provided, that such expenditures are funded in accordance with
16 generally accepted utility practices. Any costs incurred by the DPUC or receiver under this section
17 shall be the responsibility of the company. The company may petition the court to determine the
18 reasonableness of any expenditure by the receiver.

19 (h) The court shall set a reasonable compensation for the receiver that is consistent with
20 the regulations of the DPUC. Such compensation shall be paid from the revenues of the company.

21 (i) No person shall bring an action against a receiver appointed under this section without
22 first securing leave of the court. The receiver shall be deemed an insured of any insurance policies
23 held by the company relating to the liability of directors or officers of the company.

24 (j) The "DPUC" division of public utilities and carriers may promulgate rules and
25 regulations, as necessary, for the implementation of this section.

26 (k) Notwithstanding the foregoing, this section shall not apply to an electric or gas
27 distribution company serving less than fifty thousand (50,000) customers within the state that has
28 an affiliate in the state which serves more than one hundred thousand (100,000) customers within
29 the state and the affiliates perform emergency restoration jointly.

30 **39-2.3-3. Alternative dispute resolution process for customer damage claims.**

31 The division of public utilities and carriers (DPUC) shall promulgate rules and regulations
32 relative to an alternative dispute resolution (ADR) process for the handling of damage claims by
33 customers in an amount under one hundred dollars (\$100). The DPUC shall establish a sixty (60)
34 day timeline for the resolution of all ADR claims. The DPUC shall issue a biannual report to the

1 PUC which shall include, but not be limited to, the following information: the nature of consumer
2 claims, the number of consumer claims and the resolutions of consumer claims reviewed by the
3 DPUC during the previous six (6) months. Said report shall be available for public review at the
4 DPUC.

5 **39-2.3-4. Standards for emergency preparation and restoration of service.**

6 (a) The division of public utilities and carriers (DPUC) shall promulgate rules and
7 regulations to establish standards of acceptable performance for emergency preparation and
8 restoration of service for electric and gas distribution companies doing business in the state.

9 (b) The DPUC shall levy a penalty not to exceed two hundred fifty thousand dollars
10 (\$250,000) for each violation for each day that the violation of the DPUC's standards persists;
11 provided; however, that the maximum penalty shall not exceed one million dollars (\$1,000,000)
12 for any related series of violations.

13 (c) The DPUC shall open a full investigation, upon its own initiative, or upon petition of
14 the attorney general or by the city or town council in an affected city or town, regarding a violation
15 of the DPUC's standards of acceptable performance to determine whether the electric or gas
16 distribution company violated such standards; provided, however, that said petition shall be filed
17 with the DPUC not later than ninety (90) days after the violation has been remedied.

18 **39-2.3-5. Emergency response plan required.**

19 (a) Each electric distribution, transmission and natural gas distribution company
20 conducting business in the state shall annually, on or before May 15, submit to the division of
21 public utilities and carriers (DPUC) an emergency response plan for review and approval. The
22 emergency response plan shall be designed for the reasonably prompt restoration of service in the
23 case of an emergency event, which is an event where widespread outages have occurred in the
24 service area of the company due to storms or other causes beyond the control of the company. The
25 emergency response plan shall include, but not be limited to, the following:

26 (1) The identification of management staff responsible for company operations during an
27 emergency;

28 (2) A communications system with customers during an emergency that extends beyond
29 normal business hours and business conditions;

30 (3) Contact with customers who had documented their need for essential electricity for
31 medical needs;

32 (4) Designation of staff to communicate with local officials and relevant regulatory
33 agencies;

34 (5) Provisions regarding how the company will assure the safety of its employees and

1 contractors;

2 (6) Procedures for deploying company and mutual aid crews to work assignment areas; and

3 (7) Identification of additional supplies and equipment needed during an emergency and
4 the means of obtaining additional supplies and equipment.

5 (b) The filing with the DPUC shall also include a copy of all written mutual assistance
6 agreements among utilities. The DPUC shall accord protected treatment of confidential,
7 competitively sensitive or other proprietary information contained in any emergency response plan.

8 (c) After review of an investor-owned electric distribution, transmission or natural gas
9 distribution company's emergency response plan, the DPUC may request that the company amend
10 the plan. The DPUC may open an investigation of the company's plan. If, after hearings, the DPUC
11 finds a material deficiency in the plan, the DPUC may order the company to make such
12 modifications that it deems reasonably necessary to remedy the deficiency.

13 (d) Any investor-owned electric distribution, transmission or natural gas distribution
14 company failing to file its emergency response plan may be fined five hundred dollars (\$500) for
15 each day during which such failure continues. The fines levied by the DPUC shall be returned to
16 ratepayers through distribution rates.

17 (e) Notwithstanding any existing power or authority, the DPUC may open an investigation
18 to review the performance of any investor-owned electric distribution, transmission or natural gas
19 distribution company in restoring service during an emergency event. If, after evidentiary hearings
20 or other investigatory proceeding, the DPUC finds that, as a result of the failure of the company to
21 implement its emergency response plan, the length of the outages were materially longer than they
22 would have been but for the company's failure, the DPUC may deny the recovery of all, or any part
23 of, the service restoration costs through distribution rates, commensurate with the degree and
24 impact of the service outage.

25 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 -- POWERS DURING STATE OF EMERGENCY

1 This act would grant the chair of the public utilities commission (PUC) and the division of
2 public utilities (DPUC) emergency powers during governor declared emergencies for the
3 restoration of all utility services.

4 This act would take effect upon passage.

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