

2021 -- S 0634 SUBSTITUTE B

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LC001726/SUB B
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- PUBLIC UTILITIES COMMISSION

Introduced By: Senator V. Susan Sosnowski

Date Introduced: March 18, 2021

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-1-27.7 of the General Laws in Chapter 39-1 entitled "Public
2 Utilities Commission" is hereby amended to read as follows:

3 **39-1-27.7. System reliability and least-cost procurement.**

4 (a) Least-cost procurement shall comprise system reliability and energy efficiency and
5 conservation procurement, as provided for in this section, and supply procurement, as provided for
6 in § 39-1-27.8, as complementary but distinct activities that have as common purpose meeting
7 electrical and natural gas energy needs in Rhode Island, in a manner that is optimally cost-effective,
8 reliable, prudent, and environmentally responsible.

9 (b) The commission shall establish not later than June 1, 2008, standards for system
10 reliability and energy efficiency and conservation procurement that shall include standards and
11 guidelines for:

12 (1) System reliability procurement, including but not limited to:

13 (i) Procurement of energy supply from diverse sources, including, but not limited to,
14 renewable energy resources as defined in chapter 26 of this title;

15 (ii) Distributed generation, including, but not limited to, renewable energy resources and
16 thermally leading combined heat and power systems, that is reliable and is cost-effective, with
17 measurable, net system benefits;

18 (iii) Demand response, including, but not limited to, distributed generation, back-up
19 generation, and on-demand usage reduction, that shall be designed to facilitate electric customer

1 participation in regional demand response programs, including those administered by the
2 independent service operator of New England ("ISO-NE"), and/or are designed to provide local
3 system reliability benefits through load control or using on-site generating capability;

4 (iv) To effectuate the purposes of this division, the commission may establish standards
5 and/or rates (A) For qualifying distributed generation, demand response, and renewable energy
6 resources; (B) For net metering; (C) For back-up power and/or standby rates that reasonably
7 facilitate the development of distributed generation; and (D) For such other matters as the
8 commission may find necessary or appropriate.

9 (2) Least-cost procurement, which shall include procurement of energy efficiency and
10 energy conservation measures that are prudent and reliable and when such measures are lower cost
11 than acquisition of additional supply, including supply for periods of high demand.

12 (c) The standards and guidelines provided for by subsection (b) shall be subject to periodic
13 review and as appropriate amendment by the commission, which review will be conducted not less
14 frequently than every three (3) years after the adoption of the standards and guidelines.

15 (d) To implement the provisions of this section:

16 (1) The commissioner of the office of energy resources and the energy efficiency and
17 resources management council, either jointly or separately, shall provide the commission findings
18 and recommendations with regard to system reliability and energy efficiency and conservation
19 procurement on or before March 1, 2008, and triennially on or before March 1, thereafter through
20 ~~March 1, 2024~~ [March 1, 2028](#). The report shall be made public and be posted electronically on the
21 website of the office of energy resources.

22 (2) The commission shall issue standards not later than June 1, 2008, with regard to plans
23 for system reliability and energy efficiency and conservation procurement, which standards may
24 be amended or revised by the commission as necessary and/or appropriate.

25 (3) The energy efficiency and resources management council shall prepare by July 15,
26 2008, a reliability and efficiency procurement opportunity report that shall identify opportunities
27 to procure efficiency, distributed generation, demand response, and renewables and that shall be
28 submitted to the electrical distribution company, the commission, the office of energy resources,
29 and the joint committee on energy.

30 (4) Each electrical and natural gas distribution company shall submit to the commission on
31 or before September 1, 2008, and triennially on or before September 1 thereafter through ~~September~~
32 ~~1, 2024~~ [September 1, 2028](#), a plan for system reliability and energy efficiency and conservation
33 procurement. In developing the plan, the distribution company may seek the advice of the
34 commissioner and the council. The plan shall include measurable goals and target percentages for

1 each energy resource, pursuant to standards established by the commission, including efficiency,
2 distributed generation, demand response, combined heat and power, and renewables. The plan shall
3 be made public and be posted electronically on the website of the office of energy resources, and
4 shall also be submitted to the general assembly.

5 (5) The commission shall issue an order approving all energy-efficiency measures that are
6 cost-effective and lower cost than acquisition of additional supply, with regard to the plan from the
7 electrical and natural gas distribution company, and reviewed and approved by the energy
8 efficiency and resources management council, and any related annual plans, and shall approve a
9 fully reconciling funding mechanism to fund investments in all efficiency measures that are cost-
10 effective and lower cost than acquisition of additional supply, not greater than sixty (60) days after
11 it is filed with the commission.

12 (6)(i) Each electrical and natural gas distribution company shall provide a status report,
13 which shall be public, on the implementation of least-cost procurement on or before December 15,
14 2008, and on or before February 1, 2009, to the commission, the division, the commissioner of the
15 office of energy resources, and the energy efficiency and resources management council which
16 may provide the distribution company recommendations with regard to effective implementation
17 of least-cost procurement. The report shall include the targets for each energy resource included in
18 the order approving the plan and the achieved percentage for energy resource, including the
19 achieved percentages for efficiency, distributed generation, demand response, combined heat and
20 power, and renewables, as well as the current funding allocations for each eligible energy resource
21 and the businesses and vendors in Rhode Island participating in the programs. The report shall be
22 posted electronically on the website of the office of energy resources.

23 (ii) Beginning on November 1, 2012, or before, each electric distribution company shall
24 support the installation and investment in clean and efficient combined heat and power installations
25 at commercial, institutional, municipal, and industrial facilities. This support shall be documented
26 annually in the electric distribution company's energy-efficiency program plans. In order to
27 effectuate this provision, the energy efficiency and resource management council shall seek input
28 from the public, the gas and electric distribution company, the commerce corporation, and
29 commercial and industrial users, and make recommendations regarding services to support the
30 development of combined heat and power installations in the electric distribution company's annual
31 and triennial energy-efficiency program plans.

32 (iii) The energy-efficiency annual plan shall include, but not be limited to, a plan for
33 identifying and recruiting qualified combined heat and power projects, incentive levels, contract
34 terms and guidelines, and achievable megawatt targets for investments in combined heat and power

1 systems. In the development of the plan, the energy efficiency and resource management council
2 and the electric distribution company shall factor into the combined heat and power plan and
3 program, the following criteria: (A) Economic development benefits in Rhode Island, including
4 direct and indirect job creation and retention from investments in combined heat and power
5 systems; (B) Energy and cost savings for customers; (C) Energy supply costs; (D) Greenhouse gas
6 emissions standards and air quality benefits; and (E) System reliability benefits.

7 (iv) The energy efficiency and resource management council shall conduct at least one
8 public review meeting annually, to discuss and review the combined heat and power program, with
9 at least seven (7) business days' notice, prior to the electric and gas distribution utility submitting
10 the plan to the commission. The commission shall evaluate the submitted combined heat and power
11 program as part of the annual energy-efficiency plan. The commission shall issue an order
12 approving the energy-efficiency plan and programs within sixty (60) days of the filing.

13 (e) If the commission shall determine that the implementation of system reliability and
14 energy efficiency and conservation procurement has caused, or is likely to cause, under or over-
15 recovery of overhead and fixed costs of the company implementing the procurement, the
16 commission may establish a mandatory rate-adjustment clause for the company so affected in order
17 to provide for full recovery of reasonable and prudent overhead and fixed costs.

18 (f) The commission shall conduct a contested case proceeding to establish a performance-
19 based incentive plan that allows for additional compensation for each electric distribution company
20 and each company providing gas to end-users and/or retail customers based on the level of its
21 success in mitigating the cost and variability of electric and gas services through procurement
22 portfolios.

23 (g)(1) The office of energy resources shall conduct a study and analysis of the electric and
24 gas distribution company's state energy efficiency programs that will examine implemented
25 program and planned conservation measures and review and confirm the claimed energy savings.
26 In carrying out this study, the office shall utilize a representative sample of different customer
27 classes and measures that have and/or will be participating in the state energy efficiency programs.
28 At a minimum, the study performed by the office of energy resources shall include the following
29 in its scope of work:

30 (i) Independently review and summarize the electric and gas distribution company process
31 for incorporating results from completed evaluation studies into ongoing energy efficiency program
32 reporting and implementation.

33 (ii) Conduct an independent review of gas and electricity efficiency programs, which may
34 include billing analysis techniques. The scope and subjects of this analysis will be decided by the

1 working group with input and advice from an independent consultant. The analysis will be
2 conducted by a qualified independent consultant using industry accepted methods.

3 (iii) Review the data-collection practices, including metering equipment used; sampling
4 frequency; sample sizes; and data validation procedures, and the methods for data analysis
5 employed, as deemed appropriate by the independent evaluator.

6 (iv) Study results and recommendations will be presented to the public utilities commission
7 and the energy efficiency and resource management council.

8 (2) The office of energy resources shall consult with the working group in development of
9 the request for proposals (RFP), and during the course of the study, including the preliminary study
10 results. The working group shall be comprised of one representative from each of the following
11 groups chosen by the office of energy resources:

- 12 (i) Large commercial and industrial energy users;
- 13 (ii) Small business energy users;
- 14 (iii) Residential energy users;
- 15 (iv) Municipal and state energy users;
- 16 (v) Low-income energy users;
- 17 (vi) Electric and gas distribution company; and
- 18 (vii) Energy efficiency and resource management council.

19 (3) The office of energy resources, in consultation with the electric and gas distribution
20 company and representatives referenced in subsection (g)(2), shall be authorized to hire an energy
21 consulting company or firm to carry out the energy efficiency verification study. The costs
22 associated with this study, including, but not limited to, those associated with the consultant or firm
23 contract and reasonable administrative costs incurred by the office in the execution of subsection
24 (g) of this section, shall be recoverable through the system benefit charge subject to commission
25 approval. Funding shall be transferred from the electric and gas distribution utility to the office of
26 energy resources upon request by the office.

27 (4) The office of energy resources shall submit this report on or before October 30, 2019,
28 to the governor, the president of the senate, and the speaker of the house. The office and its selected
29 energy consulting company or firm shall host two (2) public presentations on the preliminary and
30 final results of the study.

31 SECTION 2. Section 39-2-1.2 of the General Laws in Chapter 39-2 entitled "Duties of
32 Utilities and Carriers" is hereby amended to read as follows:

33 **39-2-1.2. Utility base rate -- Advertising, demand-side management, and renewables.**

34 (a) In addition to costs prohibited in § 39-1-27.4(b), no public utility distributing or

1 providing heat, electricity, or water to or for the public shall include as part of its base rate any
2 expenses for advertising, either direct or indirect, that promotes the use of its product or service, or
3 is designed to promote the public image of the industry. No public utility may furnish support of
4 any kind, direct or indirect, to any subsidiary, group, association, or individual for advertising and
5 include the expense as part of its base rate. Nothing contained in this section shall be deemed as
6 prohibiting the inclusion in the base rate of expenses incurred for advertising, informational or
7 educational in nature, that is designed to promote public safety conservation of the public utility's
8 product or service. The public utilities commission shall promulgate such rules and regulations as
9 are necessary to require public disclosure of all advertising expenses of any kind, direct or indirect,
10 and to otherwise effectuate the provisions of this section.

11 (b) Effective as of January 1, 2008, and for a period of ~~fifteen (15)~~ twenty (20) years
12 thereafter, each electric distribution company shall include a charge per kilowatt-hour delivered to
13 fund demand-side management programs. The 0.3 mills per kilowatt-hour delivered to fund
14 renewable energy programs shall remain in effect until December 31, ~~2022~~ 2028. The electric
15 distribution company shall establish and, after July 1, 2007, maintain, two (2) separate accounts,
16 one for demand-side management programs (the "demand-side account"), which shall be funded
17 by the electric demand-side charge and administered and implemented by the distribution company,
18 subject to the regulatory reviewing authority of the commission, and one for renewable energy
19 programs, which shall be administered by the Rhode Island commerce corporation pursuant to §
20 42-64-13.2 and shall be held and disbursed by the distribution company as directed by the Rhode
21 Island commerce corporation for the purposes of developing, promoting, and supporting renewable
22 energy programs. During the time periods established in this subsection, the commission may, in
23 its discretion, after notice and public hearing, increase the sums for demand-side management and
24 renewable resources. In addition, the commission shall, after notice and public hearing, determine
25 the appropriate charge for these programs. The office of energy resources, and/or the administrator
26 of the renewable energy programs, may seek to secure for the state an equitable and reasonable
27 portion of renewable energy credits or certificates created by private projects funded through those
28 programs. As used in this section, "renewable energy resources" shall mean: (1) Power generation
29 technologies, as defined in § 39-26-5, "eligible renewable energy resources," including off-grid and
30 on-grid generating technologies located in Rhode Island, as a priority; (2) Research and
31 development activities in Rhode Island pertaining to eligible renewable energy resources and to
32 other renewable energy technologies for electrical generation; or (3) Projects and activities directly
33 related to implementing eligible renewable energy resources projects in Rhode Island.
34 Technologies for converting solar energy for space heating or generating domestic hot water may

1 also be funded through the renewable energy programs. Fuel cells may be considered an energy
2 efficiency technology to be included in demand-side management programs. Special rates for low-
3 income customers in effect as of August 7, 1996, shall be continued, and the costs of all of these
4 discounts shall be included in the distribution rates charged to all other customers. Nothing in this
5 section shall be construed as prohibiting an electric distribution company from offering any special
6 rates or programs for low-income customers which are not in effect as of August 7, 1996, subject
7 to the approval by the commission.

8 (1) The renewable energy investment programs shall be administered pursuant to rules
9 established by the Rhode Island commerce corporation. Said rules shall provide transparent criteria
10 to rank qualified renewable energy projects, giving consideration to:

11 (i) The feasibility of project completion;

12 (ii) The anticipated amount of renewable energy the project will produce;

13 (iii) The potential of the project to mitigate energy costs over the life of the project; and

14 (iv) The estimated cost per kilowatt-hour (KWh) of the energy produced from the project.

15 (c) [Deleted by P.L. 2012, ch. 241, art. 4, § 14.]

16 (d) The chief executive officer of the commerce corporation is authorized and may enter
17 into a contract with a contractor for the cost-effective administration of the renewable energy
18 programs funded by this section. A competitive bid and contract award for administration of the
19 renewable energy programs may occur every three (3) years and shall include, as a condition, that
20 after July 1, 2008, the account for the renewable energy programs shall be maintained and
21 administered by the commerce corporation as provided for in subsection (b) of this section.

22 (e) Effective January 1, 2007, and for a period of ~~sixteen (16)~~ twenty-one (21) years
23 thereafter, each gas distribution company shall include, with the approval of the commission, a
24 charge per deca therm delivered to fund demand-side management programs (the "gas demand-
25 side charge"), including, but not limited to, programs for cost-effective energy efficiency, energy
26 conservation, combined heat and power systems, and weatherization services for low-income
27 households.

28 (f) Each gas company shall establish a separate account for demand-side management
29 programs (the "gas demand-side account") that shall be funded by the gas demand-side charge and
30 administered and implemented by the distribution company, subject to the regulatory reviewing
31 authority of the commission. The commission may establish administrative mechanisms and
32 procedures that are similar to those for electric demand-side management programs administered
33 under the jurisdiction of the commission and that are designed to achieve cost-effectiveness and
34 high, life-time savings of efficiency measures supported by the program.

1 (g) The commission may, if reasonable and feasible, except from this demand-side
2 management charge:

3 (1) Gas used for distribution generation; and

4 (2) Gas used for the manufacturing processes, where the customer has established a self-
5 directed program to invest in and achieve best-effective energy efficiency in accordance with a plan
6 approved by the commission and subject to periodic review and approval by the commission, which
7 plan shall require annual reporting of the amount invested and the return on investments in terms
8 of gas savings.

9 (h) The commission may provide for the coordinated and/or integrated administration of
10 electric and gas demand-side management programs in order to enhance the effectiveness of the
11 programs. Such coordinated and/or integrated administration may after March 1, 2009, upon the
12 recommendation of the office of energy resources, be through one or more third-party entities
13 designated by the commission pursuant to a competitive selection process.

14 (i) Effective January 1, 2007, the commission shall allocate from demand-side management
15 gas and electric funds authorized pursuant to this section, an amount not to exceed ~~two percent~~
16 ~~(2%)~~ three percent (3%) of such funds on an annual basis for the retention of expert consultants,
17 and reasonable administration costs of the energy efficiency and resources management council
18 associated with planning, management, and evaluation of energy-efficiency programs, renewable
19 energy programs, system reliability least-cost procurement, and with regulatory proceedings,
20 contested cases, and other actions pertaining to the purposes, powers, and duties of the council,
21 which allocation may by mutual agreement, be used in coordination with the office of energy
22 resources to support such activities.

23 (j) Effective January 1, 2016, the commission shall annually allocate from the
24 administrative funding amount allocated in subsection (i) from the demand-side management
25 program as described in subsection (i) as follows: ~~fifty percent (50%)~~ forty percent (40%) for the
26 purposes identified in subsection (i) and ~~fifty percent (50%)~~ sixty percent (60%) annually to the
27 office of energy resources for activities associated with planning, management, and evaluation of
28 energy-efficiency programs, renewable energy programs, system reliability, least-cost
29 procurement, and with regulatory proceedings, contested cases, and other actions pertaining to the
30 purposes, powers, and duties of the office of energy resources.

31 (k) On April 15, of each year, the office and the council shall submit to the governor, the
32 president of the senate, and the speaker of the house of representatives, separate financial and
33 performance reports regarding the demand-side management programs, including the specific level
34 of funds that were contributed by the residential, municipal, and commercial and industrial sectors

1 to the overall programs; the businesses, vendors, and institutions that received funding from
2 demand-side management gas and electric funds used for the purposes in this section; and the
3 businesses, vendors, and institutions that received the administrative funds for the purposes in
4 subsections (i) and (j). These reports shall be posted electronically on the websites of the office of
5 energy resources and the energy efficiency and resources management council.

6 (l) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank, each
7 electric distribution company, except for the Pascoag Utility District and Block Island Power
8 Company, shall remit two percent (2%) of the amount of the 2014 electric demand-side charge
9 collections to the Rhode Island infrastructure bank.

10 (m) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank, each
11 gas distribution company shall remit two percent (2%) of the amount of the 2014 gas demand-side
12 charge collections to the Rhode Island infrastructure bank.

13 (n) Effective January 1, 2022, the commission shall allocate from demand-side
14 management gas and electric funds authorized pursuant to this section, five million dollars
15 (\$5,000,000) of such funds on an annual basis to the Rhode Island infrastructure bank. Gas and
16 electric demand-side funds transferred to the Rhode Island Infrastructure Bank pursuant to this
17 section shall be eligible to be used in any energy efficiency, renewable energy, or demand-side
18 management project financing program administered by the Rhode Island infrastructure bank
19 notwithstanding any other restrictions on the use of such collections set forth in this chapter. The
20 infrastructure bank shall report annually to the commission within ninety (90) days of the end of
21 each calendar year how collections transferred under this section were utilized.

22 SECTION 3. Chapter 46-12.2 of the General Laws entitled "Rhode Island Infrastructure
23 Bank" is hereby amended by adding thereto the following section:

24 **46-12.2-4.3. Establishment of the clean energy fund.**

25 (a)(1) There is hereby authorized and created within the Rhode Island infrastructure bank
26 a clean energy fund for the purpose of providing technical, administrative and financial assistance
27 to a local governmental unit, corporation, or person for energy efficient, renewable energy, and
28 demand-side management projects. The Rhode Island infrastructure bank shall review and approve
29 all applications for projects to be financed through the clean energy fund.

30 (2) The Rhode Island infrastructure bank shall promulgate rules and regulations to
31 effectuate the provisions of this section which may include, without limitation, forms for financial
32 assistance applications, loan agreements, and other instruments and establishing the process
33 through which a local governmental unit, corporation or person may submit an application for
34 financial assistance from the clean energy fund. All rules and regulations promulgated pursuant to

1 this chapter shall be promulgated in accordance with the provisions of chapter 35 of title 42.

2 (b) The Rhode Island infrastructure bank shall have all the powers necessary and
3 convenient to carry out and effectuate the purposes and provisions of this section including, without
4 limiting the generality of the preceding statement, the authority:

5 (1) To receive and disburse such funds as may be available for the purpose of the fund
6 subject to the provisions of this section;

7 (2) To make and enter into binding commitments to provide financial assistance to eligible
8 borrowers from amounts on deposit in the fund;

9 (3) To levy administrative fees on eligible borrowers as necessary to effectuate the
10 provisions of this section, provided the fees have been previously authorized by an agreement
11 between the Rhode Island infrastructure bank and the eligible borrower;

12 (4) To engage the services of third-party vendors to provide professional services;

13 (5) To establish one or more accounts within the fund; and

14 (6) Such other authority as granted to the Rhode Island infrastructure bank under this
15 chapter.

16 (c) Subject to the provisions of this section and to any agreements with the holders of any
17 bonds of the Rhode Island infrastructure bank or any trustee therefor, amounts held by the Rhode
18 Island infrastructure bank for the account of the fund shall be applied by the Rhode Island
19 infrastructure bank, either by direct expenditure, disbursement, or transfer to one or more other
20 funds and accounts held by the Rhode Island infrastructure bank or maintained under any trust
21 agreement pertaining to bonds, either alone or with other funds of the Rhode Island infrastructure
22 bank, to the following purposes:

23 (1) To provide financial assistance to local governmental units, corporations or persons to
24 finance costs of approved projects, as set forth in subsection (a) of this section, and to refinance the
25 costs of the projects, subject to such terms and conditions, if any, as are determined by the Rhode
26 Island infrastructure bank;

27 (2) To fund reserves for bonds of the Rhode Island infrastructure bank and to purchase
28 insurance and pay the premiums therefor, and pay fees and expenses of letters or lines of credit and
29 costs of reimbursement to the issuers thereof for any payments made thereon or on any insurance,
30 and to otherwise provide security for, and a source of payment for, obligations of the Rhode Island
31 infrastructure bank, by pledge, lien, assignment, or otherwise as provided in this chapter;

32 (3) To pay expenses of the Rhode Island infrastructure bank in administering the clean
33 energy fund;

34 (4) To provide a reserve for, or to otherwise secure, amounts payable by borrowers on loans

1 and obligations outstanding in the event of default thereof; amounts in any account in the fund may
2 be applied to defaults on loans outstanding to the borrower for which the account was established
3 and, on a parity basis with all other accounts, to defaults on any loans or obligations outstanding;
4 and

5 (5) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or
6 otherwise as provided in this chapter, any bonds of the Rhode Island infrastructure bank.

7 (d) In addition to other remedies of the Rhode Island infrastructure bank under any loan
8 agreement or otherwise provided by law, the Rhode Island infrastructure bank may also recover
9 from a borrower, in an action in superior court, any amount due the Rhode Island infrastructure
10 bank together with any other actual damages the Rhode Island infrastructure bank shall have
11 sustained from the failure or refusal of the borrower to make the payments or abide by the terms of
12 the loan agreement.

13 (e) The Rhode Island infrastructure bank may create one or more loan loss reserve funds
14 to serve as further security for any loans made by the Rhode Island infrastructure bank or any bonds
15 of the Rhode Island infrastructure bank issued to fund projects in accordance with this section.

16 (f) To the extent possible, and in accordance with law, the Rhode Island infrastructure bank
17 shall encourage the use of project labor agreements for projects by local governmental units over
18 ten million dollars (\$10,000,000) and local hiring on projects funded under this section.

19 SECTION 4. 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 -- PUBLIC UTILITIES COMMISSION

1 This act would require the energy efficiency and resources management council to continue
2 submitting a plan for system reliability and energy efficiency and conservation procurement every
3 three (3) years until March 1, 2028. This act would also authorize the public utilities commission
4 (PUC) to continue assessing a charge on electric and gas companies to fund programs for cost-
5 effective energy efficiency and conservation until January 1, 2028.

6 This act would also provide that effective January 1, 2022, the commission will allocate
7 from demand-side management gas and electric funds, five million dollars (\$5,000,000) of such
8 funds on an annual basis to the Rhode Island infrastructure bank.

9 This act would take effect upon passage.

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