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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- AFFORDABLE CLEAN ENERGY SECURITY ACT

Introduced By: Representatives Handy, Williams, Edwards, Potter, McNamara, Alzate, Batista, Carson, Kazarian, and Cassar

Date Introduced: March 11, 2022

Referred To: House Corporations

(Governor)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-31-2, 39-31-4, 39-31-5, 39-31-6 and 39-31-7 of the General  
2 Laws in Chapter 39-31 entitled "Affordable Clean Energy Security Act" are hereby amended to  
3 read as follows:

4 **39-31-2. Purpose.**

5 The purpose of this chapter is to:

6 (1) Secure the future of the Rhode Island and New England economies, and their shared  
7 environment, by making state and/or coordinated, cost-effective, strategic investments in energy  
8 resources and infrastructure such that the New England states improve energy system reliability  
9 and security; enhance economic competitiveness by reducing energy costs to attract new  
10 investment and job growth opportunities; and protect the quality of life and environment for all  
11 residents and businesses;

12 (2) Utilize state and/or coordinated competitive processes, in collaboration with other New  
13 England states and their instrumentalities, to advance strategic investment in energy infrastructure  
14 and energy resources, provided that the total energy security, reliability, environmental, and  
15 economic benefits to the state of Rhode Island and its ratepayers exceed the costs of the projects,  
16 and ensure that the benefits and costs of the energy infrastructure investments are shared  
17 appropriately among the New England States; and

18 (3) Encourage ~~a multistate or regional~~ an approach to energy policy that advances the

1 objectives of achieving a reliable, clean-energy future that is consistent with meeting ~~regional~~  
2 greenhouse gas reduction goals [as established by chapter 6.2 of title 42 \(the "2021 act on climate"\)](#)  
3 at reasonable cost to ratepayers.

4 **39-31-4. Regional energy planning.**

5 (a) Consistent with the purposes of this chapter, and utilizing regional stakeholder  
6 processes where appropriate, the office of energy resources, in consultation and coordination with  
7 the division of public utilities and carriers; [and](#) the public utility company that provides electric  
8 distribution as defined in § 39-1-2(a)(12) as well as natural gas as defined in § 39-1-2(a)(17), ~~the~~  
9 ~~New England States Committee on Electricity (NESCOE), ISO New England, Inc., and the other~~  
10 ~~New England states~~ is authorized to:

11 (1) Participate in the development and issuance of [state](#), regional or multistate competitive  
12 solicitation(s) for the development and construction of regional electric-transmission projects that  
13 would allow for the reliable transmission of large- or small-scale domestic or international  
14 hydroelectric power to New England load centers that will benefit the state of Rhode Island and its  
15 ratepayers, and such solicitations may be issued by the New England States Committee on  
16 Electricity or the electric or natural gas distribution company to further the purposes of this chapter;

17 (2) Participate in the development and issuance of [state](#), regional or multistate competitive  
18 solicitation(s) for the development and construction of regional electric-transmission projects that  
19 would allow for the reliable transmission of eligible renewable energy resources, [including offshore](#)  
20 [wind](#) as defined by § 39-26-5(a), to New England load centers that will benefit the state of Rhode  
21 Island and its ratepayers, and the solicitations may be issued by the New England States Committee  
22 on Electricity or the electric or natural gas distribution company to further the purposes of this  
23 chapter; and

24 (3) Participate in the development and issuance of regional or multistate competitive  
25 solicitation(s) for the development and construction of regional natural-gas-pipeline infrastructure  
26 and capacity that will benefit the state of Rhode Island and its ratepayers by strengthening energy  
27 system reliability and security and, in doing so, potentially mitigate energy price volatility that  
28 threatens the economic vitality and competitiveness of Rhode Island residents and businesses. The  
29 solicitations may be issued by the New England States Committee on Electricity or the electric or  
30 natural gas distribution company to further the purposes of this chapter; and the solicitations may  
31 request proposals that are priced in increments to allow for the evaluation of project costs and  
32 benefits associated with adding various levels of additional, natural gas pipeline capacity into New  
33 England and assist with the optimization of energy system reliability, economic, and other benefits  
34 consistent with the purposes of this chapter.

1 (4) As part of any such [state](#), regional or multistate competitive solicitation processes  
2 conducted pursuant to this chapter, the office of energy resources shall work jointly with the  
3 division of public utilities and carriers, and with the electric distribution company as appropriate,  
4 to identify incremental, natural-gas-pipeline infrastructure and capacity and/or electric-  
5 transmission projects that optimize energy reliability, economic, environmental, and ratepayer  
6 impacts for Rhode Island, consistent with the legislative findings and purpose of this chapter. The  
7 office of energy resources and division of public utilities and carriers shall be authorized to utilize  
8 expert consultants, as needed, to assist in any [state](#), regional, multistate, or state-level determination  
9 related to the procurement activities identified in § 39-31-5.

10 (b) Prior to any binding commitments being made by any agencies of the state, the electric  
11 distribution company, or any other entity that would result in costs being incurred directly, or  
12 indirectly, by Rhode Island electric and/or gas consumers through distribution or commodity rates,  
13 the office of energy resources and division of public utilities and carriers shall jointly file any  
14 energy infrastructure project recommendation(s) with the public utilities commission and may  
15 make such filing jointly with the electric or natural gas distribution company as appropriate. The  
16 public utilities commission shall consider any such recommendation(s) as specified under § 39-31-  
17 7.

18 (c) A copy of the filing made under subsection (b) of this section shall be provided to the  
19 governor, the president of the senate, the speaker of the house, the department of environmental  
20 management, and the commerce corporation.

21 (d) The electric distribution company shall be provided with a copy of any filing made  
22 under this section at least ten (10) business days in advance of its filing with the public utilities  
23 commission and the electric or gas distribution utility may file separate comments when the filing  
24 is made.

25 (e) As part of any office of energy resources and division of public utilities and carriers  
26 filing made pursuant to this chapter, the agencies shall identify the expected energy reliability,  
27 energy security, and ratepayer impacts that are expected to result from commitments being made  
28 in connection with the proposed project(s).

29 (f) The office of energy resources and division of public utilities and carriers reserve the  
30 right to determine that energy infrastructure projects submitted in any [state](#), regional or multistate  
31 competitive solicitation process are not in Rhode Island's energy reliability, energy security, and/or  
32 ratepayer interests, and shall make such findings available to the governor, the president of the  
33 senate, and the speaker of the house. The electric or gas distribution utility may attach a separate  
34 opinion to those findings, at its election.

1 **39-31-5. Regional energy procurement State and regional energy procurement.**

2 (a) Consistent with the purposes of this chapter, the public utility company that provides  
3 electric distribution as defined in § 39-1-2(a)(12), as well as natural gas as defined in § 39-1-  
4 2(a)(17), in consultation with the office of energy resources and the division of public utilities and  
5 carriers is authorized to voluntarily participate in [state](#), multistate or regional efforts to:

6 (1) Procure domestic or international large- or small-scale hydroelectric power and eligible  
7 renewable energy resources, including wind, as defined by § 39-26-5(a), on behalf of electric  
8 ratepayers; provided, however, that large-scale hydroelectric power shall not be eligible under the  
9 renewable energy standard established by chapter 26 of this title;

10 (2) Procure incremental, natural-gas-pipeline infrastructure and capacity into New England  
11 to help strengthen energy system reliability and facilitate the economic interests of the state and its  
12 ratepayers;

13 (3) Support the development and filing of necessary tariffs and other appropriate cost-  
14 recovery mechanisms, as proposed by the office of energy resources or the division of public  
15 utilities and carriers, that allocate the costs of new, electric-transmission and natural-gas-pipeline  
16 infrastructure and capacity projects selected pursuant to the provisions of this chapter to ratepayers,  
17 such that costs are shared among participating states in an equitable manner; and

18 (4) To the extent that the public utility company that provides electric distribution as  
19 defined in § 39-1-2(a)(12), as well as natural gas as defined in § 39-1-2(a)(17), pursues the  
20 objectives identified above, the public utility company shall utilize all appropriate, competitive  
21 processes, and maintain compliance with applicable federal and state siting laws.

22 (b) Any procurement authorized under this section shall be commercially reasonable.

23 **39-31-6. Utility filings with the public utilities commission.**

24 (a) Pursuant to the procurement activities in § 39-31-5 [or § 39-31-10](#), the public utility  
25 company that provides electric distribution as defined in § 39-1-2(a)(12), as well the public utilities  
26 that distribute natural gas as provided by § 39-1-2(a)(20), are authorized to voluntarily file  
27 proposals with the public utilities commission for approval to implement these policies and achieve  
28 the purposes of this chapter. The company's proposals may include, but are not limited to the,  
29 following authorizations:

30 (1) Subject to review and approval of the commission, to enter into long-term contracts  
31 through appropriate competitive processes for large- or small-scale hydroelectric power and/or  
32 renewable energy resources that are eligible under the renewable energy standard established by  
33 chapter 26 of this title; provided, however, that large-scale hydroelectric power shall not be eligible  
34 under the renewable energy standard established by chapter 26 of this title, and provided that:

1 (i) The electric distribution company may, subject to review and approval of the  
2 commission, select a reasonable, open, and competitive method of soliciting proposals from  
3 renewable energy developers, including domestic or international large- or small-scale  
4 hydroelectric power, that may include public solicitations and individual negotiations.

5 (ii) The solicitation process shall permit a reasonable amount of negotiating discretion for  
6 the parties to engage in arms-length negotiations over final contract terms.

7 (iii) Each long-term contract entered into pursuant to this section shall contain a condition  
8 that it shall not be effective without commission review and approval.

9 (iv) The electric distribution company shall file the contract(s), [or unsigned contract\(s\)](#)  
10 [pursuant to § 39-31-10\(c\)](#) along with a justification for its decision, within a reasonable time after  
11 it has executed the contract following a solicitation or negotiation.

12 (v) Subject to review and approval of the public utilities commission, to enter into long-  
13 term contracts for natural-gas-pipeline infrastructure and capacity that are commercially reasonable  
14 and advance the purposes of this chapter at levels beyond those commitments necessary to serve  
15 local gas distribution customers, and may do so either directly, or in coordination with, other New  
16 England states and instrumentalities; utilities; generators; or other appropriate contracting parties.

17 (vi) The commission shall accept public comment on any contracts filed by the distribution  
18 utility, as authorized under this section, for a period no less than thirty (30) days.

19 (A) During this public comment period, the contracts shall be reviewed by the following  
20 state agencies, which shall provide advisory opinions to the public utilities commission on the  
21 topics specified, and the public utilities commission shall give due consideration to the advisory  
22 opinions filed:

23 (I) The department of environmental management (DEM) shall provide an advisory  
24 opinion on the expected greenhouse gas emissions and statewide environmental impacts resulting  
25 from the proposed contract(s), [including a determination as to whether the proposed project\(s\)](#)  
26 [advance the goals of chapter 6.2 of title 42 \(the "2021 Act on Climate"\)](#).

27 (II) The commerce corporation shall provide an advisory opinion on the expected statewide  
28 economic impacts resulting from the proposed contract(s).

29 (III) The office of energy resources shall provide an advisory opinion on the expected  
30 energy security, reliability, environmental, and economic impacts resulting from the contract(s).

31 (B) The commission shall notify the aforementioned agencies upon the filing of any  
32 contract filed by the distribution utility pursuant to this chapter, and notify them of any related  
33 hearings and/or proceedings.

34 (C) Advisory opinions issued by agencies designated under subsection (a)(1)(vi)(A) of this

1 section shall not be considered as final decisions of the agencies making the opinions, and shall not  
2 be subject to judicial review under § 42-35-15, or any other provision of the general laws.

3 (vii) The commission ~~may~~ shall approve the contract(s) if it determines that:

4 (A) The contract is commercially reasonable;

5 (B) The requirements for the solicitation have been met;

6 (C) The contract is consistent with achievement of the ~~region's~~ state's, greenhouse gas  
7 reduction targets as specified in chapter 6.2 of title 42 (the "2021 Act on Climate"); and

8 (D) The contract is consistent with the purposes of this chapter.

9 (viii) Participate in a multistate or regional sharing of costs through the Federal Energy  
10 Regulatory Commission-approved tariffs for the costs of electric transmission and natural-gas-  
11 pipeline infrastructure projects pursued under this chapter.

12 (b) The commission shall hold evidentiary hearings and public hearings to review any  
13 contract filing that may be made pursuant to this section and issue a written order approving or  
14 rejecting the contract within one hundred twenty (120) days of the filing; in rejecting a contract,  
15 the commission may advise the parties of the reason for the contract being rejected and provide an  
16 option for the parties to attempt to address the reasons for rejection in a revised contract within a  
17 specified period not to exceed ninety (90) days.

18 **39-31-7. Duties of the commission.**

19 (a) The commission ~~may~~ shall approve any proposals made by the electric and gas  
20 distribution company that are commercially reasonable and advance the purposes of this chapter.  
21 The commission's authority shall include, without limitation, the authority to:

22 (1) Approve long-term contracts entered into pursuant to the goals and provisions of this  
23 chapter for large- or small-scale hydroelectric power and renewable energy resources that are  
24 eligible under the renewable energy standard established by chapter 26 of this title; provided,  
25 however, that large-scale hydroelectric power shall not be eligible under the renewable energy  
26 standard established by chapter 26 of this title;

27 (2) Approve long-term contracts for natural-gas-pipeline infrastructure and capacity  
28 consistent with the purposes of this chapter;

29 (3) Approve rate-recovery mechanisms proposed by the electric and gas distribution  
30 companies relating to costs incurred under this chapter by the electric and gas distribution company  
31 that facilitate the multistate or regional sharing of costs necessary to implement electric  
32 transmission and natural-gas-pipeline infrastructure projects pursued under this chapter, including  
33 any costs incurred through the Federal Energy Regulatory Commission approved tariffs related to  
34 such multistate or regional energy infrastructure procurements;

1 (4) Address any proposed changes to standard-offer procurements, standard-offer pricing,  
2 and retail-choice rules;

3 (5) Provide for the recovery of reasonable net costs from all distribution customers incurred  
4 by the electric and gas distribution company in furtherance of the purposes of this chapter that may  
5 include, but are not limited to, costs to solicit, evaluate, and seek approval of such contracts as well  
6 as net costs incurred under any contracts approved by the commission under this section and costs  
7 associated with the management of incremental capacity resulting from interstate gas-pipeline-  
8 expansion projects pursued pursuant to this chapter and costs associated with investments in local  
9 gas-distribution-network assets necessary to implement such interstate gas-pipeline-expansion  
10 projects;

11 (6) Nothing herein is intended to prohibit the commission from allowing the electric  
12 distribution company to use the energy, capacity, and other attributes purchased for resale to  
13 customers and approve tariffs that charge those customers for the energy, capacity, and other  
14 attributes from the resale to those customers; and/or to use the NE-GIS certificates for purposes of  
15 meeting the obligations set forth in chapter 26 of title 39 ("renewable energy standard").

16 ~~(6)~~(7) Approve cost allocation proposals filed by the gas distribution company and/or the  
17 electric distribution company that appropriately allocate offshore wind costs incurred under § 39-  
18 31-10, natural gas infrastructure and capacity costs incurred under § 39-31-6 between electric and  
19 gas distribution customers of the electric and gas distribution company in a manner proportional to  
20 the energy benefits accrued by Rhode Island's gas and electric customers from making such  
21 investments. In making its determination, the commission shall consider projected reductions in  
22 regional, wholesale electric prices as a benefit that accrues to electric ratepayers. The allocation of  
23 costs shall include all distribution customers, regardless from whom they are purchasing their  
24 commodity service; and

25 ~~(7)~~(8) Approve any other proposed regulatory or ratemaking changes that reasonably  
26 advance the goals set forth herein.

27 (b) The grant of authorizations under this chapter shall not be construed as creating a  
28 mandate or obligation on the part of the electric and gas distribution company to enter into any  
29 contracts or file any proposals pursuant to this chapter.

30 (c) The public utilities commission shall docket any proposals made by the office of energy  
31 resources and division of public utilities and carriers pursuant to § 39-31-4. Docket materials shall  
32 be posted and maintained on the commission's website. The commission shall conduct proceedings,  
33 as provided below, solely for the purpose of determining whether the proposed infrastructure  
34 projects, if implemented, are in the public interest and no commitments shall be valid or authorized

1 without such finding being made by the commission. The validity and approval of any  
2 commitments made by the electric or gas distribution company in furtherance of the purposes of  
3 this chapter shall be separate and subject to § 39-31-5. The docket opened pursuant to this  
4 subsection shall proceed as follows:

5 (1) The following state agencies shall provide advisory opinions to the commission on the  
6 topics specified below within sixty (60) days from the docketing date:

7 (i) The department of environmental management (DEM) shall provide an advisory  
8 opinion on the expected greenhouse gas emissions and statewide environmental impacts resulting  
9 from the proposed project(s), [including a determination as to whether the proposed project\(s\)](#)  
10 [advance the goals of chapter 6.2 of title 42 \(the "2021 Act on Climate"\)](#).

11 (ii) The commerce corporation shall provide an advisory opinion on the expected statewide  
12 economic impacts resulting from the proposed project(s).

13 (2) The commission shall notify the aforementioned agencies upon the filing of any  
14 proposal made under this section, and notify them of any related hearings and/or proceedings.

15 (3) Advisory opinions issued by agencies designated under subsection (c)(1) of this section  
16 shall not be considered as final decisions of the agencies making the opinions and shall not be  
17 subject to judicial review under § 42-35-15 or any other provision of the general laws.

18 (4) Upon completion of the sixty-day (60) advisory-opinion period, the commission shall  
19 provide for a thirty-day (30) public comment period on any energy infrastructure project(s) selected  
20 pursuant to this chapter and hold evidentiary hearings. In addition to evidentiary hearings, the  
21 commission shall also hold at least one public hearing to accept public comment on the proposal(s)  
22 prior to an open meeting held pursuant to this section.

23 (5) The commission shall hold an open meeting no later than one hundred twenty (120)  
24 days from the date of filing by the office of energy resources and division of public utilities and  
25 carriers and shall certify that the proposed project(s) are in the public interest if, in the commission's  
26 determination, and in consideration of filed advisory opinions and the opinion of the electric or gas  
27 distribution utility, the proposed infrastructure project(s):

28 (i) Are consistent with the findings and purposes of this chapter;

29 (ii) Will benefit Rhode Island by improving local and regional energy system reliability  
30 and security;

31 (iii) Will benefit Rhode Island ratepayers by offering the potential for reduced energy price  
32 volatility and reduction of energy supply costs in the context of an integrated regional energy  
33 system;

34 (iv) Will not cause unacceptable harm to the environment and are consistent with the



1 ~~region's~~ greenhouse gas reduction goals [established in chapter 6.2 of title 42 \(the "2021 Act on](#)  
2 [Climate"\)](#); and

3 (v) Will enhance the economic fabric of the state.

4 (6) The commission shall issue a written determination of its findings within ten (10)  
5 business days of its open-meeting decision and provide copies of that determination, along with  
6 copies of all advisory opinions, public comment, and any other materials deemed relevant to the  
7 commission determination, to the governor, the president of the senate, the speaker of the house,  
8 the commissioner of the office of energy resources, and the administrator of the division of public  
9 utilities and carriers.

10 (d) A determination issued by the commission shall constitute the sole, final, binding, and  
11 determinative regulatory decision within the state for the purpose of authorizing the state to support  
12 a proposed, regional energy-infrastructure project(s) that is funded through the Federal Energy  
13 Regulatory Commission approved tariffs on a regional and/or multistate basis pursuant to this  
14 chapter. Appeals shall be governed by § 39-5-1.

15 (e) Upon issuance of a written determination by the commission finding that the proposed  
16 project(s) is in the public interest, the office of energy resources and division of public utilities and  
17 carriers shall, on behalf of the state, be authorized to support any [state](#), regional and/or multistate  
18 process necessary to implement the project(s), including, without limitation, supporting any  
19 necessary and related Federal Energy Regulatory Commission filings; provided, however, that any  
20 commitments made by the electric or gas distribution company to implement the proposals remain  
21 voluntary and subject to § 39-31-5.

22 (f) Nothing in this section shall be construed to preclude the electric or gas distribution  
23 company from making a filing under § 39-31-6, simultaneous with a filing under this section by  
24 the office of energy resources and the division of public utilities and carriers, in which case the  
25 filings made under §§ 39-31-6 and 39-31-7 shall be consolidated.

26 **SECTION 2. Section 39-26.1-4 of the General Laws in Chapter 39-26.1 entitled "Long-**  
27 **Term Contracting Standard for Renewable Energy" is hereby amended to read as follows:**

28 **39-26.1-4. Financial remuneration and incentives.**

29 In order to achieve the purposes of this chapter, electric distribution companies shall be  
30 entitled to financial remuneration and incentives for long-term contracts for newly developed  
31 renewable energy resources, which are over and above the base rate revenue requirement  
32 established in its cost of service for distribution ratemaking. Such remuneration and incentives shall  
33 compensate the electric distribution company for accepting the financial obligation of the long-  
34 term contracts. The financial remuneration and incentives described in this section shall apply only

1 to long-term contracts for newly developed renewable energy resources. For long-term contracts  
2 approved pursuant to this chapter before January 1, 2022, the ~~The~~ financial remuneration and  
3 incentives shall be in the form of annual compensation, equal to two and three quarters percent  
4 (2.75%) of the actual annual payments made under the contracts for those projects that are  
5 commercially operating, unless determined otherwise by the commission at the time of approval.  
6 For long-term contracts approved pursuant to this chapter on or after January 1, 2022, including  
7 contracts above the minimum long-term contract capacity, the financial remuneration and  
8 incentives shall be in the form of annual compensation up to one percent (1.0%) of the actual annual  
9 payments made under the contracts through December 31, 2026 for those projects that are  
10 commercially operating. For all long-term contracts approved pursuant to this chapter on or after  
11 January 1, 2027, financial remuneration and incentives shall not be applied, unless otherwise  
12 granted by the commission. For any calendar year in which the electric distribution company's  
13 actual return on equity exceeds the return on equity allowed by the commission in the electric  
14 distribution company's last general rate case, the commission shall have the authority to adjust any  
15 or all remuneration paid to the electric distribution company pursuant to this section in order to  
16 assure that such remuneration does not result in or contribute toward the electric distribution  
17 company earning above its allowed return for such calendar year.

18 SECTION 3. Chapter 39-31 of the General Laws entitled "Affordable Clean Energy  
19 Security Act" is hereby amended by adding thereto the following sections:

20 **39-31-10. Offshore Wind Procurement.**

21 (a) The electric distribution company is hereby authorized and required to issue a request  
22 for proposals for at least six hundred megawatts (600 MW) but no greater than one thousand  
23 megawatts (1,000 MW) of newly-developed offshore wind capacity no later than October 15, 2022.  
24 The electric distribution company shall develop the request for proposals (RFP) in consultation  
25 with the Rhode Island office of energy resources and the Rhode Island division of public utilities  
26 and carriers. Review of any proposed contract(s) resulting from this procurement shall be  
27 conducted by the commission consistent with the requirements of this chapter. The request for  
28 proposals shall require all bidders to provide, at a minimum, information on potential  
29 environmental impacts through the submittal of an environmental and fisheries mitigation plan,  
30 which shall include site and environmental data transparency requirements; a site layout plan and  
31 maps that illustrate the location of all on-shore and offshore equipment and facilities and clearly  
32 delineates the perimeter of the area in which offshore wind turbines will be placed; annualized  
33 estimates for all economic benefits, including the specific in-state expenditures and employment  
34 proposed during the development, construction and operation and maintenance phases of the

1 project; a diversity, equity and inclusion plan that, at a minimum, provides the bidder's proposed  
2 strategy to enable access to employment and vendor opportunities for historically marginalized  
3 communities; identification of Rhode Island vendors and other domestic offshore wind supply  
4 chain opportunities associated with the project; and a plan outlining the bidder's intentions with  
5 respect to the negotiation of a project labor agreement(s) to cover construction activities on a  
6 proposed project. This information shall be incorporated in the procurement's evaluation and  
7 scoring criteria.

8 (b) The electric distribution company, prior to its issuance, shall file the RFP as described  
9 in § 39-31-10(a) with the commission solely for the purpose of soliciting public comment. The RFP  
10 shall be available for thirty (30) days and the commission shall accept written comment throughout  
11 that period, and it shall hold one public hearing to accept oral comments. Following the public  
12 comment period, the electric distribution company shall issue the RFP with no further action of the  
13 commission. Should the electric distribution company subsequently file a contract resulting from  
14 the RFP under subsection (c) of this section, or an alternative filing under subsection (d) of this  
15 section, it shall provide testimony responding to the public comments either indicating how it was  
16 incorporated into the final filing or was not germane to the procurement.

17 (c) Unless the electric distribution company determines that the bids are unlikely to lead to  
18 contracts that comply with all of the requirements of this section and § 39-31-6, it shall select a  
19 project or projects for negotiating a contract that shall be conditioned upon approval by the  
20 commission. Negotiations shall proceed in good faith to achieve a commercially reasonable  
21 contract that meets the standards set forth in this chapter. Should the distribution company and the  
22 selected party agree to a contract, the contract shall be filed with the commission no later than  
23 March 15, 2024, for commission approval. The commission shall review the contract and issue an  
24 order approving or disapproving the contract within one hundred twenty (120) days of the filing. If  
25 the parties are unable to reach agreement on a contract prior to March 15, 2024, an unsigned copy  
26 noting which items have mutual agreement and providing each parties' preferred terms that remain  
27 in dispute shall be filed with the commission by the electric distribution company prior to that same  
28 date. The commission shall have the authority to evaluate the unsigned contract consistent with the  
29 terms of this chapter, rule on any outstanding terms in dispute, and order the electric distribution  
30 company to execute the approved contract. In such case of a disputed contract, the commission has  
31 the discretion to extend the deadline for approval as needed to complete its review.

32 (d) If the electric distribution company determines that the bids are unlikely to lead to  
33 contracts that meet all of the requirements of this section and § 39-31-6, it shall submit a filing to  
34 the commission together with testimony to explain why it should not be required to negotiate a

1 contract. The commission shall review and rule on the filing within ninety (90) days, which review  
2 shall include soliciting input from the agencies required to provide advisory opinions to the  
3 commission, and public comment. If the electric distribution company fails to show that the bids  
4 are unlikely to lead to a contract that meets all the requirements of this section and § 39-3-6 the  
5 commission may order the utility to proceed with negotiations as set forth in subsection (c) of this  
6 section.

7 (e) Long-term contracts shall require that developers of newly developed renewable energy  
8 resources will enter into a labor peace agreement with at least one bona fide labor organization  
9 either where such bona fide labor organization is actively representing employees providing  
10 necessary construction, operations and maintenance services for the newly developed renewable  
11 energy resource at the time of such agreement or upon notice by a bona fide labor organization that  
12 is attempting to represent employees who will provide necessary operations and maintenance  
13 services for the renewable energy system employed in the state. The maintenance of such a labor  
14 peace agreement shall be an ongoing material condition of any continuation of payments under the  
15 contract.

16 (f) Developers of newly developed renewable energy resources shall pay each construction,  
17 operations and maintenance employees wages and benefits that are not less than the prevailing  
18 wage and fringe benefit rates at the journeyman level that are prescribed by the department of labor  
19 and training pursuant to chapter 13 of title 37, for the corresponding classification in which the  
20 employee is employed, and not less than the prevailing wage rates for employees for which there  
21 is no classification prescribed by the department of labor and training; provided that, a worker may  
22 be paid wages and benefits not less than the rate applicable to apprentices for the pertinent  
23 classification if:

24 (1) The worker is a participant in an approved apprenticeship program; and

25 (2) The approved apprenticeship program from which the apprentice is hired maintains a  
26 direct entry agreement with a certified pre-apprenticeship training program

27 (g) Solicitations by the electric distribution company shall reflect the requirements of this  
28 section.

29 **39-31-11. Financial remuneration and incentives.**

30 In order to achieve the purposes of this chapter, electric distribution companies shall be  
31 entitled to financial remuneration and incentives for long-term contracts for newly developed  
32 renewable energy resources, which are over and above the base rate revenue requirement  
33 established in its cost of service for distribution ratemaking. Such remuneration and incentives shall  
34 compensate the electric distribution company for accepting the financial obligation of the long-

1 term contracts. For long-term contracts approved pursuant to this chapter on or after January 1,  
2 2022, the financial remuneration and incentives shall be in the form of annual compensation up to  
3 one percent (1.0%) of the actual annual payments made under the contracts through December 31,  
4 2026 for those projects that are commercially operating. For long-term contracts approved pursuant  
5 to this chapter on or after January 1, 2027, financial remuneration and incentives shall not be  
6 applied, unless otherwise granted by the commission. For any calendar year in which the electric  
7 distribution company's actual return on equity exceeds the return on equity allowed by the  
8 commission in the electric distribution company's last general rate case, the commission shall have  
9 the authority to adjust any or all remuneration paid to the electric distribution company pursuant to  
10 this section in order to assure that such remuneration does not result in or contribute toward the  
11 electric distribution company earning above its allowed return for such calendar year.

12 **39-31-12. Bid fees.**

13 Bidders submitting project proposals responsive to any competitive procurements issued  
14 pursuant to this chapter may be charged bid fees by the electric distribution company to pay for all  
15 reasonable costs of consultants and counsel that may be hired by the Rhode Island office of energy  
16 resources, the division of public utilities and carriers, the commerce corporation, and/or the  
17 department of environmental management to meet the requirements of this chapter, up to a cap of  
18 two hundred thousand dollars (\$200,000) per agency. Any bid fees collected by the electric  
19 distribution company for purposes of implementing this subsection must be specified in  
20 procurement documents. The electric distribution company shall be required to transfer to each  
21 agency any invoiced funds within thirty (30) days of invoice receipt.

22 SECTION 4. This act shall take effect upon passage, except as otherwise provided within  
23 the statute.

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LC004951/SUB A/4  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- AFFORDABLE CLEAN ENERGY  
SECURITY ACT

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- 1           This act would amend the affordable clean energy security act and the long-term
- 2           contracting standard for renewable energy.
- 3           This act would take effect upon passage, except as otherwise provided within the statute.

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LC004951/SUB A/4  
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