

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

A N A C T

**RELATING TO PUBLIC UTILITIES AND CARRIERS -- RHODE ISLAND ENERGY
EFFICIENCY MANAGEMENT**

Introduced By: Representatives Fox, Kennedy, Kilmartin, Lima, and Ajello

Date Introduced: April 25, 2006

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. This act shall be known as and may be cited as "The Comprehensive
2 Energy Conservation, Efficiency and Affordability Act of 2006". The general purposes of this act
3 are: (1) to provide Rhode Island residents, institutions and businesses the benefit of stability
4 through diversification of energy resources, energy conservation, efficiency, demand
5 management and prudent procurement, (2) to facilitate the development of renewable energy
6 resources; (3) to make the cost of energy more affordable by mitigating demand and rates charged
7 to low-income households; and (4) to strengthen energy planning, program administration,
8 management, and oversight in a manner that is publicly accountable and responsive.

9 SECTION 2. Title 22 of the General Laws entitled "GENERAL ASSEMBLY" is hereby
10 amended by adding thereto the following chapter:

CHAPTER 7.10

PERMANENT JOINT COMMITTEE ON ENERGY

13 **22-7.10-1. Permanent committee - Composition.** -- There is created a permanent joint
14 committee of the general assembly on energy to consist of eight (8) members of the general
15 assembly, four (4) of whom shall be from the senate to be appointed by the president of the senate
16 not more than three (3) of whom shall be from the same political party, and four (4) of whom
17 shall be from the house of representatives to be appointed by the speaker of the house of
18 representatives not more than three (3) of whom shall be from the same political party. The

1 selection of the chairperson, vice-chairperson, and secretary of the committee shall alternate
2 biennially between the president of the senate and the speaker of the house.

3 **22-7.10-2. Duties.** -- It shall be the duty of the joint committee on energy to promote and
4 encourage the development of effective and efficient plans, programs, strategies, and standards
5 for energy conservation, energy efficiency, and energy resource procurement, use and
6 development, including renewable energy, and in the furtherance to this purpose, it shall be the
7 duty of the joint committee to provide oversight of the implementation of standard offer service
8 through 2020 and all agencies and instrumentalities of the state with responsibility for energy
9 programs, including, but not limited to, the office of energy resources, the Rhode Island energy
10 efficiency and resources management council, the public utilities commission, and the division of
11 public utilities.

12 **22-7.10-3. Reports and recommendations.** -- The joint committee on energy shall from
13 time to time and at least annually report to the general assembly on its findings and the results of
14 its studies, and make any recommendations to the general assembly and propose any legislation
15 or initiate any studies that it shall deem advisable.

16 **22-7.10-4. References to committee.** -- Each branch of the legislature may refer to the
17 joint committee, either initially or after action by other committees, all bills and resolutions
18 dealing with or affecting energy.

19 **22-7.10-5. Technical assistance.** -- The joint committee shall, if it finds it cannot obtain
20 proper assistance from available sources, contract for any technical services that it shall require to
21 effectuate its purposes.

22 **22-7.10-6. Place of meeting - Quorum.** -- The joint committee on legislative services
23 shall provide adequate space in the state house of the use of the joint committee on energy;
24 provided, that the joint committee on energy may conduct hearings and hold meetings elsewhere
25 when doing so will better serve its purposes. A majority in number of the joint committee on
26 energy shall be necessary to constitute a quorum for the transaction of business.

27 SECTION 3. Section 35-4-27 of the General Laws in Chapter 35-4 entitled "State Funds"
28 is hereby amended to read as follows:

29 **35-4-27. Indirect cost recoveries on restricted receipt accounts.** -- Indirect cost
30 recoveries of ten percent (10%) of cash receipts shall be transferred from all restricted receipt
31 accounts, to be recorded as general revenues in the general fund. However, there shall be no
32 transfer from cash receipts with restrictions received exclusively: (1) from contributions from
33 non-profit charitable organizations; (2) from the assessment of indirect cost recovery rates on
34 federal grant funds; or (3) through transfers from state agencies to the department of

1 administration for the payment of debt service. These indirect cost recoveries shall be applied to
2 all accounts, unless prohibited by federal law or regulation, court order, or court settlement. The
3 following restricted receipt accounts shall not be subject to the provisions of this section:

- 4 Department of Human Services
- 5 Veterans' home -- Restricted account
- 6 Veterans' home -- Resident benefits
- 7 Organ transplant fund
- 8 Department of Environmental Management
- 9 National heritage revolving fund
- 10 Environmental response fund II
- 11 Underground storage tanks
- 12 Rhode Island Council on the Arts
- 13 Art for public facilities fund
- 14 Rhode Island Historical Preservation and Heritage Commission
- 15 Historic preservation revolving loan fund
- 16 Historic Preservation loan fund -- Interest revenue
- 17 State Police
- 18 Forfeited property -- Retained
- 19 Forfeitures -- Federal
- 20 Forfeited property -- Gambling
- 21 Attorney General
- 22 Forfeiture of property
- 23 Federal forfeitures
- 24 Attorney General multi-state account
- 25 Department of Administration
- 26 Restore and replacement -- Insurance coverage
- 27 Convention Center Authority rental payments
- 28 Investment Receipts -- TANS
- 29 Car Rental Tax/Surcharge-Warwick Share
- 30 Legislature
- 31 Audit of federal assisted programs
- 32 Department of Elderly Affairs
- 33 Pharmaceutical Rebates Account
- 34 [Affordable Energy fund](#)

1 SECTION 4. Section 37-7-9 of the General Laws in Chapter 37-7 entitled "Management
2 and Disposal of Property" is hereby amended to read as follows:

3 **37-7-9. Concessions, leases, and licenses -- Reports.** -- (a) The acquiring authority, with
4 the approval of the state properties committee, is authorized and empowered when it shall serve
5 the public purpose to grant concessions in or to lease or license any land or building or structure,
6 a part or portion of any governmental facility, public work, or public improvement for industrial
7 or commercial purposes for a term or terms not exceeding in the aggregate in any one case twenty
8 (20) years; provided, however, that real property, buildings, and facilities owned by the state at
9 the Port of Galilee may be leased for a term of up to forty (40) years for commercial fishing
10 industry-related purposes, and provided further, however, that certain real properties, buildings,
11 and facilities owned by the state in the city of Providence known as the Union Station properties,
12 which properties have been conveyed from time to time to the state by the consolidated rail
13 corporation and others, may be leased for a term of up to forty (40) years for office, commercial,
14 service, transportation, or other related purposes; and provided further, however, that real
15 property, buildings, and facilities owned by the state may be leased for a term of up to forty (40)
16 years for the development of cogeneration projects which involve the simultaneous generation of
17 electricity and thermal energy (steam and hot water) [and for eligible renewable energy resources](#)
18 [as defined in subdivisions 39-26-5\(a\)\(i\) through \(v\)](#); and further provided, however, that in the
19 event of a mobile home lease agreement, or site lease agreement, wherein such mobile home is
20 contiguous to a resident owned mobile home park, the State Properties Committee may enter into
21 a lease or grant concessions to or license any land or building for a period not to exceed thirty
22 (30) years and provided further, however, that real property, buildings, and facilities owned by
23 the state may be leased for a term of up to ninety-nine (99) years for the development of railroad
24 layover facilities, contingent on the lease requiring the lessee to provide commuter rail service
25 within the state of Rhode Island, as set forth by the state. All agreements, contracts, and other
26 instruments granting concessions or leasing or licensing facilities shall contain such conditions,
27 rules, restrictions, and regulations as the state purchasing agent shall deem suitable or necessary,
28 and shall be approved as to substance by the director of administration and as to form by the
29 attorney general.

30 (b) Whenever property which is subject to the provisions of this chapter is leased by the
31 state, the lessee shall report on a semi-annual basis the amount of income revenue generated by
32 the leased property. The report shall be made to the state properties commission and copies shall
33 be provided to both the house and senate fiscal staffs and the governor. These requirements shall
34 be contained in the lease between the lessor and the lessee with approval of the state properties

1 committee.

2 SECTION 5. Sections 39-1-1 and 39-1-27.3 of the General Laws in Chapter 39-1 entitled
3 "Public Utilities Commission" are hereby amended to read as follows:

4 **39-1-1. Declaration of policy -- Purposes.** -- (a) The general assembly finds and
5 therefore declares that:

6 (1) The businesses of distributing electrical energy, producing and transporting
7 manufactured and natural gas, operating water works and furnishing supplies of water for
8 domestic, industrial, and commercial use, offering to the public transportation of persons and
9 property, furnishing and servicing telephonic and wireless audio and visual communication
10 systems, and operation of community antenna television systems are affected with a public
11 interest;

12 (2) Supervision and reasonable regulation by the state of the manner in which such
13 businesses construct their systems and carry on their operations within the state are necessary to
14 protect and promote the convenience, health, comfort, safety, accommodation, and welfare of the
15 people, and are a proper exercise of the police power of the state;

16 (3) Preservation of the state's resources, commerce, and industry requires the assurance
17 of adequate public transportation and communication facilities, water supplies, and an abundance
18 of energy, all supplied to the people with reliability, at economical cost, and with due regard for
19 the preservation and enhancement of the environment, the conservation of natural resources,
20 including scenic, historic, and recreational assets, and the strengthening of long-range, land-use
21 planning.

22 (b) It is hereby declared to be the policy of the state to provide fair regulation of public
23 utilities and carriers in the interest of the public, to promote availability of adequate, efficient and
24 economical energy, communication, and transportation services and water supplies to the
25 inhabitants of the state, to provide just and reasonable rates and charges for such services and
26 supplies, without unjust discrimination, undue preferences or advantages, or unfair or destructive
27 competitive practices, and to co-operate with other states and agencies of the federal government
28 in promoting and coordinating efforts to achieve realization of this policy.

29 (c) To this end, there is hereby vested in the public utilities commission and the division
30 of public utilities and carriers the exclusive power and authority to supervise, regulate, and make
31 orders governing the conduct of companies offering to the public in intrastate commerce energy,
32 communication, and transportation services and water supplies for the purpose of increasing and
33 maintaining the efficiency of the companies, according desirable safeguards and convenience to
34 their employees and to the public, and protecting them and the public against improper and

1 unreasonable rates, tolls and charges by providing full, fair, and adequate administrative
2 procedures and remedies, and by securing a judicial review to any party aggrieved by such an
3 administrative proceeding or ruling.

4 (d) The legislature also finds and declares, as of 1996, the following:

5 (1) That lower retail electricity rates would promote the state's economy and the health
6 and general welfare of the citizens of Rhode Island;

7 (2) That current research and experience indicates that greater competition in the
8 electricity industry would result in a decrease in electricity rates over time;

9 (3) That greater competition in the electricity industry would stimulate economic growth;

10 (4) That it is in the public interest to promote competition in the electricity industry and
11 to establish performance based ratemaking for regulated utilities;

12 (5) That in connection with the transition to a more competitive electric utility industry,
13 public utilities should have a reasonable opportunity to recover transitional costs associated with
14 commitments prudently incurred in the past pursuant to their legal obligations to provide reliable
15 electric service at reasonable costs;

16 (6) That it shall be the policy of the state to encourage, through all feasible means and
17 measures, states where fossil-fueled electric generating units producing air emissions affecting
18 Rhode Island air quality are located to reduce such emissions over time to levels that enable cost
19 effective attainment of environmental standards within Rhode Island;

20 (7) That in a restructured electrical industry the same protections currently afforded to
21 low income customers shall continue.

22 (e) The legislature further finds and declares as of 2006:

23 (1) That prices of energy, including especially fossil-fuels and electricity, are rising faster
24 than the cost of living and are subject to sharp fluctuations, which conditions create hardships for
25 many households, institutions, organizations, and businesses in the state;

26 (2) That while utility restructuring has brought some benefits, notably in transmission and
27 distribution costs and more efficient use of generating capacities, it has not resulted in
28 competitive markets for residential and small commercial industrial customers, lower overall
29 prices, or greater diversification of energy resources used for electrical generation;

30 (3) That the state's economy and the health and general welfare of the people of Rhode
31 Island benefit when energy supplies are reliable and least-cost; and

32 (4) That it is a necessary move beyond basic utility restructuring in order to secure for
33 Rhode Island, to the maximum extent reasonably feasible, the benefits of reasonable and stable
34 rates, least-cost procurement, and system reliability that includes energy resource diversification,

1 [distributed generation, and load management.](#)

2 **39-1-27.3. Electric distribution companies required to provide retail access,**
3 **standard offer and last resort service.** -- (a) To promote economic development and the
4 creation and preservation of employment opportunities within the state, each electric distribution
5 company shall offer retail access from nonregulated power producers to all customers.

6 (b) Through year 2009, [and effective July 1, 2007, through year 2020,](#) each electric
7 distribution company shall arrange for a standard power supply offer ("standard offer") to
8 customers that have not elected to enter into power supply arrangements with other nonregulated
9 power suppliers. The rates that are charged by the electric distribution company to customers for
10 standard offer service shall be approved by the commission and shall be designed to recover the
11 electric distribution company's costs and no more than the electric distribution company's costs;
12 provided, that the commission may establish and/or implement a rate that averages the costs over
13 periods of time. The electric distribution company shall not be entitled to recover any profit
14 margin on the sale of standard offer power, [except with approval of the commission as may be](#)
15 [necessary to implement fairly and effectively, system reliability and least-cost procurement.](#) The
16 electric distribution company will be entitled to recover its costs incurred from providing the
17 standard offer arising out of: (1) wholesale standard offer supply agreements with power
18 suppliers in effect prior to January 1, 2002; (2) power supply arrangements that are approved by
19 the commission after January 1, 2002; (3) power supply arrangements made pursuant to sections
20 39-1-27.3.1 [and 39-1-27.8;](#) and (4) any other power supply related arrangements prudently made
21 after January 1, 2002 to provide standard offer supply or to mitigate standard offer supply costs,
22 [including costs for system reliability, procurement and least-cost procurement, as provided for in](#)
23 [section 39-1-27.7 ; provided, however, to the extent there are any cost recovery matters relating to](#)
24 ~~the provision of standard offer service that have been deferred and are pending before the~~
25 ~~commission as of the effective date of this section, such cost recovery matters shall be governed~~
26 ~~by the statutory provisions in effect on the date of the action of the commission to defer its~~
27 ~~decision on the cost recovery matter.~~ Subject to commission approval, the electric distribution
28 company may enter into financial contracts designed to hedge fuel-related or other variable costs
29 associated with power supply arrangements and the costs of any such financial contracts shall be
30 recoverable in standard offer rates. The electric distribution company's standard offer revenues
31 and its standard offer costs shall be accounted for and reconciled with interest at least annually.
32 [Except as otherwise may be directed by the commission in order to accomplish purposes](#)
33 [established by law, any](#) ~~Any~~ over recoveries shall be refunded [to customers in a manner directed](#)
34 [by the commission,](#) and any under recoveries shall be recovered by the electric distribution

1 company through a uniform adjustment factor approved by the commission. The commission
2 shall have the discretion to apply such adjustment factor in any given instance to all customers or
3 to such specific class of customers that the commission deems equitable under the circumstances
4 provided that the distribution company recovers any under recovery in its entirety. Once a
5 customer has elected to enter into a power supply arrangement with a nonregulated power
6 producer, the electric distribution company shall not be required to arrange for the standard offer
7 to such customer except as provided in section 39-1-27.3.1. No customer who initially elects the
8 standard offer and then chooses an alternative supplier shall be required to pay any withdrawal
9 fee or penalty to the provider of the standard offer unless such a penalty or withdrawal fee was
10 agreed to as part of a contract; however, no residential customer shall be required to pay a penalty
11 or withdrawal fee for choosing an alternative supplier. Nothing in this subsection shall be
12 construed to restrict the right of any nonregulated power producer to offer to sell power to
13 customers at a price comparable to that of the standard offer specified pursuant to this subsection.
14 The electric distribution company may not terminate an existing standard offer wholesale supply
15 agreement without the written consent of the division.

16 (c) In recognition that electricity is an essential service, each electric distribution
17 company shall arrange for a last resort power supply for customers who have left the standard
18 offer for any reason and are not otherwise receiving electric service from nonregulated power
19 producers. The electric distribution company shall procure last resort service supply from
20 wholesale power suppliers. Prior to acquiring last resort supply, the electric distribution company
21 will file with the commission a supply acquisition plan or plans that include the acquisition
22 procedure, the pricing options being sought, and a proposed term of service for which last resort
23 service will be acquired. The term of service may be short or long term and acquisitions may
24 occur from time to time and for more than one supplier for segments of last resort service load
25 over different terms, if appropriate. All the components of the acquisition plans, however, shall be
26 subject to commission review and approval. Once an acquisition plan is approved by the
27 commission, the electric distribution company shall be authorized to acquire last resort service
28 supply consistent with the approved acquisition plan and recover its costs incurred from
29 providing last resort service pursuant to the approved acquisition plan. The commission may
30 periodically review the acquisition plan to determine whether it should be prospectively modified
31 due to changed market conditions. The commission shall have the authority and discretion to
32 approve special tariff conditions and rates proposed by the electric distribution company that the
33 commission finds are in the public interest, including without limitation: (1) short and long term
34 optional service at different rates; (2) term commitments or notice provisions before individual

1 customers leave last resort service; (3) last resort service rates for residential or any other special
2 class of customers that are different than the rates for other last resort customers; and/or (4) last
3 resort service rates that are designed to encourage any class of customers to return to the market.
4 The electric distribution company's last resort service revenues and its last resort service costs
5 shall be accounted for and reconciled with interest at least annually. Any over recoveries shall be
6 refunded and any under recoveries shall be recovered by the electric distribution company
7 through a uniform adjustment factor approved by the commission. The commission shall have the
8 discretion to apply such adjustment factor in any given instance to all customers or to such
9 specific class of customers that the commission deems equitable under the circumstances
10 provided that the distribution company recovers any under recovery in its entirety. Nothing in this
11 section shall be construed to prohibit an electric distribution company from terminating service
12 provided hereunder in accordance with commission rules and regulations in the event of
13 nonpayment of this service. The commission may promulgate regulations to implement this
14 section including the terms and conditions upon which last resort service is offered and provided
15 to customers.

16 (d) If a customer being served by a nonregulated power producer pays any taxes assessed
17 for electric service to the electric distribution company and the electric distribution company
18 forwards such tax payment for the power portion of the bill to a nonregulated power producer for
19 payment by the nonregulated power producer to the state, neither the customer nor the electric
20 distribution company shall be liable for such taxes forwarded if the nonregulated power producer
21 fails to remit such taxes to the state for any reason.

22 SECTION 6 Chapter 39-1 of the General Laws entitled "Public Utilities Commission" is
23 hereby amended by adding thereto the following sections:

24 **39-1-27.7. System reliability and least-cost procurement.** – Least-cost procurement
25 shall comprise system reliability and energy efficiency and conservation procurement as provided
26 for in this section and supply procurement as provided for in section 39-1-27.8, as complementary
27 but distinct activities that have as common purpose meeting electrical energy needs in Rhode
28 Island, in a manner that is optimally cost-effective, reliable, prudent and environmentally
29 responsible.

30 (a) The commission shall establish not later than June 1, 2008, standards for system
31 reliability and energy efficiency and conservation procurement, which shall include standards and
32 guidelines for:

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

34 (i) Procurement of energy supply from diverse sources, including, but not limited to,

1 renewable energy resources as defined in chapter 39-26;

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

5 (iii) Demand response, including, but not limited to, distributed generation, back-up
6 generation and on-demand usage reduction, which shall be designed to facilitate electric customer
7 participation in regional demand response programs, including those administered by the
8 independent service operator of New England ("ISO-NE") and/or are designed to provide local
9 system reliability benefits through load control or using on-site generating capability;

10 (iv) To effectuate the purposes of this division, the commission may establish standards
11 and/or rates (A) for qualifying distributed generation, demand response, and renewable energy
12 resources, (B) for net-metering, (C) for back-up power and/or standby rates that reasonably
13 facilitate the development of distributed generation, and (D) for such other matters as the
14 commission may find necessary or appropriate.

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

18 (b) The standards and guidelines provided for by subsection (a) shall be subject to
19 periodic review and as appropriate amendment by the commission, which review will conduct not
20 less frequently than every three (3) years after the adoption of the standards and guidelines.

21 (c) To implement the provisions of this section:

22 (1) The commissioner of the office of energy resources and the energy efficiency and
23 resources management council, either or jointly or separately, shall provide the commission
24 findings and recommendations with regard to system reliability and energy efficiency and
25 conservation procurement on or before March 1, 2008, and triennially on or before March 1,
26 thereafter through March 1, 2017.

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

30 (3) The energy efficiency and resources management council shall prepare by July 15,
31 2009, a reliability and efficiency procurement opportunity report which shall identify
32 opportunities to procure efficiency, distributed generation, demand response and renewables,
33 which report shall be submitted to the electrical distribution company, the commission, the office
34 of energy resources and the joint committee on energy.

1 (4) Each electrical distribution company shall submit to the commission on or before
2 September 1, 2008, and triennially on or before September 1, thereafter through September 1,
3 2017, a plan for system reliability and energy efficiency and conservation procurement. In
4 developing the plan, the distribution company may seek the advice of the commissioner and the
5 council. The plan shall include measurable goals and target percentages for each energy resource,
6 pursuant to standards established by the commission, including efficiency, distributed generation,
7 demand response, combined heat and power, and renewables.

8 (5) The commission shall issue an order with regard to the plan from the electrical
9 distribution company not greater than sixty (60) days after it is filed with the commission.

10 (6) Each electrical distribution company shall provide a status report, which shall be
11 public, on the implementation of least cost procurement on or before December 15, 2008, and on
12 or before February 1, 2009, to the commission, the division, the commissioner of the office of
13 energy resources and the energy efficiency and resources management council which may
14 provide the distribution company recommendations with regard to effective implementation of
15 least cost procurement. The report shall include the targets for each energy resource included in
16 the order approving the plan and the achieved percentage for energy resource, including the
17 achieved percentages for efficiency, distributed generation, demand response, combined heat and
18 power, and renewables.

19 (d) If the commission shall determine that the implementation of system reliability and
20 energy efficiency and conservation procurement has caused or is likely to cause under or over-
21 recovery of overhead and fixed costs of the company implementing said procurement, the
22 commission may establish a mandatory rate adjustment clause for the company so affected in
23 order to provide for full recovery of reasonable and prudent overhead and fixed costs.

24 (e) The commission shall conduct a contested case proceeding to establish a performance
25 based incentive plan which allows for additional compensation for each electric distribution
26 company and each company providing gas to end-users and/or retail customers based on the
27 level of its success in mitigating the cost and variability of electric and gas services through
28 procurement portfolios.

29 **39-1-27.8. Supply procurement portfolio.** -- Each electric distribution company shall
30 submit a proposed supply procurement plan or plans to the commission not later than March 1,
31 2009, and each March 1, thereafter through March 1, 2018. The supply procurement plan or plans
32 shall be consistent with the purposes of least-cost procurement and shall, as appropriate, take into
33 account plans and orders with regard to system reliability and energy efficiency and conservation
34 procurement. The supply procurement plan or plans will include the acquisition procedure, the

1 pricing options being sought, and a proposed term of service for which standard offer service will
2 be acquired. The term of service may be of various, staggered term lengths and acquisitions may
3 occur from time to time and for more than one supplier for segments of standard offer load over
4 different terms, if appropriate. There also may be separate procurement plans for residential and
5 non-residential classes or separate plans among non-residential classes. All the components of the
6 procurement plans, shall be subject to commission review and approval. Once a procurement plan
7 is approved by the commission, the electric distribution company shall be authorized to acquire
8 standard offer service supply consistent with the approved procurement plan and recover its costs
9 incurred from providing standard offer service pursuant to the approved procurement plan. The
10 commission may periodically review the procurement plan to determine whether it should be
11 prospectively modified due to changed market conditions. The commission shall have the
12 authority and discretion to establish eligibility criteria by rate class, and approve special tariff
13 conditions and rates proposed by the electric distribution company that the commission finds are
14 in the public interest, including without limitation: (1) short and long term optional service at
15 different rates; (2) term commitments or notice provisions before individual customers leave
16 standard offer service; (3) standard offer service rates for residential or any other special class of
17 customers that are different than the rates for other standard offer customers; (4) time of use
18 commodity pricing for specified classes of customers, except residential customers; provided,
19 however, that the commission may establish pilot programs for time of use commodity pricing for
20 residential customers; and/or (5) standard offer service rates that are designed to encourage any
21 class of customers to purchase supply directly from the market.

22 **39-1-27.9. Office of energy resources participation.** -- In any commission inquiry into,
23 or examination of matters that relate to or could potentially impact any programs, functions or
24 duties of the office of energy resources and/or the energy efficiency and resources management
25 council, including, but not limited to, those programs, functions and duties pursuant to this
26 chapter and chapters 42-140, 42-140.1, 42-140.2, and 42-141, the office of energy resources and
27 the energy resources council shall be deemed, upon the formal request of the office or the council
28 as appropriate, to be an interested party for all purposes, and as such, shall receive all notices and
29 may file complaints, institute proceedings, participate as a party in administrative hearings.

30 **39-1-27.10. Electric and gas distribution companies required to file affordable**
31 **energy plans.** – (a) On or before January 2, 2007, each gas and electric distribution company
32 shall submit to the commission a plan for affordable energy for low income households, including
33 very low income households as defined in section 42-141-3. The plan shall provide for the
34 implementation of the affordable energy fund and shall include provisions for discounted

1 distribution rates and customer charges, payments on arrearages and unpaid balances by low
2 income households, and energy efficiency and weatherization, to the extent that funding is
3 allocated by the commissioner pursuant to subsection 42-141-5(d).

4 (b) On or before April 30, 2007, the commission shall review the plan and issue an order
5 with regard to the plan not later than May 31, 2007. The order shall be effective not later than
6 November 1, 2007. The commission shall cause a review, and as appropriate an amendment, the
7 plan at least every three (3) years between July 1, 2007, and July 1, 2016.

8 (c) On or before November 1, 2007, each gas and electric distribution company shall
9 implement an affordable energy plan in accordance with the order of the commission.

10 SECTION 7. Sections 39-2-1, 39-2-1.2, 39-2-1.4 and 39-2-5 of the General Laws in
11 Chapter 39-2 entitled "Duties of Utilities and Carriers" are hereby amended to read as follows:

12 **39-2-1. Reasonable and adequate services -- Reasonable and just charges. --** (a)

13 Every public utility is required to furnish safe, reasonable, and adequate services and facilities.
14 The rate, toll, or charge, or any joint rate made, exacted, demanded, or collected by any public
15 utility for the conveyance or transportation of any persons or property, including sewage, between
16 points within the state, or for any heat, light, water, or power produced, transmitted, distributed,
17 delivered, or furnished, or for any telephone or telegraph message conveyed or for any service
18 rendered or to be rendered in connection therewith, shall be reasonable and just, and every unjust
19 or unreasonable charge for the service is prohibited and declared unlawful, and no public utility
20 providing heat, light, water, or power produced, transmitted, distributed, delivered, or furnished
21 shall terminate the service or deprive any home or building, or whatsoever, of service if the
22 reason therefor is nonpayment of the service without first notifying the user of the service, or the
23 owner or owners of the building as recorded with the utility of the impending service termination
24 by written notice at least ten (10) days prior to the effective date of the proposed termination of
25 service.

26 (b) Any existing rules and regulations dealing with the termination of utility service and
27 establishing reasonable methods of debt collection promulgated by the commission pursuant to
28 this chapter and the provisions of section 39-1.1-3, including but not limited to, any rules and
29 regulations dealing with deposit and deferred payment arrangements, winter moratorium and
30 medical emergency protections, and customer dispute resolution procedures, shall be applicable
31 to any public utility which distributes electricity.

32 (c) The commission shall promulgate such further rules and regulations as are necessary
33 to protect consumers following the introduction of competition in the electric industry and which
34 are consistent with this chapter and the provisions of section 39-1.1-3. In promulgating such rules

1 and regulations, the commission shall confer with the Retail Electric Licensing Commission and
2 shall give reasonable consideration to any and all recommendations of the Retail Electric
3 Licensing Commission.

4 (d) (Effective until April 15, 2006.) The commission shall promulgate and administer
5 such rules and regulations as may be necessary to implement the purpose of this subsection and to
6 provide for restoration of electric and/or gas service to Protected Status Customers who are
7 terminated from utility service prior to August 15, 2005.

8 (1) Notwithstanding the provisions of part V section 4(E)(1)(B) and (C) of the Public
9 Utilities Commission Rules and Regulations Governing the Termination of Residential Electric,
10 Gas, and Water Utility Service, a protected status customer who is terminated from utility service
11 prior to August 15, 2005, shall be eligible to have electric and/or gas utility service restored
12 providing the following conditions are met: (i) the customer pays twenty percent (20%) of the
13 customer's unpaid balance; (ii) the customer agrees to pay one twenty-fourth (1/24) of the
14 customer's remaining balance per month for twenty-four (24) months, (iii) the customer agrees to
15 remain current with payments for current usage; and (iv) the customer has shown, to the
16 satisfaction of the division, that the customer is reasonably capable of meeting the payment
17 schedule provided for by provisions (i)-(iii) of this subsection 39-2-1(d)(1), and that the customer
18 shall agree to waiver the right to a hearing for termination of service; provided that this waiver
19 provision shall apply exclusively to the provisions of this subsection and shall have no
20 preferential value for other proceedings before the commission or the division. Once service is
21 restored under the provisions of this subsection, such service may be terminated if payment is not
22 made within thirty (30) days after the billing date; provided, however, that termination of service
23 shall not take place during the moratorium on shut-offs.

24 (2) A customer terminated from service under the provisions of subsection 39-2-1(d)(1)
25 shall be eligible for restoration of service in accordance with the applicable provisions of part V
26 section 4(E)(1)(C), or its successor provision, of the Public Utilities Commission Rules and
27 Regulations Governing the Termination of Residential Electric, Gas, and Water Service.

28 ~~(3) The provisions of subsection 39-2-1(d)(1) shall be available if the initial payment for~~
29 ~~restoration of service is made between April 15, 2005, and August 15, 2005, inclusive.~~

30 (e) On or before May 1, 2007, the commission shall administer such rules and regulations
31 as may be necessary to implement the purpose of this section and to provide for restoration of
32 electric and/or gas service to very low income households as defined by section 42-141-2.

33 (1) Effective July 1, 2007, notwithstanding the provisions of part V sections 4(E)(1)(B)
34 and (C) of the public utilities commission rules and regulations governing the termination of

1 residential electric, gas, and water utility service, a very low income customer who is terminated
2 from gas and/or electric service shall be eligible one time to have electric and/or gas utility
3 service restored providing the following conditions are met:

4 (i) the customer pays twenty-five percent (25%) of the customer's unpaid balance;
5 (ii) the customer agrees to pay one thirty-sixth (1/36th) of one half (1/2) of the customer's
6 remaining balance per month for thirty-six (36) months;
7 (iii) the customer agrees to remain current with payments for current usage; and
8 (iv) the customer has shown, to the satisfaction of the division, that the customer is
9 reasonably capable of meeting the payment schedule provided for by the provisions of
10 subdivision 39-2-1(e)(1)(i) and (ii) in this section. The restoration of service provided for by this
11 subsection shall be a one-time right; failure to comply with the payment provisions set forth in
12 this subsection shall be grounds for the customer to be dropped from the repayment program
13 established by this subsection, and the balance due on the unpaid balance shall be due in full and
14 shall be payable in accordance with the rules of the commission governing the termination of
15 residential electric, gas, and water utility service. A customer who completes the schedule of
16 payments pursuant to this subsection, shall have the balance of any arrearage forgiven, and the
17 customer's obligation to the gas and/or electric company for such balance shall be deemed to be
18 fully satisfied. The amount of the arrearage so forgiven shall be treated as bad debt for purposes
19 of cost recovery by the gas or the electric company.

20 (2) A customer terminated from service under the provisions of subdivision 39-2-1(e)(1)
21 shall be eligible for restoration of service in accordance with the applicable provisions of part V
22 section 4(E)(1)(C), or its successor provision, of the public utilities commission rules and
23 regulations governing the termination of residential electric, gas, and water service.

24 **39-2-1.2. Utility base rate -- Advertising, demand side management and renewables.**

25 -- (a) In addition to costs prohibited in section 39-1-27.4(b), no public utility distributing or
26 providing heat, electricity, or water to or for the public shall include as part of its base rate any
27 expenses for advertising, either direct or indirect, which promotes the use of its product or
28 service, or is designed to promote the public image of the industry. No public utility may furnish
29 support of any kind, direct, or indirect, to any subsidiary, group, association, or individual for
30 advertising and include the expense as part of its base rate. Nothing contained in this section shall
31 be deemed as prohibiting the inclusion in the base rate of expenses incurred for advertising,
32 informational or educational in nature, which is designed to promote public safety conservation of
33 the public utility's product or service. The public utilities commission shall promulgate such rules
34 and regulations as are necessary to require public disclosure of all advertising expenses of any

1 kind, direct or indirect, and to otherwise effectuate the provisions of this section.

2 (b) Effective as of January 1, 2003, and for a period of ten (10) years thereafter, each
3 electric distribution company shall include charges of 2.0 mills per kilowatt-hour delivered to
4 fund demand side management programs and 0.3 mills per kilowatt-hour delivered to fund
5 renewable energy programs. Existing charges for these purposes and their method of
6 administration shall continue through December 31, 2002. Thereafter, the electric distribution
7 company shall establish and after July 1, 2007, maintain two (2) separate accounts, one for
8 demand side management programs, which shall be administered and implemented by the
9 distribution company, subject to the regulatory reviewing authority of the commission, and one
10 for renewable energy programs, which shall be administered by the ~~state energy office.~~ office of
11 energy resources through June 30, 2007, and effective July 1, 2007, shall be held and disbursed
12 by the distribution company as directed by the commissioner of the office of energy resources,
13 with the approval, if appropriate, of the trustees of the renewable energy development fund, for
14 the purposes of developing, promoting and supporting renewable energy programs.

15 During the ten (10) year period the commission may, in its discretion, after notice and
16 public hearing, increase the sums for demand side management and renewable resources;
17 thereafter, the commission shall, after notice and public hearing, determine the appropriate charge
18 for these programs. The ~~energy~~ office of energy resources and/or ~~and~~ the administrator of the
19 renewable energy programs shall seek to secure for the state an equitable and reasonable portion
20 of renewable energy credits or certificates created by projects funded through those programs,
21 and shall develop and execute by July 1, 2007, a plan to make the program self-sustaining as of
22 January 1, 2013. As used in this section, "renewable energy resources" shall mean: (1) power
23 generation technologies as defined in section 39-26-5, "eligible renewable energy resources";
24 including off-grid and on-grid generating technologies located in Rhode Island as a priority; (2)
25 research and development activities in Rhode Island pertaining to eligible renewable energy
26 resources and to other renewable energy technologies for electrical generation; or (3) projects and
27 activities directly related to implementing eligible renewable energy resources projects in Rhode
28 Island. Technologies for converting solar energy for space heating or generating domestic hot
29 water may also be funded through the renewable energy programs, so long as these technologies
30 are installed on housing projects that have been certified by the executive director of the Rhode
31 Island housing and mortgage finance corporation as serving low-income Rhode Island residents.
32 Fuel cells may be considered an energy efficiency technology to be included in demand sided
33 management programs. Special rates for low income customers in effect as of August 7, 1996
34 shall be continued, and the costs of all of these discounts shall be included in the distribution rates

1 charged to all other customers. Nothing in this section shall be construed as prohibiting an electric
2 distribution company from offering any special rates or programs for low income customers
3 which are not in effect as of August 7, 1996, subject to the approval by the commission.

4 (c) The ~~director of the state energy office~~ commissioner of the office of energy resources
5 is authorized and ~~shall~~ may enter into a contract with a contractor for the cost effective
6 administration of the renewable energy programs funded by this section. The director shall
7 initiate the competitive bid process by the issuance and advertisement of specifications and
8 request for proposals, on or before September 1, 2002. The contract resulting from the
9 competitive bid process shall be awarded to become effective for a three (3) year period
10 commencing no later than January 1, 2003. A competitive bid and contract award for
11 administration of the renewable energy programs ~~shall~~ may occur every three (3) years thereafter,
12 and shall include as a condition that after July 1, 2007 the account for the renewable energy
13 programs shall be maintained by the distribution company as provided for in subdivision (b)
14 above and, with the approval of the commissioner of the office of energy resources and the
15 trustees of the renewable energy fund, may be administered by the economic development
16 corporation.

17 (d) Effective January 1, 2007, and for a period of seven (7) years thereafter, each gas
18 distribution company shall include, with the approval of the commission, a charge of up to fifteen
19 cents (\$0.15) per deca therm delivered to demand side management programs, including, but not
20 limited to, programs for cost-effective energy efficiency, energy conservation, combined heat and
21 power systems, and weatherization services for low income households.

22 (e) The gas company shall establish a separate account for demand side management
23 programs, which shall be administered and implemented by the distribution company, subject to
24 the regulatory reviewing authority of the commission. The commission may establish
25 administrative mechanisms and procedures that are similar to those for electric demand side
26 management programs administered under the jurisdiction of the commissions and that are
27 designed to achieve cost-effectiveness and high life-time savings of efficiency measures
28 supported by the program.

29 (f) The commission may, if reasonable and feasible, except from this demand side
30 management change:

31 (i) gas used for distribution generation; and

32 (ii) gas used for the manufacturing processes, where the customer has established a self-
33 directed program to invest in and achieve best effective energy efficiency in accordance with a
34 plan approved by the commission and subject to periodic review and approval by the

1 commission, which plan shall require annual reporting of the amount invested and the return on
2 investments in terms of gas savings.

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

8 (h) Effective January 1, 2007, the commission shall allocate from demand-side
9 management gas and electric funds authorized pursuant to this section 39-2-1.2, an amount not to
10 exceed two percent (2%) of such funds on an annual basis for the retention of expert consultants,
11 and reasonable administrations costs of the energy efficiency and resources management council
12 associated with planning, management, and evaluation of energy efficiency programs, renewable
13 energy programs and least-cost procurement, and with regulatory proceedings, contested cases,
14 and other actions pertaining to the purposes, powers and duties of the council, which allocation
15 may by mutual agreement, be used in coordination with the office of energy resources to support
16 such activities.

17 **39-2-1.4. Reasonable backup or supplemental rates.** -- (a) Electricity produced by
18 cogeneration and small power production can be of benefit to the public as part of the total energy
19 supply of the entire electric grid of the state or consumed by a cogenerator or small power
20 producer. Subject to compliance with applicable rules governing such service, public utilities
21 shall provide transmission or distribution service to enable a retail customer to transmit electrical
22 power generated by the customer at one location to the customer's facilities at another location, if
23 the commission finds that the provision of this service, and the charges, terms, and other
24 conditions associated with the provision of this service, are not likely to result in higher cost
25 electric service to the utility's general body of retail and wholesale customers or adversely affect
26 the adequacy or reliability of electric service to all customers.

27 (b) Each electric distribution company shall provide backup and supplemental service to
28 any customer who is self-generating electricity and meets reasonable interconnection
29 requirements designed to protect the distribution and transmission system. The commission shall
30 ensure that backup and supplemental rates made, exacted, demanded or collected by any public
31 utility from a customer who is self-generating shall be just and reasonable and may not be unduly
32 discriminatory. Any backup and supplemental rate tariffs in effect as of May 2002 may remain in
33 effect as designed through December 31, 2004. Commencing January 1, 2005, the backup and
34 supplemental rates shall be cost based but may be discounted as provided for in subsection (c) of

1 this section; provided, however, that the John O. Pastore Center power plant shall be exempt from
2 said backup or supplemental rates.

3 (c) Notwithstanding the rate design criteria set forth in subsection (b) of this section, the
4 commission may permit or require discounted backup distribution service rates in order to
5 encourage economically efficient cogeneration or small power production projects if it finds these
6 discounts to be in the public interest [and/or contribute to system reliability procurement or least-](#)
7 [cost procurement](#); provided, however, that any revenue not recovered by the electric distribution
8 company as a result of these discounted distribution rates shall be accounted for and recovered in
9 the rates assessed on all customers. The commission shall, in determining the public interest in
10 distributed generating facilities, consider reduced environmental impacts, increased energy
11 efficiency, reduced transmission losses and congestion, effects on electric system reliability and
12 other factors the commission may deem relevant.

13 **39-2-5. Exceptions to anti-discrimination provisions.** -- The provisions of sections 39-
14 2-2 -- 39-2-4 shall be subject to the following exceptions:

15 (1) A public utility may issue or give free transportation or service to its employees and
16 their families, its officers, agents, surgeons, physicians, and attorneys at law, and to the officers,
17 agents, and employees, and their families of any other public utility.

18 (2) With the approval of the division any public utility may give free transportation or
19 service, upon such conditions as the public utility may impose, or grant special rates therefor to
20 the state, to any town, or city, or to any water or fire district, and to the officers thereof, for public
21 purposes, and also to any special class or classes of persons, not otherwise referred to in this
22 section, in cases where the same shall seem to the division just and reasonable, or required in the
23 interests of the public, and not unjustly discriminatory.

24 (3) With the approval of the division any public utility operating a railroad or street
25 railway may furnish to the publishers of newspapers and magazines, and to their employees,
26 passenger transportation in return for advertising in the newspapers or magazines at full rates.

27 (4) With the approval of the division any public utility may exchange its service for the
28 service of any other public utility furnishing a different class of service.

29 (5) Nothing in this section nor any other provision of the law shall be construed to
30 prohibit the giving by any public utility, free or reduced rate service to an elderly person as
31 defined by the division.

32 (6) Any motor carrier of persons, as defined in chapter 13 of this title, may elect to file a
33 tariff providing for a rate reduction of twenty-five percent (25%) below its one-way fare tariff
34 applying to any person who is sixty-five (65) years of age or older and any person assisting and

1 traveling with a blind passenger who is not required to pay any fare pursuant to the provisions of
2 section 39-2-13 for bus rides between the hours of ten o'clock (10:00) a.m. and three o'clock
3 (3:00) p.m. of each day. In such event the reduced fare shall be paid in part by the passenger and
4 in part by the state. That part of the reduced fare payable by the state shall be one half (1/2) of the
5 reduced fare adjusted upward to end in the nearest zero (0) or five cents (.05), and that part
6 payable by the passenger shall be the balance of the reduced fare. Payments by the state under
7 this section shall be paid monthly under procedures agreed upon by the department of
8 transportation and the carrier.

9 (7) [Deleted by P.L. 2004, ch. 378, section 4, and by P.L. 2004, ch. 504, section 4.]

10 (8) Any person, firm, or corporation or any officer, agent, servant, or employee thereof
11 who shall violate the provisions of subsection (7) by fraudulently obtaining a telecommunications
12 device shall, upon conviction, be fined not exceeding five hundred dollars (\$500) or be
13 imprisoned for a term not exceeding one year.

14 (9) (i) Nothing in this section nor any other provision of the general laws shall be
15 construed to prohibit the commission from taking actions to enable the state to participate in a
16 federal communications commission telephone lifeline program. The commission may set a
17 subscriber funded monthly residence basic exchange lifeline telephone service credit in an
18 amount not to exceed the federal subscriber line access charge or the monthly basic service
19 charge, whichever is less, for those persons who receive supplemental social security income
20 (SSI), aid to families with dependent children (AFDC), general public assistance (GPA), aid from
21 the Rhode Island medical assistance program, or food stamps issued pursuant to the Food Stamp
22 Act of 1964 as amended (public law 88-525 and amendments made thereto, 7 U.S.C. section
23 2011 et seq.), assistance from the low-income home energy assistance program (LIHEAP) as
24 administered by the department of administration, division of planning, and effective April 1,
25 1993, assistance from the Rhode Island pharmaceutical assistance program administered by the
26 department of elderly affairs. The public utilities commission may promulgate regulations to
27 implement this section. The department of human services and the department of administration,
28 division of planning shall certify subscriber eligibility for the programs in accordance with public
29 utilities commission and federal communications commission guidelines.

30 (ii) The department of human services shall report monthly to the governor and to the
31 house of representatives fiscal advisor the number of persons newly eligible for the lifeline
32 telephone service credit hereunder solely by virtue of their eligibility to receive food stamp
33 assistance and the department of administration, division of planning shall, also, report monthly
34 to the governor and to the house of representatives fiscal advisor the number of persons newly

1 eligible for the lifeline telephone service credit hereunder solely by virtue of their participation in
2 the low-income home energy assistance program (LIHEAP).

3 (10) Nothing in this section nor any other provision of the general laws shall be
4 construed to prohibit any public utility with the approval of the commission, from forgiving
5 arrearages of any person in accordance with the ~~terms of a percentage of income payment plan~~
6 ~~administered by the governor's office of energy assistance for low income households who are~~
7 ~~eligible to receive funds under the federal low income home energy assistance program~~
8 provisions of subsection 39-2-1(e).

9 (11) Nothing in ~~his~~ section or any other provision of the law shall be construed to
10 prohibit any utility company from cutting, disconnecting, or removing mains, poles, wires,
11 conduits, or fixtures free of charge to nonprofit housing development corporations prior to
12 moving a building to be used as affordable housing for at least a ten (10) year period.

13 (12) Nothing in this section nor any other provision of the general laws shall be
14 construed to prohibit any telecommunications provider with the approval of the commission,
15 from offering any person, firm or corporation a reduced rate, provided such rate covers all costs.

16 (13) A gas or electric distribution company may provide discounts to low income
17 customers in accordance with the affordable energy plan provisions of subsection 42-141-5(d).
18 Nothing contained herein shall prohibit the continuation of any low income discounts approved
19 by the commission prior to January 1, 2006, and in effect as of that date.

20 SECTION 8. Section 39-26-7 and 39-26-8 of the General Laws in Chapter 39-26 entitled
21 "Renewable Energy Standard" are hereby amended to read as follows:

22 **39-26-7. Renewable energy development fund.** -- (a) There is hereby authorized and
23 created within the economic development corporation a renewable energy development fund for
24 the purpose of increasing the supply of NE-GIS certificates available for compliance in future
25 years by obligated entities with renewable energy standard requirements, as established in this
26 chapter. The fund shall be located at and administered by the Rhode Island Economic
27 Development Corporation and shall have a board of trustees of five (5) members as follows: the
28 executive director of the economic development corporation, who shall be chairman, the director
29 of the department of administration or a designee of the director, the administrator of the division
30 of public utilities, and two (2) public members appointed by the governor with advice and consent
31 of the senate, who shall serve terms of three (3) years, provided however that no public members
32 may serve more than two (2) consecutive (3) three year terms. One of the public members shall
33 be a representative of an organization that advocates for renewable energy development. Each
34 member shall hold office for the term appointed and until the member's successor shall have been

1 duly appointed and qualified, or until the member's earlier death, resignation or removal.
2 Members of the board of trustees of the fund shall receive no compensation for the performance
3 of their duties, but may be reimbursed for reasonable expenses incurred in carrying out those
4 duties. The board of trustees shall recommend to the economic development corporation:

5 (1) Plans and guidelines for the management and use of the fund, and

6 (2) Its evaluation of proposals and/or actions to obligate, use and/or sell, dispose, trade or
7 exchange assets held by the fund. The board of trustees shall have the power to adopt, with the
8 approval of the economic development corporation, such by-laws as may be necessary or
9 convenient for the conduct of its affairs.

10 (b) The economic development corporation shall enter into agreements with obligated
11 entities to accept alternative compliance payments, consistent with rules of the commission and
12 the purposes set forth in this section; and alternative compliance payments received pursuant to
13 this section shall be trust funds to be held and applied solely for the purposes set forth in this
14 section.

15 (c) The uses of the fund shall include but not be limited to:

16 (1) Stimulating investment in renewable energy development by entering into
17 agreements, including multi-year agreements, for renewable energy certificates;

18 (2) Issuing assurances and/or guarantees to support the acquisition of renewable energy
19 certificates and/or the development of new renewable energy sources for Rhode Island;

20 (3) Establishing escrows, reserves, and/or acquiring insurance for the obligations of the
21 fund;

22 (4) Paying administrative costs of the fund incurred by the economic development
23 corporation or the board of trustees, not to exceed ten percent (10%) of the income of the fund,
24 including but not limited to alternative compliance payments.

25 (d) NE-GIS certificates acquired through the fund may be conveyed to obligated entities
26 or may be credited against the renewable energy standard for the year of the certificate provided
27 that the commission assesses the cost of the certificates to the obligated entity, or entities,
28 benefiting from the credit against the renewable energy standard, which assessment shall be
29 reduced by previously made alternative compliance payments and shall be paid to the fund.

30 (e) The trustees, in cooperation and concurrence with the commissioner of the office of
31 energy resources, consistent with rules as may be adopted by the commission, develop an
32 integrated plan and strategy, by July 1, 2007, for stimulating the development of and financing
33 eligible renewable energy resources.

34 **39-26-8. Interaction with other policies.** -- (a) Rhode Island has established a system-

1 benefits charge (SBC), a portion of which is dedicated to supporting renewable energy,
2 administered ~~by the state energy office~~ in accordance with the provisions of subsections 39-2-
3 1.2(b) and (c); other states have similar policies. The ~~state energy~~ office of energy resources is
4 hereby directed to collaborate with the ~~commissions and~~ division of public utilities, the trustees of
5 the renewable energy development fund, the distribution company with other interests and
6 parties, as appropriate, in maximizing the combined impact and efficiency of the ~~SBC~~ renewable
7 energy program established by subsections 39-2-1.2(b) and (c) and the renewable energy
8 standard.

9 (b) It is the intent of this chapter that generation attributes and NE-GIS certificates
10 applied towards Rhode Island renewable energy standard compliance may not be used towards
11 compliance with state renewable energy obligations relating to an obligated entity's load in other
12 states.

13 SECTION 9. Section 42-11-10 of the General Laws in Chapter 42-11 entitled
14 "Department of Administration" is hereby amended to read as follows:

15 **42-11-10. Statewide planning program.** -- (a) Findings. - The general assembly finds
16 that the people of this state have a fundamental interest in the orderly development of the state;
17 the state has a positive interest and demonstrated need for establishment of a comprehensive
18 strategic state planning process and the preparation, maintenance, and implementation of plans
19 for the physical, economic, and social development of the state; the continued growth and
20 development of the state presents problems that cannot be met by the cities and towns
21 individually and that require effective planning by the state; and state and local plans and
22 programs must be properly coordinated with the planning requirements and programs of the
23 federal government.

24 (b) Establishment of statewide planning program. - (1) A statewide planning program is
25 hereby established to prepare, adopt, and amend strategic plans for the physical, economic, and
26 social development of the state and to recommend these to the governor, the general assembly,
27 and all others concerned.

28 (2) All strategic planning, as defined in subsection (c) of this section, undertaken by the
29 executive branch for those departments and other agencies enumerated in subsection (g) of this
30 section, shall be conducted by or under the supervision of the statewide planning program. The
31 statewide planning program shall consist of a state planning council, and the office of strategic
32 planning and the office of systems planning of the division of planning, which shall be a division
33 within the department of administration.

34 (c) Strategic planning. - Strategic planning includes the following activities:

- 1 (1) Establishing or identifying general goals.
- 2 (2) Refining or detailing these goals and identifying relationships between them.
- 3 (3) Formulating, testing, and selecting policies and standards that will achieve desired
4 objectives.
- 5 (4) Preparing long-range or system plans or comprehensive programs that carry out the
6 policies and set time schedules, performance measures, and targets.
- 7 (5) Preparing functional short-range plans or programs that are consistent with
8 established or desired goals, objectives, and policies, and with long-range or system plans or
9 comprehensive programs where applicable, and that establish measurable intermediate steps
10 toward their accomplishment of the goals, objectives, policies, and/or long-range system plans.
- 11 (6) Monitoring the planning of specific projects and designing of specific programs of
12 short duration by the operating departments, other agencies of the executive branch, and political
13 subdivisions of the state to insure that these are consistent with and carry out the intent of
14 applicable strategic plans.
- 15 (7) Reviewing the execution of strategic plans and the results obtained and making
16 revisions necessary to achieve established goals.
- 17 (d) State guide plan. - Components of strategic plans prepared and adopted in accordance
18 with this section may be designated as elements of the state guide plan. The state guide plan shall
19 be comprised of functional elements or plans dealing with land use; physical development and
20 environmental concerns; economic development; housing production; energy supply, [including](#)
21 [the development of renewable energy resources in Rhode Island, and energy](#) access, use, and
22 conservation; human services; and other factors necessary to accomplish the objective of this
23 section. The state guide plan shall be a means for centralizing, integrating, and monitoring long-
24 range goals, policies, plans, and implementation activities related thereto. State agencies
25 concerned with specific subject areas, local governments, and the public shall participate in the
26 state guide planning process, which shall be closely coordinated with the budgeting process.
- 27 (e) Membership of state planning council. - The state planning council shall consist of:
 - 28 (1) The director of the department of administration as chairperson;
 - 29 (2) The director, policy office, in the office of the governor, as vice-chairperson;
 - 30 (3) The governor, or his or her designee;
 - 31 (4) The budget officer;
 - 32 (5) The chairperson of the housing resources commission;
 - 33 (6) The chief of statewide planning, as secretary;
 - 34 (7) The president of the league of cities and towns or his or her designee and one official

1 of local government, who shall be appointed by the governor from a list of not less than three (3)
2 submitted by the Rhode Island league of cities and towns; and

3 (8) The executive director of the league of cities and towns;

4 (9) One representative of a nonprofit community development or housing organization;

5 (10) Four (4) public members, appointed by the governor;

6 (11) Two (2) representatives of a private, nonprofit environmental advocacy
7 organization, both to be appointed by the governor; and

8 (12) The director of planning and development for the city of Providence.

9 (f) Powers and duties of state planning council. - The state planning council shall have
10 the following powers and duties:

11 (1) To adopt strategic plans as defined in this section and the long-range state guide plan,
12 and to modify and amend any of these, following the procedures for notification and public
13 hearing set forth in section 42-35-3, and to recommend and encourage implementation of these
14 goals to the general assembly, state and federal agencies, and other public and private bodies;
15 approval of strategic plans by the governor;

16 (2) To coordinate the planning and development activities of all state agencies, in
17 accordance with strategic plans prepared and adopted as provided for by this section;

18 (3) To review and comment on the proposed annual work program of the statewide
19 planning program;

20 (4) To adopt rules and standards and issue orders concerning any matters within its
21 jurisdiction as established by this section and amendments to it;

22 (5) To establish advisory committees and appoint members thereto representing diverse
23 interests and viewpoints as required in the state planning process and in the preparation or
24 implementation of strategic plans. The state planning council shall appoint a permanent
25 committee comprised of:

26 (i) Public members from different geographic areas of the state representing diverse
27 interests, and

28 (ii) Officials of state, local and federal government, which shall review all proposed
29 elements of the state guide plan, or amendment or repeal of any element of the plan, and shall
30 advise the state planning council thereon before the council acts on any such proposal. This
31 committee shall also advise the state planning council on any other matter referred to it by the
32 council; and

33 (6) To establish and appoint members to an executive committee consisting of major
34 participants of a Rhode Island geographic information system with oversight responsibility for its

1 activities.

2 (7) To adopt on or before July 1, 2007, and to amend and maintain as an element of the
3 state guide plan or as an amendment to an existing element of the state guide plan, standards and
4 guidelines for the location of eligible renewable energy resources and renewable energy facilities
5 in Rhode Island with due consideration for the location of such resources and facilities in
6 commercial and industrial areas, agricultural areas, areas occupied by public and private
7 institutions, and property of the state and its agencies and corporations, provided such areas are of
8 sufficient size, and in other areas of the state as appropriate.

9 (g) Division of planning. - (1) The division of planning shall be the principal staff
10 agency of the state planning council for preparing and/or coordinating strategic plans for the
11 comprehensive management of the state's human, economic, and physical resources. The division
12 of planning shall recommend to the state planning council specific guidelines, standards, and
13 programs to be adopted to implement strategic planning and the state guide plan and shall
14 undertake any other duties established by this section and amendments thereto.

15 (2) The division of planning shall maintain records (which shall consist of files of
16 complete copies) of all plans, recommendations, rules, and modifications or amendments thereto
17 adopted or issued by the state planning council under this section. The records shall be open to
18 the public.

19 (3) The division of planning shall manage and administer the Rhode Island geographic
20 information system of land-related resources, and shall coordinate these efforts with other state
21 departments and agencies, including the University of Rhode Island, which shall provide
22 technical support and assistance in the development and maintenance of the system and its
23 associated data base.

24 (4) The division of planning shall coordinate and oversee the provision of technical
25 assistance to political subdivisions of the state in preparing and implementing plans to accomplish
26 the purposes, goals, objectives, policies, and/or standards of applicable elements of the state guide
27 plan and shall make available to cities and towns data and guidelines that may be used in
28 preparing comprehensive plans and elements thereof and in evaluating comprehensive plans and
29 elements thereby.

30 (h) Transfer determinations. - (1) The director of administration, with the approval of the
31 governor, shall make the conclusive determination of the number of positions, personnel, physical
32 space, property, records, and appropriation balances, allocations and other funds of the
33 department of mental health, retardation, and hospitals, department of health, department of
34 human services, department of corrections, department of labor and training, department of

1 environmental management, department of business regulation, department of transportation,
2 department of state library services, Rhode Island Economic Development Corporation,
3 department of elderly affairs, department for children and their families, historical preservation
4 commission, water resources board, and the defense civil preparedness/emergency management
5 agency of the executive department to be transferred to the department of administration in
6 connection with the functions transferred there into by the provisions of this article.

7 (2) In order to ensure continuity of the strategic planning process of the department
8 specified heretofore, the actual transfer of functions or any part thereof to the department of
9 administration may be postponed after July 1, 1985 until such time as, by executive order of the
10 governor, the transfer herein provided can be put into force and effect but no later than December
11 31, 1985.

12 SECTION 10. Sections 42-64-3, 42-64-4 and 42-64-13.2 of the General Laws in Chapter
13 42-64 entitled "Rhode Island Economic Development Corporation" are hereby amended to read
14 as follows:

15 **42-64-3. Definitions. --** As used in this chapter, the following words and terms shall have
16 the following meanings, unless the context indicates another or different meaning or intent:

17 (1) "Administrative penalty" means a monetary penalty not to exceed the civil penalty
18 specified in section 42-64-9.2 of this chapter.

19 (2) "Airport facility" means developments consisting of runways, hangars, control
20 towers, ramps, wharves, bulkheads, buildings, structures, parking areas, improvements, facilities,
21 or other real or personal property necessary, convenient, or desirable for the landing, taking off,
22 accommodation, and servicing of aircraft of all types, operated by carriers engaged in the
23 transportation of passengers or cargo, or for the loading, unloading, interchange, or transfer of the
24 passengers or their baggage, or the cargo, or otherwise for the accommodation, use or
25 convenience of the passengers or the carriers or their employees (including related facilities and
26 accommodations at sites removed from landing fields and other landing areas), or for the landing,
27 taking off, accommodation, and servicing of aircraft owned or operated by persons other than
28 carriers. It also means facilities providing access to an airport facility, consisting of rail, rapid
29 transit, or other forms of mass transportation which furnish a connection between the air terminal
30 and other points within the state, including appropriate mass transportation terminal facilities at
31 and within the air terminal itself and suitable offsite facilities for the accommodation of air
32 passengers, baggage, mail, express, freight, and other users of the connecting facility.

33 (3) "BOCA code" means the BOCA basic building code published by building officials
34 & code administrators international, inc., as the code may from time to time be promulgated by

1 the building officials & code administrators international, inc.

2 (4) "Bonds" and "notes" means the bonds, notes, securities, or other obligations or
3 evidences of indebtedness issued by the corporation pursuant to this chapter, all of which shall be
4 issued under the name of and known as obligations of the "economic development corporation."

5 (5) "Civic facility" means any real or personal property designed and intended for the
6 purpose of providing facilities for educational, cultural, community, or other civic purposes.

7 (6) "Compliance schedule" means a schedule of remedial measures including an
8 enforceable sequence of actions or operations leading to compliance with an effluent limitation or
9 any other limitation, prohibition or standard.

10 (7) "Corporation," "port authority", or "authority" means the governmental agency and
11 public instrumentality, formerly known as the "Rhode Island port authority and economic
12 development corporation" and renamed the "Rhode Island economic development corporation,"
13 authorized, created, and established pursuant to section 42-64-4, or any subsidiary corporation
14 thereof which is established pursuant to section 42-64-7.1.

15 (8) "Director" means the executive director of the corporation.

16 (9) "Federal land" means real property within the state, now acquired or hereafter
17 acquired by the corporation which was formerly owned by the United States government, or any
18 agency or instrumentality thereof, including without limiting the generality of the foregoing, any
19 and all real property now or formerly owned or used by the United States government in the
20 towns of North Kingstown, Portsmouth, Middletown, and Charlestown and the city of Newport
21 as military installations or for other purposes related to the national defense. Without limiting the
22 generality of the foregoing, federal land shall also mean and include certain land in the town of
23 North Kingstown, or any portion thereof, which has or shall revert to the state pursuant to the
24 provisions of Public Laws 1939, chapter 696 and is now or hereafter acquired by the corporation
25 from the state.

26 (10) "Industrial facility" means any real or personal property, the demolition, removal,
27 relocation, acquisition, expansion, modification, alteration, or improvement of existing buildings,
28 structures, or facilities, the construction of new buildings, structures, or facilities, the
29 replacement, acquisition, modification, or renovation of existing machinery and equipment, or the
30 acquisition of new machinery and equipment, or any combination of the United States, which
31 shall be suitable for manufacturing, research, production, processing, agriculture, and marine
32 commerce, or warehousing; or convention centers, trade centers, exhibition centers, or offices
33 (including offices for the government of the United States or any agency, department, board,
34 bureau, corporation, or other instrumentality of the United States, or for the state or any state

1 agency, or for any municipality); or facilities for other industrial, commercial or business
2 purposes of every type and description; and facilities appurtenant or incidental to the foregoing,
3 including headquarters or office facilities, whether or not at the location of the remainder of the
4 facility, warehouses, distribution centers, access roads, sidewalks, utilities, railway sidings,
5 trucking, and similar facilities, parking areas, waterways, dockage, wharfage, and other
6 improvements necessary or convenient for the construction, development, maintenance, and
7 operation of those facilities.

8 (11) "Local governing body" means any town or city council, commission, or other
9 elective governing body now or hereafter vested by state statute, charter, or other law, with
10 jurisdiction to initiate and adopt local ordinances, whether or not these local ordinances require
11 the approval of the elected or appointed chief executive officer or other official or body to
12 become effective.

13 (12) "Local redevelopment corporation" means any agency or corporation created and
14 existing pursuant to the provisions of chapter 31 of title 45.

15 (13) "Municipality" means any city or town within the state now existing or hereafter
16 created, or any state agency.

17 (14) "Parent corporation" means, when used in connection with a subsidiary corporation
18 established pursuant to section 42-64-7.1, the governmental agency and public instrumentality
19 created and established pursuant to section 42-64-4.

20 (15) "Personal property" means all tangible personal property, new or used, including,
21 without limiting the generality of the foregoing, all machinery, equipment, transportation
22 equipment, ships, aircraft, railroad rolling stock, locomotives, pipelines, and all other things and
23 rights usually included within that term. "Personal property" also means and includes any and all
24 interests in the property which are less than full title, such as leasehold interests, security
25 interests, and every other interest or right, legal or equitable.

26 (16) "Pollutant" means any material or effluent which may alter the chemical, physical,
27 biological or radiological characteristics or integrity of water, including but not limited to,
28 dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions,
29 chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded
30 equipment, cellar dirt, or industrial, municipal, agricultural or other waste petroleum or petroleum
31 products, including but not limited to oil.

32 (17) "Pollution" means the discharge of any gaseous, liquid, or solid substance or
33 combination thereof (including noise) into the air, water, or land which affects the physical,
34 chemical, or biological properties (including temperature) of the air, water, or land in a manner or

1 to an extent which renders or is likely to render the air, water, or land harmful or inimical to the
2 public health, safety, or welfare, or to animal, bird, or aquatic life, or to the use of the air or water
3 for domestic, industrial, or agricultural purposes or recreation including the man-made or man-
4 induced alteration of the chemical, physical, biological or radiological integrity of water.

5 (18) "Pollution control facility" means any land or interest in land, the demolition,
6 removal, relocation, acquisition, expansion, modification, alteration, or improvement of existing
7 buildings, structures, or facilities, the construction of new buildings, structures, or facilities, the
8 replacement, modification, or renovation of existing machinery and equipment, or the acquisition
9 of new machinery and equipment, or any combination thereof, having to do with or the purpose
10 of which is the abatement, control, or prevention of pollution, including industrial pollution, and
11 all real and personal property incidental to that facility.

12 (19) "Port facility" means harbors, ports, and all real and personal property used in
13 connection therewith, including, but not limited to, waterways, channels, wharves, docks, yards,
14 bulkheads, slips, basins, pipelines, ships, boats, railroads, trucks, and other motor vehicles,
15 aircraft, parking areas, shipyards, piers, quays, elevators, compressors, loading and unloading
16 facilities, storage facilities, and warehouses of every type, buildings and facilities used in the
17 manufacturing, processing, assembling, storing, or handling of any produce or products, other
18 structures and facilities necessary for the convenient use of the harbors and seaports, including
19 dredged approaches, railways, railroad terminals, side tracks, airports, roads, highways, tunnels,
20 viaducts, bridges, and other approaches, useful in connection therewith, and any other shipping or
21 transportation facility useful in the operation of a port or harbor.

22 (20) "Project" or "port project" means the acquisition, ownership, operation,
23 construction, reconstruction, rehabilitation, improvement, development, sale, lease, or other
24 disposition of, or the provision of financing for, any real or personal property (by whomever
25 owned) or any interests in real or personal property, including without limiting the generality of
26 the foregoing, any port facility, recreational facility, industrial facility, airport facility, pollution
27 control facility, utility facility, solid waste disposal facility, civic facility, residential facility,
28 water supply facility, [energy facility or renewable energy facility](#), or any other facility, or any
29 combination of two (2) or more of the foregoing, or any other activity undertaken by the
30 corporation.

31 (21) "Project cost" means the sum total of all costs incurred by the corporation in
32 carrying out all works and undertakings which the corporation deems reasonable and necessary
33 for the development of a project. These shall include, but are not necessarily limited to, the costs
34 of all necessary studies, surveys, plans, and specifications, architectural, engineering, or other

1 special services, acquisition of land and any buildings on the land, site preparation and
2 development, construction, reconstruction, rehabilitation, improvement, and the acquisition of
3 any machinery and equipment or other personal property as may be deemed necessary in
4 connection with the project (other than raw materials, work in process, or stock in trade); the
5 necessary expenses incurred in connection with the initial occupancy of the project; an allocable
6 portion of the administrative and operating expenses of the corporation; the cost of financing the
7 project, including interest on all bonds and notes issued by the corporation to finance the project
8 from the date thereof to one year from the date when the corporation shall deem the project
9 substantially occupied; and the cost of those other items, including any indemnity or surety bonds
10 and premiums on insurance, legal fees, real estate brokers and agent fees, fees and expenses of
11 trustees, depositories, and paying agent for bonds and notes issued by the corporation, including
12 reimbursement to any project user for any expenditures as may be allowed by the corporation (as
13 would be costs of the project under this section had they been made directly by the corporation),
14 and relocation costs, all as the corporation shall deem necessary.

15 (22) "Project user" means the person, company, corporation, partnership, or commercial
16 entity, municipality, state, or United States of America who shall be the user of, or beneficiary of,
17 a port project.

18 (23) "Real property" means lands, structures (new or used), franchises, and interests in
19 land, including lands under water, and riparian rights, space rights, and air rights, and all other
20 things and rights usually included within the term. Real property shall also mean and include any
21 and all interests in that property less than fee simple, such as easements, incorporeal
22 hereditaments, and every estate, interest or right, legal or equitable, including terms for years and
23 liens thereon by way of judgments, mortgages or otherwise, and also all claims for damages to
24 that real property.

25 (24) "Recreational facility" means any building, development, or improvement, provided
26 that building, facility, development, or improvement is designed in whole or in part to attract
27 tourists to the state or to provide essential overnight accommodations to transients visiting this
28 state, including, without limiting in any way the generality of the foregoing, marinas, beaches,
29 bathing facilities, ski facilities, convention facilities, hotels, motels, golf courses, camp grounds,
30 arenas, theatres, lodges, guest cottages, and all types of real or personal property related thereto as
31 may be determined from time to time by the corporation.

32 (25) "Revenues" means (1) with respect to any project, the rents, fees, tolls, charges,
33 installment payments, repayments, and other income or profit derived from a project or a
34 combination of projects pursuant to any lease, conditional sales contract, installment sales

1 contract, loan agreement, or other contract or agreement, or any combination thereof and (2) any
2 receipts, fees, payments, moneys, revenues or other payments received or to be received by the
3 corporation in the exercise of its corporate powers under this chapter, including, without
4 limitation, loan repayments, grants, aid, appropriations and other assistance for the state, the
5 United States or any corporation, department or instrumentality of either or of a political
6 subdivision thereof, bond proceeds, investment earnings, insurance proceeds, amounts in reserves
7 and other funds and accounts established by or pursuant to this chapter or in connection with the
8 issuance of bonds, and any other taxes, assessments, fees, charges, awards or other income or
9 amounts received or receivable by the corporation.

10 (26) "Rule or regulation" means any directive promulgated by the corporation not
11 inconsistent with the laws of the United States or the state, for the improvement of navigation and
12 commerce or other project purposes and shall include, but not be limited to, charges, tolls, rates,
13 rentals, and security provisions fixed or established by the corporation.

14 (27) "Sewage" shall be construed to mean the same as "pollutant" as defined in section
15 42-64-3(o) above.

16 (28) "Sewage treatment facility" means the sewage treatment plant, structure, combined
17 sewer overflows, equipment, interceptors, mains, pumping stations and other property, real,
18 personal or mixed, for the treatment, storage, collection, transporting or disposal of sewage, or
19 any property or system to be used in whole or in part for any of the aforesaid purposes located or
20 operated within the boundaries of the Quonset Point/Davisville Industrial Park, or utilized by the
21 corporation for the transport, collection, treatment, storage or disposal of waste.

22 (29) "Solid waste" means garbage, refuse, and other discarded materials, including, but
23 not limited to, solid waste materials resulting from industrial, recreational, utility, and commercial
24 enterprises, hotels, apartments, or any other public building or private building, or agricultural, or
25 residential activities.

26 (30) "Solid waste disposal facility" means any real or personal property, related to or
27 incidental to any project, which is designed or intended or designated for the purpose of treating,
28 compacting, composting, or disposing of solid waste materials, including treatment, compacting,
29 composting, or disposal plants, site and equipment furnishings thereof, and their appurtenances.

30 (31) "Source" means any building, structure, facility or installation from which there is
31 or may be the discharge of sewage.

32 (32) "State" means the state of Rhode Island and Providence Plantations.

33 (33) "State agency" means any office, department, board, commission, bureau, division,
34 authority, or public corporation, agency or instrumentality of the state.

1 (34) "State guide plan" means the plan adopted pursuant to section 42-11-10, which
2 establishes the statewide planning program.

3 (35) "Utility facility" means any real or personal property designed, intended or utilized
4 for generating, manufacturing, producing, storing, transmitting, distributing, delivering, or
5 furnishing natural or manufactured gas, steam, electrical, or nuclear energy, heat, light, or power
6 directly or indirectly to or for any project, project user, or for the public, the collection and
7 disposal of storm and sanitary sewage; any railroads necessary or desirable for the free flow of
8 commerce to and from projects; any roads, highways, bridges, tunnels, viaducts, or other
9 crossings necessary or desirable for the free flow of commerce to and from projects, and any
10 public transportation systems or facilities, including, but not limited to, bus, truck, ferry, and
11 railroad terminals, depots, tracked vehicles, and other rolling stock and ferries; and any
12 appurtenances, equipment, and machinery or other personal property necessary or desirable for
13 the utilization thereof.

14 (36) "Water supply facility" means any real or personal property, or any combination
15 thereof, related to or incidental to any project, designed, intended, or utilized for the furnishing of
16 water for domestic, industrial, irrigation, or other purposes and including artesian wells,
17 reservoirs, dams, related equipment, and pipelines, and other facilities.

18 (37) "Renewable energy facility" means any real or personal property, or any
19 combination thereof, related to, or incidental to, any project, designed, intended, or utilized for an
20 eligible renewable energy resource that meets the criteria set forth in subsections 39-26-5(a) and
21 39-26-5(c).

22 **42-64-4. Creation.** -- (a) There is authorized, created, and established a public
23 corporation of the state having a distinct legal existence from the state and not constituting a
24 department of state government, which is a governmental agency and public instrumentality of
25 the state, to be known as the "Rhode Island economic development corporation", and which may
26 be referred to as the "economic development corporation", with those powers that are set forth in
27 this chapter, for the purposes of acquiring and developing real and personal property, and
28 providing financing to others as set forth in this chapter, providing and promoting and
29 encouraging the preservation, expansion and sound development of new and existing industry,
30 business, commerce, agriculture, tourism, ~~and~~ recreational and renewable energy facilities,
31 promoting thereby the economic development of the state and the general welfare of its citizens.

32 (b) The exercise by the corporation of the powers conferred by this chapter shall be
33 deemed and held to be the performance of an essential governmental function of the state for
34 public purposes. It is the intent of the general assembly by the passage of this chapter to vest in

1 the corporation all powers, authority, rights, privileges, and titles which may be necessary to
2 enable it to accomplish the purposes herein set forth, and this chapter and the powers granted
3 hereby shall be liberally construed in conformity with those purposes.

4 (c) The corporation and its corporate existence shall continue until terminated by law or
5 until the corporation shall cease entirely and continuously to conduct or be involved in any
6 business whatsoever in furtherance of its purposes; provided, that no termination shall take effect,
7 so long as the corporation shall have bonds, notes, or other obligations outstanding, unless
8 adequate provision shall have been made for the payment thereof pursuant to the documents
9 securing the obligations or to the terminating law. Upon termination of the existence of the
10 corporation, all of its rights and properties shall pass to and be vested in the state. At no time shall
11 the assets or other property of the corporation inure to the benefit of any person or other
12 corporation or entity.

13 **42-64-13.2. Renewable energy development fund.** -- The corporation shall, in the
14 furtherance of its responsibilities to promote and encourage economic development, establish and
15 administer a renewable energy development fund as provided for in ~~chapter 26 of title 39~~ [section](#)
16 [39-26-7](#), and may exercise the powers set forth in this chapter, as necessary or convenient to
17 accomplish this purpose, [and shall provide such administrative support as may be needed for the](#)
18 [coordinated administration of the renewable energy standard as provided for in chapter 39-26 and](#)
19 [the renewable energy program established by section 39-2-1.2. The corporation, upon the request](#)
20 [of any person undertaking a renewable energy facility project, may grant project status to the](#)
21 [project, and a renewable energy facility project which is given project status by the corporation](#)
22 [shall be deemed an energy project of the corporation.](#)

23 SECTION 11. Title 42 of the General Laws entitled "STATE AFFAIRS AND
24 GOVERNMENT" is hereby amended by adding thereto the following chapter:

25 [CHAPTER 140](#)

26 [RHODE ISLAND ENERGY RESOURCES ACT](#)

27 **42-140-1. Short title.** -- [This chapter shall be known as the "Rhode Island Energy](#)
28 [Resources Act."](#)

29 **42-140-2. Creation.** -- [There is hereby authorized, created and established an office of](#)
30 [energy resources in the executive department of state government, which may be assigned by](#)
31 [executive order for administrative purposes to a department within state government. The office](#)
32 [of energy resources shall be the successor to the state energy office.](#)

33 **42-140-3. Purposes.** -- [The purposes of the office shall be to:](#)

34 [\(1\) Develop and put into effect plans and programs to promote, encourage, and assist the](#)

1 provision of energy resources for Rhode Island in a manner that enhances economic well-being,
2 social equity, and environmental quality;

3 (2) Monitor, forecast, and report on energy use, energy prices, and energy demand and
4 supply forecasts, and make findings and recommendations with regard to energy supply diversity,
5 reliability, and procurement, including least-cost procurement;

6 (3) Develop and to put into effect plans and programs to promote, encourage and assist
7 the efficient and productive use of energy resources in Rhode Island, and to coordinate energy
8 programs for natural gas, electricity, and heating oil to maximize the aggregate benefits of
9 conservation and efficiency of investments;

10 (4) Monitor and report technological developments that may result in new and /or
11 improved sources of energy supply, increased energy efficiency, and reduced environmental
12 impacts from energy supply, transmission and distribution;

13 (5) Administer the programs, duties, and responsibilities heretofore exercised by the state
14 energy office, except as these may be assigned by executive order to other departments and
15 agencies of state government;

16 (6) Develop, recommend and, as appropriate, implement integrated and/or comprehensive
17 strategies, including at regional and federal levels, to secure Rhode Island's interest in energy
18 resources, their supply and efficient use, and as necessary to interact with persons, private sector,
19 non-profit, regional, federal entities and departments and agencies of other states to effectuate this
20 purpose;

21 (7) Cooperate with agencies, departments, corporations, and entities of the state and of
22 political subdivisions of the state in achieving its purposes;

23 (8) Cooperate with and assist the state planning council and the division of state planning
24 in developing, maintaining, and implementing state guide plan elements pertaining to energy and
25 renewable energy;

26 (9) Administer, as appropriate, state and federally funded or authorized energy programs,
27 which may include, but not be limited to:

28 (1) the federal low-income home energy assistance program which provides heating
29 assistance to eligible low-income persons and any state funded or privately funded heating
30 assistance program of a similar nature assigned to it for administration;

31 (2) the weatherization assistance program which offers home weatherization grants and
32 heating system upgrades to eligible persons of low-income;

33 (3) the emergency fuel program which provides oil deliveries to families experiencing a
34 heating emergency;

1 (4) the energy conservation program, which offers service and programs to all sectors;
2 and
3 (5) the renewable energy program established under Rhode Island general laws chapter
4 39-2;
5 (10) Develop, recommend, and evaluate energy programs for state facilities and
6 operations in order to achieve and demonstrate the benefits of energy-efficiency, diversification
7 of energy supplies, energy conservation, and demand management; and
8 (11) Advise the governor and the general assembly with regard to energy resources and
9 all matters relevant to achieving the purposes of the office.

10 **42-140-4. Commissioner.** -- (a) There shall be a commissioner of energy resources, who
11 shall be appointed by the governor with the advice and consent of the senate. The commissioner
12 shall be the director of the office of energy resources and shall have all such powers, consistent
13 with law, as are necessary and/or convenient to effectuate the purposes of the office and
14 administer its functions. The commissioner shall have authority to exercise all of the powers and
15 duties heretofore exercised by the head of the state energy office. In the performance of the duties
16 set forth in this paragraph, the commissioner shall consult with the energy efficiency and
17 resources management council established pursuant to chapter 42-140.1.

18 (b) The commissioner shall have authority to apply for, receive, and administer grants
19 and funds from the federal government and all other public and private entities to accomplish the
20 purposes of the office.

21 (c) The commissioner shall have authority to serve as executive secretary of the
22 governor's technical assistance committee, established by section 42-60-4, and shall provide such
23 staff and technical support to the technical assistance committee as the technical assistance
24 committee may require, and shall have authority to carry out any duties assigned to the office by
25 the governor in the event of a declaration of a state energy crisis as authorized under chapter 42-
26 60 relating to energy crisis management.

27 **42-140-5. Authority to enter into agreements.** -- The commissioner shall have authority
28 to enter into agreements with the trustees of the renewable energy development fund to achieve
29 integrated and effective use of the renewable energy proper resources, subsections 39-2-1.2(b)
30 and (c), and renewable energy standard resources, section 39-26-7. By mutual agreement with the
31 trustees, the commissioner may serve as program manager for the renewable energy programs.

32 **42-140-6. Information and education programs.** -- The commissioner, in consultation
33 with the council, shall develop, implement and maintain, a statewide public information and
34 education program with regard to energy supply, energy cost, energy efficiency and conservation,

1 and energy programs, including programs to help consumers select energy efficient products, to
2 evaluate retail and commercial energy resource choices, and to access available energy assistance
3 programs including tax credit and rebate programs.

4 **42-140-7. Conduct of activities.** -- To the extent reasonable and practical, the conduct of
5 activities under the provisions of this chapter shall be open and inclusive; the commissioner and
6 the council shall seek in addressing the purposes of the office to involve the research and analytic
7 capacities of institutions of higher education within the state, industry, advocacy groups, and
8 regional entities, and shall seek input from stakeholders including, but not limited to, residential
9 and commercial energy users.

10 **42-140-8. Annual report.** -- The commissioner shall report annually, on or before March
11 1st of each year, to the governor, the president of the senate, and the speaker of the house with
12 regard to the status of energy supplies, markets, and conditions, the effectiveness of energy
13 programs, the activities of the office including the council, and such other matters related to
14 energy as the commissioner or the council may deem appropriate.

15 **42-140-9. Adoption of rules.** -- The commissioner shall have the authority to adopt,
16 amend, and implement such rules as may be necessary to desirable to effectuate the purposes of
17 this chapter. In any rule making by the commissioner, the commissioner shall consider as a matter
18 of record the advise of the energy resources council.

19 SECTION 12. Title 42 of the general laws entitled "State Affairs and Government" is
20 hereby amended by adding thereto the following chapter:

21 CHAPTER 140.1

22 THE RHODE ISLAND ENERGY EFFICIENCY AND RESOURCE MANAGEMENT
23 COUNCIL

24 **42-140.1-1. Short title.** -- This chapter shall be known as "The Rhode Island Energy
25 Efficiency and Resources Management Council Act."

26 **42-140.1-2. Legislative findings.** -- It is hereby found and declared:

27 (a) Rhode Island has experienced an energy cost crisis during 2005 and 2006 and faces
28 the prospect of fluctuating and increasing energy prices in the future.

29 (b) Energy conservation and energy efficiency have enormous, untapped potential for
30 controlling energy costs and mitigating the effects of energy crisis for Rhode Island residents and
31 the Rhode Island economy.

32 (c) Rhode Island has lacked an integrated, comprehensive, public, stakeholder-driven
33 organizational structure to secure for Rhode Island and its people the full benefits of energy
34 efficiency, energy conservation, and energy resources management.

1 **42-140.1-3. Establishment of Council -- Purposes.** -- (a) There is hereby authorized,
2 created and established a council to be known as "The Rhode Island Energy Efficiency and
3 Resources Management Council" with the powers and duties set forth in this chapter.

4 (b) The purposes of this council are to:

5 (1) Evaluate and make recommendations, including, but not limited to, plans and
6 programs, with regard to the optimization of energy efficiency, energy conservation, energy
7 resource development; and the development of a plan for least-cost procurement for Rhode
8 Island; and

9 (2) Provide consistent, comprehensive, informed and publicly accountable stake-holder
10 involvement in energy efficiency, energy conservation, and energy resource management; and

11 (3) Monitor and evaluate the effectiveness of programs to achieve energy efficiency,
12 energy conservation, and diversification of energy resources; and

13 (4) Promote public understanding of energy issues and of ways in which energy
14 efficiency, energy conservation, and energy resource diversification and management can be
15 effectuated.

16 **42-140.1-4. Composition and Appointment.** -- (a) The council shall consist of eleven
17 (11) members appointed by the governor with the advice and consent of the senate; seven (7)
18 members shall be voting numbers, and the governor shall give due consideration to appointing
19 persons with knowledge of: (1) energy regulation and law; (2) large commercial/industrial users,
20 (3) small commercial/industrial users; (4) residential users; (5) low income users; (6)
21 environmental issues pertaining to energy; (7) energy design and codes; and four (4) members
22 shall be ex-officio, non-voting members, representing an electric distribution entity, a gas
23 distribution entity, fuel oil or heating fuel industry, and the commissioner of the office of energy
24 resources. From the seven (7) voting members, the governor shall appoint one person to be
25 chairperson of the council and one person to be vice chairperson of the council; the commissioner
26 of the office of energy resources shall be the executive secretary and executive director of the
27 council.

28 (b) With the exception of the commissioner of the office of energy resources; of the
29 initial appointments; three (3) members shall be appointed for a term of three (3) years, three (3)
30 members shall be appointed for a term of four (4) years, and four (4) members shall be appointed
31 for a term of five (5) years; thereafter members of the council shall be appointed for a term of five
32 (5) years and may be reappointed.

33 (c) A simple majority of the total number of voting members shall constitute a quorum.

34 (d) A vacancy other than by expiration shall be filled in the manner of the original

1 appointment but only for the unexpired portion of the term. The appointing authority shall have
2 the power to remove its appointee for just cause.

3 (e) The members of the council shall not be compensated for their service but shall be
4 reimbursed for their actual expenses necessarily incurred in the performance of their duties. The
5 provisions of this subdivision shall not apply to the executive secretary/executive director.

6 **42-140.1-5. Powers and duties.** -- The council shall have the power to:

7 (a) Develop and recommend for implementation plans, programs and standards for
8 energy conservation, energy efficiency, and diversification of energy resources.

9 (b) Monitor and evaluate plans and programs for energy conservation, energy efficiency
10 and diversification of energy resources; in order to effectuate such evaluations the council may
11 request audits, including performance audits, of any program for energy conservation, energy
12 efficiency or diversification of energy resources, that is established pursuant to Rhode Island law
13 or is administered by a state agency, a request for an audit of any program operative pursuant to
14 an order or decision of the public utilities commission shall be made to the commission; the
15 council may make findings and recommendations with regard to changes, modification or
16 continuation of any programs which it has authority to monitor or evaluate.

17 (c) Submit to the joint committee on energy an annual report on/or before April 15 of
18 each year, commencing in 2008, regarding the activities of the council, its assessment of energy
19 issues, the status of system reliability, energy efficiency and conservation procurement and its
20 recommendations regarding any improvements which might be necessary or desirable.

21 (d) Participate in proceedings of the public utilities commission that pertain to the
22 purposes of the council, including but not limited to proceedings regarding least-cost procurement
23 as provided for in section 39-1-27.7.

24 (e) Advise electric distribution companies with regard to implementation of least cost
25 procurement.

26 (f) Advise the commission of energy resources, and recommend policies, standards,
27 strategies, plans, programs, and procedures with regard to functions of the office of energy
28 resources including but not limited to plans, strategies, and programs to:

29 (1) implement cost-effective energy conservation and energy efficiency programs;

30 (2) promote the development of eligible renewable energy resources for Rhode Island;

31 (3) foster distributed generation of electricity and demand response;

32 (4) assist low-income households in meeting energy needs;

33 (5) coordinate the use of funds, resources, and programs from diverse resources to
34 achieve the purposes of the office.

1 (g) Consider such other matters as it may deem appropriate to the fulfillment of its
2 purposes, and may advise the governor, the general assembly, other parties, and the public with
3 regard to matters pertaining to its purposes and duties, which advice may include findings and
4 recommendations.

5 **42-140.1-6. Additional general powers. --** In order to effectuate its powers and duties
6 the council has the following powers:

7 (a) To make any studies of conditions, activities, or problems related to the state's energy
8 needs, usage, and supplies to carry out its responsibilities.

9 (b) To adopt amend bylaws, to establish committees, to elect and/or appoint officers and
10 agents, and to engage consultants and professional services as necessary and appropriate to fulfill
11 its purposes.

12 (c) To accept and administer grants from the federal government and from other sources,
13 public or private, for the carrying out of any of its functions, which loans or grants shall not be
14 expended for other than the purposes for which provided.

15 (d) To work with the appropriate federal, regional, and state agencies, and private
16 entities.

17 (e) To apply for, accept and expend allocations, grants and bequests of funds, for the
18 purpose of carrying out the lawful responsibilities of the council.

19 SECTION 13. Title 42 of the General Laws entitled "State Affairs and Government" is
20 hereby amended by adding thereto the following chapter:

21 CHAPTER 140.2

22 DISTRIBUTED GENERATION

23 **42-140.2-1. Findings. –** It is hereby found and declared that:

24 (a) Distributed generation can if well implemented, contribute to electric system
25 reliability and efficiency and have system benefits including, but not limited to, reduced
26 congestion, improved management of system peak demands through demand response, and added
27 capacity that mitigates the needs for additional central generating capacity in the region;

28 (b) Distributed generation from renewable resources diversifies the power sources for
29 electrical generation, and having multiple, reliable sources of power for electrical generation
30 reduces risks and can temper price volatility;

31 (c) Distributed generation from renewable resources and from combined heat and power
32 systems can reduce the environmental impacts, including greenhouse gas emissions, of electrical
33 generation;

34 (d) The system benefits of distributed generation are a function of the location of the

1 distributed generation capacity, the reliability and the efficiency of distributed generation
2 facilities individually and/or collectively, and the time of operation of the distributed generation
3 facilities;

4 (e) The value of distributed generation can vary with changes in the wholesale and retail
5 markets for electricity;

6 (f) Properly designed regulatory and financing programs for distributed generation can
7 have both system benefits and economic benefits for entities.

8 (g) The independent system operator of New England has stated that mitigating peak
9 demand should be a central strategy in reducing wholesale electricity and has established a
10 demand response to accomplish this purpose.

11 (h) Established tariffs and embedded principals for rate setting and cost allocation may
12 present substantial barriers to realizing the full potential of distributed generation in Rhode Island.

13 **42-140.2-2. Office of energy resources.** – (1) The office of energy resources shall
14 support and facilitate a stakeholder led study of issues pertaining to distributed generations and
15 barriers that impede the implementation of distributed generation and the realization of the
16 societal benefits thereof. This study shall augment, compliment, and be integrated with a study
17 initiated pursuant to an order of the public utilities commission.

18 (2) Said study shall consider the following definitions and the implications thereof for the
19 effective and fair implementation of distributed generation:

20 (a) "Backup power rates" means any component of utility tariffs that are charged only to
21 those customers who install on-site generation, self-generation, behind-the-meter generation, or
22 distributed generation. Backup power rates, also called "standby rates", include, but are not
23 limited to, any rate, tariff, or surcharge billed on the basis of the amount of energy generated by,
24 or demand change related to, or installed capacity size of, any generation unit installed by an end-
25 use customer.

26 (b) "Combined heat and power system" means a system that produces, from a single
27 source, both electric power and thermal energy used in any process or for heating that result in an
28 aggregate reduction in energy use. To be considered a combined heat and power system for the
29 purpose of this section, the system must achieve an average annual fuel conversion efficiency of
30 at least fifty-five percent (55%).

31 (c) "Net-metering" means billing or charging an end-use customer only for the electricity
32 supply or services which is the net amount of electricity actually delivered to the client by a
33 supplier or service company, less any amount of electricity generated by or on behalf of the end-
34 use customer and either used on the end-use customer's property or put on to the electric

1 distribution grid within the same transmission interconnect area in which the end-use customers is
2 located.

3 (3) Said study shall make findings and recommendations using methods for determining
4 and quantifying system benefits attributable to distributed generation including costs and benefits
5 relating to:

6 (a) the electricity distribution system;

7 (b) the electricity transmission system;

8 (c) the electricity generating system and the cost and availability of capital needed to
9 construct or maintain generation capacity;

10 (d) system losses;

11 (e) congestion and reliability;

12 (f) ancillary services including voltage stability and reactive power;

13 (g) fuel availability and pricing, and costs of electricity supply;

14 (h) environmental impacts.

15 (4) The commissioner of the office of energy resources shall report the findings and
16 recommendations of the stakeholder's group with regard to any statutory changes necessary to
17 reduce barriers to implementation of distributed generation to the general assembly by February
18 1, 2007.

19 (5) The commission shall by June 1, 2007, issue the report of the stakeholder's group to
20 the public utilities commission; and the commissioner is hereby authorized to request that the
21 commission initiate proceedings with regard to establishing any appropriate rates and/or
22 regulation necessary to implement the recommendations contained in the report.

23 (6) The findings and recommendations of the said stakeholder's group shall in no way be
24 binding upon either the general assembly or the public utilities commission and may be accepted,
25 accepted in part, rejected or rejected in part by the general assembly or the public utilities
26 commission and until such action by either the general assembly or the public utilities
27 commission, there shall be no further action on said recommendations.

28 **42-140.2-3. Implementation monitoring.** -- The energy efficiency and resources
29 management council is hereby authorized and directed to monitor the implementation of
30 distributed generation and to report its findings and recommendations biennially on or before
31 February 1, commencing in 2009 and ending in 2015.

32 SECTION 14. Title 42 of the General Laws entitled "STATE AFFAIRS AND
33 GOVERNMENT" is hereby amended by adding thereto the following chapter:

34 CHAPTER 141

AFFORDABLE ENERGY

1
2 **42-141-1. Purpose.** – The legislature finds and declares: (a) That energy costs have been
3 rising sharply while the incomes of low incomes households have been declining with the result
4 that energy costs are substantial and growing hardship;

5 (b) That the housing stock occupied by many low income households is old and energy
6 inefficient;

7 (c) That Rhode Island has lacked an overall state strategy and commitment to addressing
8 these conditions; and

9 (d) That it is necessary for public health and welfare to address the energy needs of low
10 income households in a manner that supports efficient use of energy resources.

11 **42-141-2. Definitions.** – For the purposes of this chapter the following terms have the
12 following meanings:

13 (a) "Commission" means the public utilities commission established by chapter 39-1.

14 (b) "Commissioner" means the commissioner of the office of energy resources
15 established pursuant to chapter 42-140.

16 (c) "Council" means the energy efficiency and resources management council established
17 pursuant to chapter 42-140.1.

18 (d) "Department" means the department of administration.

19 (e) "LIHEAP" means the Federal Low Income Home Energy Assistance Program.

20 (f) "Low income household" means a household with a gross annual income equal to or
21 less than sixty percent (60%) of median family income and that is eligible for LIHEAP, as
22 determined for each applicant by the office of energy resources, or its designee. A very low
23 income household means a LIHEAP eligible household with a gross annual income equal to or
24 less than one-hundred twenty-five percent (125%) of the Federal poverty guideline for the
25 household.

26 (g) "Person" means any individual, group of individuals, firm, corporation, association,
27 partnership, or public or private entity.

28 **42-141-3. Plan.** – The commissioner, in consultation with the council, shall develop a
29 state strategic plan for energy affordability on or before March 1, 2007, and each March 1
30 thereafter, until March 1, 2019, which plan shall include strategies and actions to make energy
31 affordable by low-income and, especially, very low income households, through a combination of
32 energy efficiency, weatherization, and energy price mitigation measures, supported by resources
33 from federal, state, and other sources, including LIHEAP and contributions made in support of
34 LIHEAP under the provisions of state law, regulation, or order. The state strategic plan shall

1 include:

2 (a) proposed activities to increase energy efficiency and weatherization in dwelling units
3 occupied by low income and very low income households;

4 (b) propose allocations of funds from the affordable energy fund to be used for the
5 purposes of reductions in electric and gas distribution rates and customers fees charged to such
6 households, in accordance with subdivision 42-141-5(d)(2);

7 (c) estimates of revenues to the fund and expenditures from the fund to support the
8 purposes of the fund during the next fiscal year;

9 (d) plans and standards for fair, effective and efficient administration of energy
10 affordability activities and assistance to low income and very low income households that make
11 use to the extent reasonable and practicable community organizations serving such households.

12 **42-141-4. Weatherization and energy conservation.** – (a) On or before January 1,
13 2008, the office of energy resources in cooperation with the housing resources commission shall
14 adopt a strategic plan to achieve energy efficiency in low and moderate income neighborhoods
15 through weatherization and energy conservation measures, which strategic or portions thereof
16 shall be incorporated into the state guide, as provided for in section 42-11-10, or before July 1,
17 2008.

18 (b) Energy efficient mortgages. On or before July 1, 2008, the Rhode Island Housing and
19 Mortgage Finance Corporation shall consider establishing and implementing a program to
20 support energy efficiency residential mortgages and/or loans for up to fifteen percent (15%) of the
21 appraised value of a dwelling for energy savings improvements and/or for weatherization and
22 energy efficiency measures as provided for in this chapter, for which the monthly mortgage or
23 loan payment does not exceed the likely reduction in utility and heating costs for the dwelling.

24 **42-141-5(a). Fund established.** – (1) A special account is hereby established in the state
25 treasury to be called the "affordable energy fund."

26 (2) Money remaining in the fund at the end of a fiscal year shall remain available for
27 expenditure in successive fiscal years.

28 (3) The fund shall be used for only those purposes enumerated in subsection 42-141-5(d).

29 (b) Financing of the fund. The fund shall consist of the following sources:

30 (1) Sums the legislature may appropriate;

31 (2) Moneys received from federal, state, private donor or other sources for the purpose of
32 energy affordability by low income households;

33 (3) Fees required pursuant to subsection 42-141-5(c); and

34 (4) Any interest earned on the moneys in the fund.

1 (c) Affordable energy fees. – (1) An affordable energy fee in an amount set forth in this
2 subsection shall be imposed on gross receipts of electricity and gas companies and gross receipts
3 on the sale of heating fuels not used for residential heating. The fee shall be remitted to the
4 division of taxation according to the applicable schedule for the remission of the gross receipts
5 tax as provided for in chapter 44-13 or the sales and use as provided for in chapter 44-18. The
6 fees shall be as follows:

7 (i) Gas. One percent (1%) of the gross receipts of gas companies subject to the provisions
8 of chapter 44-13, "Public Service Corporation Tax".

9 (ii) Electricity. One percent (1%) of the gross receipts of electric companies subject to the
10 provisions of chapter 44-13. "Public Service Corporation Tax".

11 (iii) Heating fuel other than natural gas and electricity. Two percent (2%) of gross
12 receipts from the sales and use of heating fuel subject to the provisions of chapter 44-18. "Sales
13 and Use Taxes – Liability and Computation".

14 (2) Every person from whom an affordable energy fee is due shall be liable for the fee
15 until it has been paid to the state.

16 **42-141-5(d). Purposes of the fund. – (1) The commissioner may use money from the**
17 **fund to:**

18 (i) Support weatherization and energy conservation educational programs and
19 weatherization and energy conservation services for low-income and very low income
20 households;

21 (ii) Compensate electric and gas distribution companies for revenues lost due to the
22 reductions in distribution and customer charges, in accordance with a plan approved by the
23 commission, to very low income households, and if feasible to low income households, which
24 shall, as a first priority, be used to provide up to a fifty percent (50%) reduction in the distribution
25 and customer charges for a reasonable and prudent use by very low-income households of gas
26 and electricity that does not exceed average use for comparable dwelling units.

27 (iii) Defray the cost of heating fuel delivered to very low income households by an
28 amount not to exceed twenty-five percent (25%) of the allowable cost of heating fuel and a total
29 usage by the household, supported assistance from all sources overseen by the commissioner, that
30 is reasonable and prudent and does not exceed average use for comparable dwelling units.

31 (iv) It is not the purpose of the fund to reduce the amount of assistance a household
32 would otherwise receive from LIHEAP and other sources in the absence of the fund or to
33 subsidize utility rates in effect as of July 1, 2006, and provided for by law.

34 (2) If the commissioner determines it is in the public interest to allocate funds for the

1 purposes set forth in subparagraph (1)(ii) above, the commissioner shall notify the commission of
2 the amount of funds to be allocated for a specified period. The commission shall then direct the
3 electric and/or gas distribution companies to file amendments to the appropriate tariffs to
4 implement rate reductions designed to provide the rate reduction consistent with the amount
5 allocated for the period designated, which amendments are subject to the review and approval of
6 the commission. Once approval is given, the allocated funds shall be transferred to the gas and/or
7 electric distribution company. Any funds held after transfer shall accumulate interest at the
8 customer deposit rate ("interest"). If, at the end of the rate reduction period, there are any unused
9 dollars from the fund, such dollars shall be returned to the affordable energy fund with interest.
10 Likewise, if at the end of the rate reduction period, there were not enough funds allocated to
11 cover the rate reduction as designed, the shortfall will be reimbursed from the affordable energy
12 fund with interest; provided, however, if there are no additional funds available from the fund,
13 such shortfall or uncovered balance of such shortfall will be recovered with interest from all
14 customers in a manner and over the period approved by the commission.

15 **42-141-5(e). Administration and records of the fund.** – (1) The commissioner shall
16 administer the fund in accordance with this chapter.

17 (2) The commissioner in consultation with the department shall adopt procedures
18 governing the expenditure of, and accounting for, money expended from the fund.

19 (3) The commissioner is responsible for insuring that there are adequate moneys available
20 in the fund to carry out the purposes of this section.

21 (4) The commissioner shall maintain accounting records showing the income and
22 expenses of the fund.

23 **42-141-5(f). Expenditure of fund money.** -- Disbursements may be made from the fund
24 for the following purposes:

25 (1) Necessary administrative expenses, personnel expenses and equipment costs of the
26 office related to this section which shall not exceed ten percent (10%) of the revenue of the fund;

27 (2) All costs to effectuate the purposes of the fund as set forth in subsection 42-141-5(d).

28 **42-141-5(g). Report to the legislature.** – (1) The commissioner shall submit a report to
29 the legislature not later than the tenth (10th) day following the convening of each regular session
30 of the legislature. The report may include information considered significant by the commissioner
31 but must include:

32 (i) The amount of money expended under section 42-141-5 during the preceding fiscal
33 year;

34 (ii) The amount and source of money received during the preceding fiscal year;

- 1 (iii) A detailed summary of activities funded by the fund during the preceding fiscal year;
- 2 (iv) The projected cost to the fund for affordable energy programs in the next fiscal year.

3 **42-141-6. Heating fuel procurement other than natural gas and electricity. --** The
4 commissioner shall seek to secure the best price over time for heating fuels delivered under
5 agreements supported in whole or in part by funds administered by the office of energy resources
6 and is hereby authorized to use margin over rack pricing to accomplish this purpose which
7 margin will be established by September 1, annually, after consultation with the oil/heat institute
8 of Rhode Island and the Rhode Island Community Action Association. The commissioner shall
9 report publicly with regard to heating fuel procurement experience in other jurisdictions and to a
10 proposed least cost procurement plan for heating fuel in Rhode Island, and shall provide a public
11 comment period of not less than twenty (20) days, prior to rendering decision on how to
12 effectuate the requirements of this section. Effective October 1, 2006, the price herein provided
13 shall be updated weekly and shall be published on a website maintained by the office of energy
14 resources.

15 **42-141-7. Regulations. --** The commissioner may adopt all rules and regulations
16 necessary for the administration and enforcement of this chapter.

17 **42-141-8. Cooperation required. --** The commissioner may request from any
18 government agency, and the agency is authorized and directed to provide, any cooperation and
19 assistance, services, and data, within the jurisdiction of the agency, as will enable the office of
20 energy resources to properly perform or exercise any of its functions, duties and powers under
21 this chapter.

22 **42-141-9 Construction. --** This chapter, being necessary for the welfare of the state and
23 its inhabitants, shall be liberally construed so as to effectuate its purposes.

24 **42-141-10. Inconsistent provisions. --** Insofar as the provisions of this chapter are
25 inconsistent with the provisions of any other law or ordinance, general, special or local, the
26 provisions of this chapter shall be controlling.

27 **42-141-11. Severability. --** If any clause, sentence, paragraph, section, or part of this
28 chapter shall be adjudged by any court of competent jurisdiction to be invalid, that judgment shall
29 not affect, impair, or invalidate the remainder of the chapter but shall be confined in its operation
30 to the clause, sentence, paragraph, section, or part directly involved in the controversy in which
31 that judgment shall have been rendered.

32 **42-141-12. Transitional provision. --** Effective September 1, 2006, in order to provide
33 for transitional assistance to very low-income customers during fiscal year 2007, notwithstanding
34 any law or order to the contrary, the following provisions shall apply to eligibility for restoration

1 of gas and/or electric service to a very low-income customer who has been terminated from
2 service in calendar year 2006; the very low-income customer shall pay eighteen percent (18%) of
3 the customer's unpaid balance and shall agree to remain current with payments for current usage
4 and to pay one thirty-sixth (1/36) of one-half (1/2) of the remaining balance per month through
5 June 2007; a very low income customer who complies with the provisions of this section shall be
6 transitioned to the provision of subsection 39-2-1(e)(ii) and (iii) effective July 1, 2007, and the
7 monthly payments on the remaining balance that have been made pursuant to such agreement
8 shall be credited to the requirements of subdivision 39-2-1(e)(iv) for the forgiveness of
9 arreages. A very low-income customer who elects to use the provisions of this section and who
10 fails to comply with the terms of the agreement for the restoration of service under the provisions
11 of this section shall be ineligible to apply for restoration of service under the provisions of
12 subdivision 39-2-1(e) and shall be subject to termination of service effective April 15, 2007, and
13 any unpaid balance shall be due in full and shall be payable in accordance with the rules of the
14 commission. The provisions of this section shall be repealed effective July 2, 2007.

15 SECTION 14 Section 44-13-4 of the General Laws in Chapter 44-13 entitled "Public
16 Service Corporation Tax" is hereby amended to read as follows:

17 **44-13-4. Rate of taxation.** -- The tax imposed will be at the following rates:

18 (1) In the case of every corporation whose principal business is a steamboat or ferryboat
19 business as a common carrier, every common carrier steam or electric railroad corporation, every
20 street railway corporation, every common carrier dining, sleeping, chair, or parlor car
21 corporation, every corporation whose principal business is selling and distributing water to the
22 public, and every toll bridge corporation, one and one-fourth percent (1.25%) of its gross
23 earnings;

24 (2) In the case of every corporation whose principal business is manufacturing, selling,
25 distributing and/or transmitting currents of electricity to be used for light, heat, or motive power,
26 four percent (4%) of its gross earnings, but deductions shall be made of gross earnings from the
27 transmission or sale of electricity to other public utility corporations, non-regulated power
28 producers, or municipal utilities for resale, whether within or outside of this state; provided, that
29 the tax measured by the portion of the utility's gross earnings as is derived from the manufacture
30 and sale of illuminating and heating gas and its by-products and the merchandising of gas
31 appliances shall be computed at the rate of three percent (3%); provided, however, that effective
32 July 1, 2007, the amount of the tax herein established shall be reduced by the fee due and paid to
33 the affordable energy fund established by section 42-141-5;

34 (3) In the case of every express corporation carrying on its business on steamboats,

1 steam or electric railroads, or street railways and of every public service corporation whose
2 principal business is that of a telegraph corporation, four percent (4%) of its gross earnings;

3 (4) In the case of every telecommunications corporation providing telecommunications
4 service, ten percent (10%) of its gross earnings; provided, that the rate shall be nine percent (9%)
5 effective July 1, 1985, eight percent (8%) effective July 1, 1986, seven percent (7%) effective
6 July 1, 1987, six percent (6%) effective July 1, 1988, and five percent (5%) effective July 1,
7 1997. For purposes of this chapter, "telecommunications service" means the transmission of any
8 interactive two-way electromagnetic communications including voice, image, data, and other
9 information, by means of wire, cable, including fiber optical cable, microwave, and radio wave,
10 or any combinations of these media. This definition does not include value added non-voice
11 services in which computer processing applications are used to act on the form, content, code, and
12 protocol of the information to be transmitted;

13 (5) In the case of every public service cable corporation, eight percent (8%) of its gross
14 earnings;

15 (6) In the case of every corporation whose principal business is manufacturing, selling
16 and/or distributing to the public illuminating or heating gas, three percent (3%) of its gross
17 earnings.

18 SECTION 15 . Chapter 44-18 of the General Laws entitled "Sales and Use Taxes -
19 Liability and Computation" is hereby amended by adding thereto the following section:

20 **44-18-30D. Credit for fees to the affordable energy fund.** – Effective July 1, 2007,
21 there shall be a credit, of the amount of the fee due and paid to the affordable energy fund
22 established by section 42-141-5, against the gross receipts tax for the sales and use of heating fuel
23 not exempted from taxation pursuant to subsection 44-18-30 (20).

24 SECTION 16. Construction. -- This act, being necessary for the welfare of the state and
25 its inhabitants shall be construed liberally so as to effectuate its purposes.

26 SECTION 17. Severability. – If any clause, sentence, paragraph, section, or part of this
27 act shall be adjudged by any court of competent jurisdiction to be invalid, that judgment shall not
28 affect, impair, or invalidate the remainder of the act but shall be confined in its operation to the
29 clause, sentence, paragraph, section, or part directly involved in the controversy in which that
30 judgment shall have been rendered.

31 SECTION 18. This act shall take effect upon passage.

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS -- RHODE ISLAND ENERGY
EFFICIENCY MANAGEMENT

- 1 This act would establish a comprehensive legislative mechanism to address the state's
- 2 energy needs and costs.
- 3 This act would take effect upon passage.

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LC02862/SUB A/
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