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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - PUBLIC UTILITIES COMMISSION

Introduced By: Senators Miller, Sosnowski, Walaska, Conley, and DiPalma

Date Introduced: March 19, 2015

Referred To: Senate Commerce

(Administration)

It is enacted by the General Assembly as follows:

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

3 **39-1-27.7. System reliability and least-cost procurement.** -- Least-cost procurement
4 shall comprise system reliability and energy efficiency and conservation procurement as provided
5 for in this section and supply procurement as provided for in § 39-1-27.8, as complementary but
6 distinct activities that have as common purpose meeting electrical and natural gas energy needs in
7 Rhode Island, in a manner that is optimally cost-effective, reliable, prudent and environmentally
8 responsible.

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

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

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

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

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

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

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

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

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

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

17 (1) The commissioner of the office of energy resources and the energy efficiency and
18 resources management council, either or jointly or separately, shall provide the commission
19 findings and recommendations with regard to system reliability and energy efficiency and
20 conservation procurement on or before March 1, 2008, and triennially on or before March 1,
21 thereafter through March 1, ~~2017~~2024. The report shall be made public and be posted
22 electronically on the website to the office of energy resources.

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

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

31 (4) Each electrical and natural gas distribution company shall submit to the commission
32 on or before September 1, 2008, and triennially on or before September 1, thereafter through
33 September 1, ~~2017~~ 2024, a plan for system reliability and energy efficiency and conservation
34 procurement. In developing the plan, the distribution company may seek the advice of the

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

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

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

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

34 (iii) The energy efficiency annual plan shall include, but not be limited to, a plan for

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

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

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

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

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

27 **39-2-1.2. Utility base rate -- Advertising, demand side management and renewables -**

28 (a) In addition to costs prohibited in section 39-1-27.4(b), no public utility distributing or
29 providing heat, electricity, or water to or for the public shall include as part of its base rate any
30 expenses for advertising, either direct or indirect, which promotes the use of its product or
31 service, or is designed to promote the public image of the industry. No public utility may furnish
32 support of any kind, direct, or indirect, to any subsidiary, group, association, or individual for
33 advertising and include the expense as part of its base rate. Nothing contained in this section shall
34 be deemed as prohibiting the inclusion in the base rate of expenses incurred for advertising,

1 informational or educational in nature, which is designed to promote public safety conservation of
2 the public utility's product or service. The public utilities commission shall promulgate such rules
3 and regulations as are necessary to require public disclosure of all advertising expenses of any
4 kind, direct or indirect, and to otherwise effectuate the provisions of this section.

5 (b) Effective as of January 1, 2008, and for a period of ~~ten (10)~~ fifteen (15) years
6 thereafter, each electric distribution company shall include a ~~charges~~ charge per kilowatt-hour
7 delivered to fund demand side management programs. The 0.3 mills per kilowatt-hour delivered
8 to fund renewable energy programs shall remain in effect until December 31, 2017. The electric
9 distribution company shall establish and, after July 1, 2007, maintain two (2) separate accounts,
10 one for demand side management programs (the "demand side account"), which shall be funded
11 by the electric demand side charge and administered and implemented by the distribution
12 company, subject to the regulatory reviewing authority of the commission, and one for renewable
13 energy programs, which shall be administered by the ~~economic development corporation~~ Rhode
14 Island commerce corporation pursuant to § 42-64-13.2 and, shall be held and disbursed by the
15 distribution company as directed by the ~~economic development corporation~~ Rhode Island
16 commerce corporation for the purposes of developing, promoting and supporting renewable
17 energy programs.

18 During the ~~ten (10) year period~~ time periods established in § 39-2-1.2(b), the commission
19 may, in its discretion, after notice and public hearing, increase the sums for demand side
20 management and renewable resources; ~~thereafter,~~ In addition, the commission shall, after notice
21 and public hearing, determine the appropriate charges for these programs. The office of energy
22 resources and/or the administrator of the renewable energy programs may seek to secure for the
23 state an equitable and reasonable portion of renewable energy credits or certificates created by
24 private projects funded through those programs. As used in this section, "renewable energy
25 resources" shall mean: (1) power generation technologies as defined in § 39-26-5, "eligible
26 renewable energy resources", including off grid and on-grid generating technologies located in
27 Rhode Island as a priority; (2) research and development activities in Rhode Island pertaining to
28 eligible renewable energy resources and to other renewable energy technologies for electrical
29 generation; or (3) projects and activities directly related to implementing eligible renewable
30 energy resources projects in Rhode Island. Technologies for converting solar energy for space
31 heating or generating domestic hot water may also be funded through the renewable energy
32 programs. Fuel cells may be considered an energy efficiency technology to be included in
33 demand sided management programs. Special rates for low-income customers in effect as of
34 August 7, 1996 shall be continued, and the costs of all of these discounts shall be included in the

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

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

9 (i) the feasibility of project completion;

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

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

12 (iv) the estimated cost per kilo-watt hour (kwh) of the energy produced from the project.

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

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

21 (e) Effective January 1, 2007, and for a period of ~~eleven (11)~~ sixteen (16) years
22 thereafter, each gas distribution company shall include, with the approval of the commission, a
23 charge per deca therm delivered to fund demand side management programs (the "gas demand
24 side charge"), including, but not limited to, programs for cost effective energy efficiency, energy
25 conservation, combined heat and power systems, and weatherization services for low income
26 households.

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

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

3 (i) gas used for distribution generation; and

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

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

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

23 (j) Effective January 1, ~~2013~~ 2016, the commission shall annually allocate from the
24 administrative funding amount allocated in (i) from the demand-side management program as
25 described in subsection (i) as follows: ~~sixty percent (60%)~~ fifty percent (50%) for the purposes
26 identified in subsection (i) and ~~forty percent (40%)~~ fifty percent (50%) annually to the office of
27 energy resources for activities associated with planning management, and evaluation of energy
28 efficiency programs, renewable energy programs, system reliability, least-cost procurement, and
29 with regulatory proceedings, contested cases, and other actions pertaining to the purposes, powers
30 and duties of the office of energy resources.

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

1 sectors to the overall programs; the businesses, vendors, and institutions that received funding
2 from demand-side management gas and electric funds used for the purposes in section 39-2-1.2;
3 and the businesses, vendors, and institutions that received the administrative funds for the
4 purposes in sections 39-2-1.2(i) and 39-2-1.2(j). These reports shall be posted electronically on
5 the websites of the office of energy resources and the energy efficiency resources management
6 council.

7 (l) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank,
8 each electric distribution company, except for the Pascoag Utility District and Block Island Power
9 Company, shall remit two percent (2%) of the amount of the 2014 electric demand side charge
10 collections to the Rhode Island infrastructure bank in accordance with the terms of § 46-12.2-
11 14.1.

12 (m) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank,
13 each gas distribution company shall remit two percent (2%) of the amount of the 2014 gas
14 demand side charge collections to the Rhode Island infrastructure bank in accordance with the
15 terms of § 46-12.2-14.1.

16 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS - PUBLIC UTILITIES COMMISSION

1 This act would extend the period over which the commissioner of the officer of energy
2 resource would report findings and recommendations on a triennial basis to the public utilities
3 commission to March 1, 2024. This act would also extend certain other time periods for charges
4 and actions to be taken in regard to the public utilities. This act would also require electric
5 distribution companies and gas distribution companies to remit two percent (2%) of their demand
6 side charge collections to the Rhode Island infrastructure bank, effective August 1, 2015.

7 This act would take effect upon passage.

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