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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - LONG-TERM LEASING
CONTRACTS FOR RENEWABLE ENERGY

Introduced By: Senator V. Susan Sosnowski

Date Introduced: February 15, 2018

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-26.1-7 of the General Laws in Chapter 39-26.1 entitled "Long-
2 Term Contracting Standard for Renewable Energy" is hereby amended to read as follows:

3 **39-26.1-7. Town of New Shoreham Project.**

4 (a) The general assembly finds it is in the public interest for the state to facilitate the
5 construction of a small-scale offshore wind demonstration project off the coast of Block Island,
6 including an undersea transmission cable that interconnects Block Island to the mainland in order
7 to: position the state to take advantage of the economic development benefits of the emerging
8 offshore wind industry; promote the development of renewable energy sources that increase the
9 nation's energy independence from foreign sources of fossil fuels; reduce the adverse
10 environmental and health impacts of traditional fossil fuel energy sources; and provide the Town
11 of New Shoreham with an electrical connection to the mainland. To effectuate these goals, and
12 notwithstanding any other provisions of the general or public laws to the contrary, the Town of
13 New Shoreham project, its associated power purchase agreement, transmission arrangements, and
14 related costs are authorized pursuant to the process and standards contained in this section. The
15 Narragansett Electric Company is hereby authorized to enter into an amended power purchase
16 agreement with the developer of offshore wind for the purchase of energy, capacity, and any
17 other environmental and market attributes, on terms that are consistent with the power purchase
18 agreement that was filed with the commission on December 9, 2009 in docket 4111, and

1 amendments changing dates and deadlines, provided that the pricing terms of such agreement are
2 amended as more fully described in subsection 39-26.1-7(e), in addition to other amendments that
3 are made to take into account the provisions of this section as amended since the filing of the
4 agreement in docket 4111. Any amendments shall ensure that the pricing can only be lower, and
5 never exceed, the original pricing included in the power purchase agreement that was reviewed in
6 docket 4111. The demonstration project subject to the amended power purchase agreement shall
7 include up to (but not exceeding) eight (8) wind turbines with aggregate nameplate capacity of no
8 more than thirty (30) megawatts, even if the actual capacity factor of the project results in the
9 project technically exceeding ten (10) megawatts.

10 (b) The amended power purchase agreement shall be filed with the Public Utilities
11 Commission. Upon the filing of the amended power purchase agreement, the commission shall
12 open a new docket. The commission shall allow the parties to docket 4111 to become parties in
13 the new docket who may file testimony within fifteen (15) days of the filing of the amended
14 agreement. The commission shall allow other interventions on an expedited basis, provided they
15 comply with the commission standards for intervention. The developer shall provide funding for
16 the economic development corporation to hire an expert experienced in power markets,
17 renewable energy project financing, and power contracts who shall provide testimony regarding
18 the terms and conditions of the power purchase agreement to assist the commission in its review,
19 provided that the developer shall be precluded from influencing the choice of expert, which shall
20 be in the sole discretion of the economic development corporation. This testimony shall be filed
21 within twenty (20) days after the filing of the amended power purchase agreement. The parties
22 shall have the right to respond to the testimony of this expert through oral examination at the
23 evidentiary hearings. The commission shall hold one public comment hearing within five (5) days
24 after the filing of the expert testimony. Evidentiary hearings shall commence no later than thirty
25 (30) days from the filing of the amended power purchase agreement.

26 (c) The commission shall review the amended power purchase agreement taking into
27 account the state's policy intention to facilitate the development of a small offshore wind project
28 in Rhode Island waters, while at the same time interconnecting Block Island to the mainland. The
29 commission shall review the amended power purchase agreement and shall approve it if:

30 (i) The amended agreement contains terms and conditions that are commercially
31 reasonable;

32 (ii) The amended agreement contains provisions that provide for a decrease in pricing if
33 savings can be achieved in the actual cost of the project pursuant to subsection 39-26.1-7(e);

34 (iii) The amended agreement is likely to provide economic development benefits,

1 including: facilitating new and existing business expansion and the creation of new renewable
2 energy jobs; the further development of Quonset Business Park; and, increasing the training and
3 preparedness of the Rhode Island workforce to support renewable energy projects; and

4 (iv) The amended power purchase agreement is likely to provide environmental benefits,
5 including the reduction of carbon emissions. An advisory opinion on the findings of economic
6 benefit set forth in (iii) above shall be provided by the Rhode Island economic development
7 corporation and an advisory opinion on the environmental benefits set forth in (iv) above shall be
8 filed by the Rhode Island department of environmental management. The advisory opinions shall
9 be filed with the commission within twenty (20) days of filing of the amended power purchase
10 agreement. The commission shall give substantial deference to the factual and policy conclusions
11 set forth in the advisory opinions in making the required findings. Notwithstanding any other
12 provisions of the general laws to the contrary, for the purposes of this section, "commercially
13 reasonable" shall mean terms and pricing that are reasonably consistent with what an experienced
14 power market analyst would expect to see for a project of a similar size, technology and location,
15 and meeting the policy goals in subsection (a) of this section.

16 (d) The commission shall issue a written decision to accept or reject the amended power
17 purchase agreement, without conditions, no later than forty-five (45) days from the filing of the
18 amended power purchase agreement, without delay or extension of the timeframes contained in
19 this section. Any review of the commission's decision shall be according to chapter 5 of title 39,
20 and the supreme court shall advance any proceeding under this section so that the matter is
21 afforded precedence on the calendar and shall be heard and determined with as little delay as
22 possible. The provisions of § 39-26.1-4 and the provisions of subsections (b), (c), (d), and (f) of §
23 39-26.1-5 shall apply, and all costs incurred in the negotiation, administration, enforcement,
24 transmission engineering associated with the design of the cable, and implementation of the
25 project and agreement shall be recovered annually by the electric distribution company in electric
26 distribution rates. The pricing under the agreement shall not have any precedential effect for
27 purposes of determining whether other long-term contracts entered into pursuant to this chapter
28 are commercially reasonable.

29 (e) Cap and lower price. (i) The amended power purchase agreement subject to
30 subsection 39-26.1-7(a) shall provide for terms that shall decrease the pricing if savings can be
31 achieved in the actual cost of the project, with all realized savings allocated to the benefit of
32 ratepayers. (ii) The amended power purchase agreement shall also provide that the initial fixed
33 price contained in the signed power purchase agreement submitted in docket 4111 shall be the
34 maximum initial price, and any realized savings shall reduce such price. After making any such

1 reduction to the initial price based on realized savings, the price for each year of the amended
2 power purchase agreement shall be fixed by the terms of said agreement. (iii) The amended
3 power purchase agreement shall require that the costs of the project shall be certified by the
4 developer. An independent third-party acceptable to the division of public utilities and carriers
5 shall within thirty (30) days of this certification by the developer, verify the accuracy of such
6 costs at the completion of the construction of the project. The reasonable costs of this verification,
7 shall be paid for by the developer. Upon receipt of such third-party verification, the division shall
8 notify the Narragansett Electric Company of the final costs. The public utilities commission shall
9 reduce the expense to ratepayers consistent with a verified reduction in the project costs.

10 (f) The project shall include a transmission cable between the Town of New Shoreham
11 and the mainland of the state. The electric distribution company, at its option, may elect to own,
12 operate, or otherwise participate in such transmission cable project. The electric distribution
13 company, however, has the option to decline to own, operate, or otherwise participate in the
14 transmission cable project. The electric distribution company may elect to purchase the
15 transmission cable and related facilities from the developer or an affiliate of the developer,
16 pursuant to the terms of a transmission facilities purchase agreement negotiated between the
17 electric distribution company and the developer or its affiliate, an unexecuted copy of which shall
18 be provided to the division of public utilities and carriers for the division's consent to execution.
19 The division shall have twenty (20) days to review the agreement. If the division independently
20 determines that the terms and pricing of the agreement are reasonable, taking into account the
21 intention of the legislature to advance the project as a policy-making matter, the division shall
22 provide its written consent to the execution of the transmission facilities purchase agreement.
23 Once written consent is provided, the electric distribution company and its transmission affiliate
24 are authorized to make a filing with the federal energy regulatory commission to put into effect
25 transmission rates to recover all of the costs associated with the purchase of the transmission
26 cable and related facilities and the annual operation and maintenance. The revenue requirement
27 for the annual cable costs shall be calculated in the same manner that the revenue requirement is
28 calculated for other transmission facilities in Rhode Island for local network service under the
29 jurisdiction of the federal energy regulatory commission. The division shall be authorized to
30 represent the State of Rhode Island in those proceedings before the federal energy regulatory
31 commission, including the authority to enter into any settlement agreements on behalf of the state
32 to implement the intention of this section. The division shall support transmission rates and
33 conditions that allow for the costs related to the transmission cable and related facilities to be
34 charged in transmission rates in a manner that socializes the costs throughout Rhode Island. [All](#)

1 interconnection and standby transformer costs which have been and may be incurred by National
2 Grid and/or by the electric distribution company and/or by the Block Island Power Company or
3 its successor shall also be charged in transmission rates in a manner that socializes the costs
4 throughout Rhode Island. National Grid and/or the electric distribution company shall reimburse
5 the Block Island Power Company or its successor in connection with all funds expended by the
6 Block Island Power Company or its successor in connection with all interconnection and standby
7 transformer costs and National Grid shall socialize all costs of this reimbursement throughout
8 Rhode Island as set forth herein. The amendment to this section clarifies the legislative intent of
9 this section as enacted on June 15, 2010; therefore, this amendment shall be retroactively applied
10 and shall be effective as of June 15, 2010. Should the electric distribution company own, operate,
11 and maintain the cable, the annual costs incurred by the electric distribution company directly or
12 through transmission charges shall be recovered annually through a fully reconciling rate
13 adjustment from customers of the electric distribution company and/or from the Block Island
14 Power Company or its successor, subject to any federal approvals that may be required by law.
15 The allocation of the costs related to the transmission cable through transmission rates or
16 otherwise shall be structured so that the estimated impact on the typical residential customer bill
17 for such transmission costs for customers in the Town of New Shoreham shall be higher than the
18 estimated impact on the typical residential customer bill for customers on the mainland of the
19 electric distribution company. This higher charge for the customers in the Town of New
20 Shoreham shall be developed by allocating the actual cable costs based on the annual peak
21 demands of the Block Island Power Company and the electric distribution company, and these
22 resultant costs recovered in the per kWh charges of each company. In any event, the difference in
23 the individual charge per kWh or per customer/month shall not exceed the ratio of average
24 demand to peak demand for Block Island Power Company relative to the electric distribution
25 company, currently at 1.8 to 1.0 respectively. To the extent that any state tariffs or rates must be
26 put into effect in order to implement the intention of this section, the public utilities commission
27 shall accept filings of the same and shall approve them.

28 (g) Any charges incurred by the Block Island Power Company or its successor pursuant
29 to this section or other costs incurred by the Block Island Power Company in implementing this
30 section, including the cost of participation in regulatory proceedings in the state or at the federal
31 energy regulatory commission shall be recovered annually in rates through a fully reconciling rate
32 adjustment, subject to approval by the commission. If the electric distribution company owns,
33 operates, or otherwise participates in the transmission cable project, pursuant to subsection 39-
34 26.1-7(b) the provisions of § 39-26.1-4 shall not apply to the cable cost portion of the Town of

1 New Shoreham Project.

2 (h) Any contract entered into pursuant to this section shall count as part of the minimum
3 long-term contract capacity.

4 (i) If the electric distribution company elects not to own the transmission cable, the
5 developer may elect to do so directly, through an affiliate, or a third-party and the power purchase
6 agreement pricing shall be adjusted to allow the developer, an affiliate or a third-party, to recover
7 the costs (including financing costs) of the transmission facilities, subject to complying with the
8 terms as set forth in the power purchase agreement between the developer and the electric
9 distribution company.

10 SECTION 2. This act shall take effect upon passage and shall retroactively apply as of
11 June 15, 2010.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - LONG-TERM LEASING
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1 This act would clarify that interconnection and standby transformer costs incurred by any
2 New Shoreham electric distribution company (i.e., National Grid and/or Block Island Power
3 Company or their successors) shall be charged in transmission rates and be socialized throughout
4 Rhode Island, and would provide for the reimbursement of Block Island Power Company by
5 National Grid for costs associated with interconnection and standby transformers.

6 This act would take effect upon passage and would retroactively apply as of June 15,
7 2010.

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