

2019 -- H 5789

=====

LC001999

=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - RHODE ISLAND ENERGY RESOURCES ACT

Introduced By: Representatives Bennett, Handy, Edwards, Diaz, and Slater

Date Introduced: February 28, 2019

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 42-140 of the General Laws entitled "Rhode Island Energy
2 Resources Act" is hereby amended by adding thereto the following section:

3 **42-140-11.1. Legislative purpose.**

4 The purpose of §§ 42-140-11.1 through 42-140-11.5 is to provide for the establishment of
5 comprehensive solar energy siting ordinances within each municipality in the state as a means of
6 achieving the renewable energy and greenhouse gas reduction goals; balancing renewable energy
7 efforts with housing development and conservation interests; promoting equity and protecting
8 natural resources within each municipality; and providing predictable zoning and land use rules
9 and application processes for landowners, homeowners, affordable housing, businesses and
10 farmers interested in pursuing renewable energy systems.

11 **42-140-11.2. Definitions.**

12 When used in this chapter, the following terms shall have the following meanings:

13 (1) "Areas of environmental concern" means conservation opportunity areas as defined
14 by the department of environmental management under the 2015 wildlife action plan.

15 (2) "Brownfields" mean a currently, or formerly, contaminated site that has been
16 disclosed to the department of environmental management through formal notification pursuant
17 to the regulations promulgated pursuant to the industrial property remediation and reuse act.

18 (3) "Comprehensive solar siting ordinance" means an adopted ordinance by a

1 municipality that regulates and addresses solar energy installations for roof, ground mounted and
2 carport solar systems that balance different interests including climate change, housing
3 development, wildlife conservation and renewable development.

4 (4) "Developed and previously disturbed lots" means an existing cleared, disturbed or
5 contaminated property that was created prior to December 31, 2017.

6 (5) "Gravel pits" means an open area previously, currently or in the future used for the
7 extraction of mining materials that is currently active, has not been redeveloped, restored or
8 abandoned.

9 (6) "Landfill" means for the purposes of this section, any parcel of property that was used
10 as a landfill as defined in § 23-19.1-4 or a sanitary landfill, dump or other disposal area where
11 more than thirty (30) cubic yards of solid waste was disposed that has been disclosed, through
12 formal notification, to the department of environmental management.

13 (7) "Preferred siting areas" means brownfields, landfills, gravel pits, parking lots and
14 developed and previously disturbed lots which have not been in agricultural use in the past five
15 (5) years.

16 (8) "Renewable energy resources" means those resources set forth in § 39-26-5.

17 **42-140-11.3. Comprehensive solar energy siting ordinances by municipalities.**

18 (a) No later than April 30, 2020, all cities and towns shall each have adopted, or updated
19 existing comprehensive solar siting ordinances addressing both roof and ground mounted solar
20 systems.

21 (b) Municipalities shall be required to provide their first-time or updated drafted
22 comprehensive solar siting ordinances to the office of energy resources and the division of
23 statewide planning no later than January 31, 2020 for the state agencies to review. The office of
24 energy resources shall notify the municipal official within five (5) business days of receipt of the
25 drafted or updated ordinance and shall provide written feedback to the municipality within thirty
26 (30) business days. The office of energy resources shall review drafted ordinances in coordination
27 with the state building code commission and fire safety code board of appeal for review and
28 consistency with state building, electric and fire code law as defined in chapter 27.2 of title 23
29 and the state's renewable energy generation and interconnection laws as defined in chapters 26,
30 26.3, 26.4, and 26.6 of title 39.

31 (c) If a municipality does not adopt a comprehensive solar siting ordinance by April 30,
32 2020, then the municipality and customers may no longer have access to the state renewable
33 energy growth and renewable energy fund programs that are associated with solar systems that
34 are 25 kilowatts (25 kw) or higher until the municipality has adopted a comprehensive solar siting

1 ordinance.

2 (d) Such determination on access to the state solar programs shall be determined by the
3 commissioner of the office of energy resources in consultation with the associate director of
4 division of statewide planning. The determination by the office of energy resources shall be
5 limited to whether the new or updated comprehensive solar siting ordinance is consistent with
6 state building, electrical and fire codes and renewable generation laws and regulations. The
7 municipality will be required to submit an explanation for such delay in adopting or updating
8 comprehensive solar siting ordinance to the office of energy resources and division of statewide
9 planning within forty-five (45) business days of the April 30, 2020 deadline, with an actionable
10 plan to adopt a comprehensive solar siting ordinance to avoid losing access to the state renewable
11 energy programs. This section shall not apply to any projects or active systems that have
12 submitted interconnection applications or have been awarded tariffs or grants by the state or
13 electric distribution company on or before April 30, 2020.

14 (e) All adopted municipal comprehensive solar siting ordinances shall be collected and
15 posted on the office of energy resources' website for the public to have access to a list and
16 information to all comprehensive municipal solar ordinances. Any updates made by a
17 municipality to its comprehensive solar siting ordinance in the future will also need to be
18 provided to the office of energy resources for posting within thirty (30) days of passage of
19 ordinance updates by the municipality.

20 (f) The office of energy resources shall provide a list of municipalities in compliance with
21 having adopted comprehensive solar siting ordinances and those that have not adopted to the
22 governor, the president of the senate, and the speaker of the house by May 15, 2020.

23 **42-140-11.4. Technical assistance to municipalities.**

24 The office of energy resources and division of statewide planning shall provide technical
25 assistance upon request to any municipality in the development of its renewable energy siting
26 ordinances.

27 **42-140-11.5. Renewable energy implementation plan.**

28 (a) The office of energy resources in consultation with the department of environmental
29 management shall conduct a study and report on the renewable energy implementation and clean
30 energy production opportunities from solar, offshore wind, land-based wind and small-scale
31 hydropower across the state. The purpose of such study will be to aid the state and municipalities
32 in moving towards energy self-reliance and decarbonization through the responsible siting of in-
33 state renewable energy resources, through the lens of climate change, economic development,
34 environmental justice, municipal benefits while also balancing other important land use interests

1 including conservation and housing development.

2 (b) The implementation plan may include, but not be limited to, the following:

3 (1) An assessment of the in-state technical potential of the renewable energy resources
4 that are enumerated, including in terms of nameplate capacity and annual generation potential.

5 (2) An assessment of the nameplate capacity and annual generation opportunities for roof
6 mounted systems of Rhode Island building stock;

7 (3) A forecast of the siting, size and mix of renewable energy strategies that will allow
8 Rhode Island to achieve the goals of the state energy plan and the aggressive greenhouse gas
9 reduction goals associated with the resilient Rhode Island act;

10 (4) The forecasted renewable megawatt capacity operational by 2029 and the forecasted
11 energy and environmental impacts through 2050 of such investments;

12 (5) One or more scenarios quantifying combined renewable energy capacity and
13 generation potential from preferred land-based and offshore locations, with technical and policy
14 recommendations for pursuing each scenario while also minimizing or avoiding areas of
15 environmental concern and housing development lots in such scenarios;

16 (6) A strategy and recommendations to the distributed generation standard contracts
17 board to allocate annual megawatt capacity under the renewable energy growth program years
18 between 2020 and 2029 to reflect siting considerations and giving priority to rooftops, parking
19 lots and other disturbed locations and minimizing or avoiding areas of environmental concern and
20 undeveloped housing opportunity areas, while considering ratepayer impacts;

21 (7) Strategies at the local level to remove barriers to, and further incentivize through
22 permitting or other processes, siting in least-conflict areas; and

23 (8) An assessment of the technical potential nameplate capacity and annual generation for
24 renewable energy resources located on or making use of existing and future parking lots.

25 (c) The cost of such one-time study and report by the office of energy resources shall be
26 recoverable through the mechanism in § 39-26.6-4(b), but the public utilities commission shall
27 review and rule on the request in fifty (50) days. The total cost of such one-time study shall not
28 exceed one hundred thousand dollars (\$100,000).

29 (d) The office of energy resources shall consult with a working group in developing the
30 request for proposal and during the study, including preliminary results. At a minimum, the
31 working group shall be comprised of one representative from each of the following areas of
32 interest:

33 (1) The department of environmental management;

34 (2) The division of public utilities and carriers;

1 (3) The division of statewide planning;
2 (4) Rhode Island housing;
3 (5) The electric and gas distribution company, but not including Pascoag Utility District
4 or Block Island Power Company or its successor;
5 (6) An organization representing renewable energy interests;
6 (7) An organization representing municipal planner interests;
7 (8) An organization representing environmental and conservation interests;
8 (9) An organization representing housing development interests;
9 (10) An organization representing municipal growth and development interests;
10 (11) An organization representing farming and agriculture interests; and
11 (12) An organization representing forestry interests.

12 (e) The office of energy resources shall release the report by January 30, 2020, and will
13 host five (5) public meetings on the study results in each county within the state upon completion
14 of the report. The report shall be sent to the governor, the president of the senate, and the speaker
15 of the house and will be posted to the office of energy resources website.

16 (f) On or before September 30, 2019, the office of energy resources and department of
17 environmental management, in consultation with the working group defined in subsection (d) of
18 this section shall:

19 (1) Identify landfills, brownfields, gravel pits, and developed and previously disturbed
20 lots.

21 (2) Adopt an opt-in and voluntary public registration database for landowners with
22 preferred siting areas to list their properties as being available for renewable project development.
23 The office of energy resources shall send the database and associated information to all
24 municipalities.

25 (g) The office of energy resources and department of environmental management shall
26 update the database not less than every three (3) years.

27 SECTION 2. Section 39-3-7.1 of the General Laws in Chapter 39-3 entitled "Regulatory
28 Powers of Administration" is hereby amended to read as follows:

29 **39-3-7.1. Prohibited practices.**

30 (a) The use of "master-meters," so-called, in apartment or tenement houses containing
31 more than ten (10) apartments or dwelling units is hereby prohibited; provided, however, that this
32 section shall only apply to apartment houses, construction of which is commenced after July 1,
33 1977. Each apartment or dwelling unit shall have a measuring device or meter for the purpose of
34 measuring the electricity used only by that apartment. The commission shall promulgate all

1 necessary rules and regulations to carry out the purposes and provisions of this section; provided,
2 however, that this section shall not apply to the multi-family dwellings constructed for the
3 exclusive use of persons who are elderly and/or disabled through public financing, whenever the
4 organization sponsoring the construction shall elect to use a single meter for all, or designated
5 portions, of the housing.

6 (1) Effective April 30, 2020, the owner of any housing development, apartment or
7 dwelling units may choose to, at the owner's cost, install or convert to a "master-meter," provided
8 that either the housing development, apartment or dwelling units are served by:

9 (i) A facility that is a community remote net-metering system; or
10 (ii) A facility that is an eligible net-metering system that is associated with any housing
11 development or developments owned or operated by a public agency, nonprofit organization,
12 limited-equity housing cooperative, or private developer, that receives assistance under any
13 federal, state, or municipal government program to assist the construction or rehabilitation of
14 housing affordable to low- or moderate-income households, as defined in the applicable federal or
15 state statute, or local ordinance, encumbered by a deed restriction or other covenant recorded in
16 the land records of the municipality in which the housing is located, that:

17 (A) Restricts occupancy of no less than fifty percent (50%) of the housing to households
18 with a gross, annual income that does not exceed eighty percent (80%) of the area median income
19 as defined annually by the United States Department of Housing and Urban Development (HUD);

20 (B) Restricts the monthly rent, including a utility allowance, that may be charged to
21 residents, to an amount that does not exceed thirty percent (30%) of the gross, monthly income of
22 a household earning eighty percent (80%) of the area, median income as defined annually by
23 HUD;

24 (C) That has an original term of not less than thirty (30) years from initial occupancy.

25 (b) The value of the net metering credits shall be used to provide benefits to tenants.

26 Terms and conditions for master-metering with renewable energy systems shall be
27 developed by the electric distribution company in consultation with the office of energy
28 resources, Rhode Island housing and mortgage finance corporation and the division of public
29 utilities and carriers. On or before October 30, 2019, the electric distribution company shall file
30 such terms and conditions with the public utilities commission for its consideration and decision
31 thereon by March 30, 2020.

32 (c) All developers will be required to submit their renewable energy proposals to Rhode
33 Island housing to review and verify that such proposals are providing benefits to the tenants of the
34 property prior to submitting the net-metering application of credits documentation to the electric

1 distribution company. Rhode Island housing shall notify the office of energy resources and
2 electric distribution company of all proposals that have been reviewed and verified as providing
3 benefits to tenants at the applicable property.

4 SECTION 3. Chapter 39-26 of the General Laws entitled "Renewable Energy Standard"
5 is hereby amended by adding thereto the following section:

6 **39-26-6.1. Recovery of costs.**

7 The commission shall be able to recover its costs for the administration of the annual
8 standard in a manner determined and published by the commission. Such recovery may include,
9 but not be limited to, application fees and filing fees.

10 SECTION 4. Sections 39-26.3-1, 39-26.3-2 and 39-26.3-4.1 of the General Laws in
11 Chapter 39-26.3 entitled "Distributed Generation Interconnection" are hereby amended to read as
12 follows:

13 **39-26.3-1. Policy objective.**

14 The general assembly hereby finds and declares that the expeditious completion of the
15 application process for renewable distributed generation is in the public interest. The general
16 assembly further finds that it is in the interest of the state to incentivize and promote development
17 on brownfields, landfills, superfund sites, gravel pits, parking lots, and developed and previously
18 disturbed lots and minimize impacts to environmental conservation and housing development.

19 For this reason, certain standards and other provisions for the processing of applications and
20 allocation of interconnection costs are hereby set forth to assure that the application process
21 assists in the development of renewable generation resources in a timely manner.

22 **39-26.3-2. Definitions.**

23 The following terms shall have the meanings given below for purposes of this chapter:

24 (1) "Applicant" means an electric distribution customer or distributed-generation
25 developer who submits an application to the electric distribution company for the installation of a
26 renewable, distributed-generation interconnection to the distribution system for a renewable,
27 distributed-generation project that, as contemplated, meets the eligibility requirements for net
28 metering contained within title 39 or the eligibility requirements for a standard contract contained
29 within title 39.

30 (2) "Feasibility study" means a high-level project assessment that includes an estimate of
31 the cost of interconnecting to the distribution system that would be assessed on the applicant for
32 an interconnection. Such estimate is not based on any engineering study, but is based on past
33 experience and judgment of the electric distribution company, taking into account the information
34 in the application, the location of the interconnection, and general knowledge of the distribution

1 and transmission system. Such estimate cannot be relied upon by the applicant for purposes of
2 holding the electric distribution company liable or responsible for its accuracy as long as the
3 electric distribution company has provided the estimate in good faith. The feasibility study
4 estimate shall be a range within which the electric distribution company believes the
5 interconnection costs are likely to be and shall include a disclaimer that explains the nature of the
6 estimate.

7 (3) "Feasibility study fee" means a fee that shall be charged to the applicant to obtain a
8 feasibility study as specified in § 39-26.3-4.

9 (4) "Impact study" means an engineering study that includes an estimate of the cost of
10 interconnecting to the distribution system that would be assessed on the applicant for an
11 interconnection that is based on an engineering study of the details of the proposed generation
12 project. Such estimate generally will have a probability of accuracy of plus or minus twenty-five
13 percent (25%). Such an estimate may be relied upon by the applicant for purposes of determining
14 the expected cost of interconnection, but the distribution company may not be held liable or
15 responsible if the actual costs exceed the estimate as long as the estimate was provided in good
16 faith and the interconnection was implemented prudently by the electric distribution company.

17 (5) "Impact study fee" means a fee that shall be charged to the applicant to obtain an
18 impact study as specified in § 39-26.3-4.

19 (6) "Net siting benefits" means benefits that are created by situating a facility and support
20 facilities in one location versus another, including, but not limited to, land use, forest
21 conservation, socio-economic, environmental benefits, and specifically excluding power system
22 and tax-related benefits.

23 (6)(7) "Renewable energy resource" means those resources set forth in § 39-26-5.

24 **39-26.3-4.1. Interconnection standards.**

25 (a) The electric distribution company, which shall not include Pascoag Utility District or
26 Block Island Power Company or its successor, may only charge an interconnecting, renewable-
27 energy customer for any system modifications to its electric power system specifically necessary
28 for and directly related to the interconnection, except as otherwise provided in subsection (b) of
29 this section.

30 (b) Commencing with completed interconnection applications submitted on and after
31 June 30, 2019, interconnecting renewable-energy customers of eligible net-metering systems:

32 (i) Owned by a public entity, educational institution, hospital, nonprofit, or multi-
33 municipal collaborative; or

34 (ii) Owned and operated by a renewable-generation developer on behalf of a public

1 entity, educational institution, hospital, nonprofit, or multi-municipal collaborative through net-
2 metering financing arrangement that is qualified as an eligible net-metering system as defined
3 under § 39-26.4-2 or community remote net-metering system as defined in § 39-26.4-2 shall be
4 reimbursed for interconnecting costs up to a value as determined by the public utilities
5 commission in accordance with subsections (b)(i) and (b)(ii) of this section if the eligible net-
6 metering system is on land identified by the office of energy resources and department of
7 environmental management pursuant to § 42-140-11.5(f).

8 (i) On or before March 30, 2020, and no less than once every two (2) years thereafter, the
9 public utilities commission with participation of the office of energy resources and department of
10 environmental management, shall determine an interconnection value reimbursement for facilities
11 and support facilities that are developed on land identified by the office of energy resources and
12 department of environmental management pursuant to § 42-140-11.5(f) not to exceed the net
13 siting benefit associated with facility and support facilities and not to exceed a total value cap set
14 by the public utilities commission based on interconnection costs for the net-metering systems in
15 subsection (b) of this section for the prior five (5) year period, which projects need not have
16 achieved commercial operation.

17 (ii) To determine net siting benefits, the public utilities commission will compare the
18 value of siting facilities and support facilities on land identified pursuant to § 42-140-11.5(f) to a
19 land-use baseline. The land-use baseline shall be representative of land used in the previous
20 twenty-four (24) months and land likely to be used in the following twenty-four (24) months to
21 site similar energy.

22 (iii) The public utilities commission may determine different relative siting values for
23 different land-use types and conditions identified pursuant to § 42-140-11.5(f). The public
24 utilities commission may determine different relative siting values and interconnection value
25 reimbursements for different facility sizes generation types, and technical characteristics. The
26 commission shall post the proposed determination and associated net siting benefit proposal for a
27 thirty (30) day public comment period to solicit feedback, prior to any final adoption. Nothing in
28 this section shall prohibit or interfere with any other existing public utilities commission authority
29 to set rates that encourage the production of other benefits.

30 (iv) The costs of the net siting benefits value and associated reimbursement in promoting
31 renewable energy development in the preferred identified land use areas shall be fully recoverable
32 in a manner determined by the commission.

33 **(b)**(c) If the public utilities commission determines that a specific system modification
34 benefiting other customers has been accelerated due to an interconnection request, it may order

1 the interconnecting customer to fund the modification subject to repayment of the depreciated
2 value of the modification as of the time the modification would have been necessary as
3 determined by the public utilities commission. Any system modifications benefiting other
4 customers shall be included in rates as determined by the public utilities commission.

5 ~~(e)~~(d) If an interconnecting, renewable-energy customer is required to pay for system
6 modifications and a subsequent renewable-energy or commercial customer relies on those
7 modifications to connect to the distribution system within ten (10) years of the earlier
8 interconnecting, renewable-energy customer's payment, the subsequent customer will make a
9 prorated contribution toward the cost of the system modifications that will be credited to the
10 earlier interconnecting, renewable-energy customer as determined by the public utilities
11 commission.

12 ~~(d)~~(e) An electric distribution company shall acknowledge to the interconnecting,
13 renewable-energy customer receipt of an application to initiate the interconnection process within
14 three (3) business days of receipt. The electric distribution company shall notify the
15 interconnecting, renewable-energy customer in writing within ten (10) business days of receipt
16 that the application is or is not complete and, if not, advise what is missing. Any disputes
17 regarding whether and when an application to initiate the interconnection process is complete
18 shall be resolved expeditiously at the public utilities commission. The maximum time allowed
19 between the date of the completed application and delivery of an executable interconnection
20 service agreement shall be one hundred seventy-five (175) calendar days or two hundred (200)
21 calendar days if a detailed study is required. All electric distribution company system
22 modifications must be completed by the date which is the later of: (1) No longer than two
23 hundred seventy (270) calendar days, or three hundred sixty (360) calendar days if substation
24 work is necessary, from the date of the electric distribution company's receipt of the
25 interconnecting, renewable-energy customer's executed interconnection service agreement; or (2)
26 The interconnecting, renewable-energy customer's agreed upon extension of the time between the
27 execution of the interconnection service agreement and interconnection as set forth in writing. All
28 deadlines herein are subject to all payments being made in accordance with the distributed
29 generation interconnection tariff on file with the public utilities commission and the
30 interconnection service agreement. These system modification deadlines cannot be extended due
31 to customer delays in providing required information, all of which must be requested and
32 obtained before completion of the impact study. The deadlines for completion of system
33 modifications will be extended only to the extent of events that are clearly not under the control
34 of the electric distribution company, such as extended prohibitive weather, union work stoppage

1 or force majeure, or third-party delays, including, without limitation, delays due to ISO-NE
2 requirements not attributable to electric distribution company actions, and which cannot be
3 resolved despite commercially reasonable efforts. The electric distribution company shall notify
4 the customer of the start of any claimed deadline extension as soon as practicable, its cause and
5 when it concludes, all in writing. Any actual damages that a court of competent jurisdiction
6 orders the electric distribution company to pay to an interconnecting, renewable-energy customer
7 as a direct result of the electric distribution company's failure to comply with the requirements of
8 this subsection shall be payable by its shareholders and may not be recovered from customers,
9 provided that the total amount of damages awarded for any and all such claims shall not exceed,
10 in the aggregate, an amount equal to the amount of the incentive the electric distribution company
11 would have earned as provided for in §§ 39-26.6-12(j)(3) and 39-26.1-4 in the year in which the
12 system modifications were required to be completed. In no event shall the electric distribution
13 company be liable to the interconnecting, renewable-energy customer for any indirect, incidental,
14 special, consequential, or punitive damages of any kind whatsoever as a result of the electric
15 distribution company's failure to comply with this section.

16 ~~(e)~~(f) On or before September 1, 2017, the public utilities commission shall initiate a
17 docket to establish metrics for the electric distribution company's performance in meeting the
18 time frames set forth herein and in the distributed generation interconnection standards approved
19 by the public utilities commission. The public utilities commission may include incentives and
20 penalties in the performance metrics.

21 ~~(f)~~(g) The proposed interconnection of any new renewable energy resource that replaces
22 the same existing renewable energy resource of the same or less nameplate capacity that has been
23 in operation in the twelve (12) months preceding notification of such replacement shall be subject
24 to a sixty-day (60) review. The purpose of such sixty-day (60) review is to allow the electric
25 distribution company to determine whether any system modifications are required to support the
26 interconnection of the replacement renewable energy resource. If there is a need for system
27 modifications because of an interconnection policy change implemented by the electric
28 distribution company, then the system modification may be included in rates as determined by the
29 public utilities commission. If there is a need for system modifications only because of a change
30 in the rating or utility disturbance response that adversely affects the impact of the facility on the
31 distribution system, then the interconnecting, renewable-energy customer shall be responsible for
32 the cost of the system modifications.

33 SECTION 5. Sections 39-26.4-2 and 39-26.4-3 of the General Laws in Chapter 39-26.4
34 entitled "Net Metering" are hereby amended to read as follows:

1 **39-26.4-2. Definitions.**

2 Terms not defined in this section herein shall have the same meaning as contained in
3 chapter 26 of title 39 of the general laws. When used in this chapter:

4 (1) "Community remote-net-metering system" means a facility generating electricity
5 using an eligible net-metering resource that allocates net-metering credits to a minimum of one
6 account for system associated with low or moderate housing eligible credit recipients, or three (3)
7 eligible credit-recipient customer accounts, provided that no more than fifty percent (50%) of the
8 credits produced by the system are allocated to one eligible credit recipient, and provided further
9 at least fifty percent (50%) of the credits produced by the system are allocated to the remaining
10 eligible credit recipients in an amount not to exceed that which is produced annually by twenty-
11 five kilowatt (25 kW) AC capacity. The community remote-net-metering system may transfer
12 credits to eligible credit recipients in an amount that is equal to or less than the sum of the usage
13 of the eligible credit recipient accounts measured by the three-year (3) average annual
14 consumption of energy over the previous three (3) years. A projected annual consumption of
15 energy may be used until the actual three-year (3) average annual consumption of energy over the
16 previous three (3) years at the eligible credit recipient accounts becomes available for use in
17 determining eligibility of the generating system. The community remote-net-metering system
18 may be owned by the same entity that is the customer of record on the net-metered account or
19 may be owned by a third party.

20 (2) "Electric-distribution company" shall have the same meaning as § 39-1-2, but shall
21 not include block island power company or Pascoag utility district, each of whom shall be
22 required to offer net metering to customers through a tariff approved by the public utilities
23 commission after a public hearing. Any tariff or policy on file with the public utilities
24 commission on the date of passage of this chapter shall remain in effect until the commission
25 approves a new tariff.

26 (3) "Eligible credit recipient" means one of the following eligible recipients in the
27 electric-distribution company's service territory whose electric service account or accounts may
28 receive net-metering credits from a community remote net-metering system. Eligible credit
29 recipients include the following definitions:

30 (i) Residential accounts in good standing.

31 (ii) "Low- or moderate-income housing eligible credit recipient" means an electric service
32 account or accounts in good standing associated with any housing development or developments
33 owned or operated by a public agency, nonprofit organization, limited-equity housing
34 cooperative, or private developer, that receives assistance under any federal, state, or municipal

1 government program to assist the construction or rehabilitation of housing affordable to low- or
2 moderate-income households, as defined in the applicable federal or state statute, or local
3 ordinance, encumbered by a deed restriction or other covenant recorded in the land records of the
4 municipality in which the housing is located, that:

5 (A) Restricts occupancy of no less than fifty percent (50%) of the housing to households
6 with a gross, annual income that does not exceed eighty percent (80%) of the area median income
7 as defined annually by the United States Department of Housing and Urban Development (HUD);

8 (B) Restricts the monthly rent, including a utility allowance, that may be charged to
9 residents, to an amount that does not exceed thirty percent (30%) of the gross, monthly income of
10 a household earning eighty percent (80%) of the area, median income as defined annually by
11 HUD;

12 (C) That has an original term of not less than thirty (30) years from initial occupancy.

13 Electric service account or accounts in good standing associated with housing
14 developments that are under common ownership or control may be considered a single low- or
15 moderate-income housing-eligible credit recipient for purposes of this section. The value of the
16 credits shall be used to provide benefits to tenants.

17 (iii) "Educational institutions" means public and private schools at the primary,
18 secondary, and postsecondary levels.

19 (4) "Eligible net-metering resource" means eligible renewable-energy resource, as
20 defined in § 39-26-5 including biogas created as a result of anaerobic digestion, but, specifically
21 excluding all other listed eligible biomass fuels.

22 (5) "Eligible net-metering system" means a facility generating electricity using an eligible
23 net-metering resource that is reasonably designed and sized to annually produce electricity in an
24 amount that is equal to, or less than, the renewable self-generator's usage at the eligible net-
25 metering-system site measured by the three-year (3) average annual consumption of energy over
26 the previous three (3) years at the electric-distribution account(s) located at the eligible net-
27 metering-system site. A projected annual consumption of energy may be used until the actual
28 three-year (3) average annual consumption of energy over the previous three (3) years at the
29 electric-distribution account(s) located at the eligible net-metering-system site becomes available
30 for use in determining eligibility of the generating system. The eligible net-metering system may
31 be owned by the same entity that is the customer of record on the net-metered accounts or may be
32 owned by a third party that is not the customer of record at the eligible net-metering system site
33 and which may offer a third-party, net-metering financing arrangement or net-metering financing
34 arrangement, as applicable. Notwithstanding any other provisions of this chapter, any eligible net-

1 metering resource: (i) Owned by a public entity, educational institution, hospital, nonprofit, or
2 multi-municipal collaborative or (ii) Owned and operated by a renewable-generation developer
3 on behalf of a public entity, educational institution, hospital, nonprofit, or multi-municipal
4 collaborative through net-metering financing arrangement shall be treated as an eligible net-
5 metering system and all accounts designated by the public entity, educational institution, hospital,
6 nonprofit, or multi-municipal collaborative for net metering shall be treated as accounts eligible
7 for net metering within an eligible net-metering-system site.

8 (6) "Eligible net-metering-system site" means the site where the eligible net-metering
9 system or community remote net-metering system is located or is part of the same campus or
10 complex of sites contiguous to one another and the site where the eligible net-metering system or
11 community remote-net-metering system is located or a farm in which the eligible net-metering
12 system or community remote-net-metering system is located. Except for an eligible net-metering
13 system owned by or operated on behalf of a public entity, educational institution, hospital,
14 nonprofit, or multi-municipal collaborative through a net-metering financing arrangement, the
15 purpose of this definition is to reasonably assure that energy generated by the eligible net-
16 metering system is consumed by net-metered electric service account(s) that are actually located
17 in the same geographical location as the eligible net-metering system. All energy generated from
18 any eligible net-metering system is, and will be considered, consumed at the meter where the
19 renewable-energy resource is interconnected for valuation purposes. Except for an eligible net-
20 metering system owned by, or operated on behalf of, a public entity, educational institution,
21 hospital, nonprofit, or multi-municipal collaborative through a net-metering financing
22 arrangement, or except for a community remote-net-metering system, all of the net-metered
23 accounts at the eligible net-metering-system site must be the accounts of the same customer of
24 record and customers are not permitted to enter into agreements or arrangements to change the
25 name on accounts for the purpose of artificially expanding the eligible net-metering-system site to
26 contiguous sites in an attempt to avoid this restriction. However, a property owner may change
27 the nature of the metered service at the accounts at the site to be master metered in the owner's
28 name, or become the customer of record for each of the accounts, provided that the owner
29 becoming the customer of record actually owns the property at which the account is located. As
30 long as the net-metered accounts meet the requirements set forth in this definition, there is no
31 limit on the number of accounts that may be net metered within the eligible net-metering-system
32 site.

33 (7) "Excess renewable net-metering credit" means a credit that applies to an eligible net-
34 metering system or community remote-net-metering system for that portion of the production of

1 electrical energy beyond one hundred percent (100%) and no greater than one hundred twenty-
2 five percent (125%) of the renewable self-generator's own consumption at the eligible net-
3 metering-system site or the sum of the usage of the eligible credit recipient accounts associated
4 with the community remote-net-metering system during the applicable billing period. Such excess
5 renewable net-metering credit shall be equal to the electric-distribution company's avoided cost
6 rate, which is hereby declared to be the electric-distribution company's standard offer service
7 kilowatt hour (kWh) charge for the rate class and time-of-use billing period (if applicable)
8 applicable to the customer of record for the eligible net-metering system or applicable to the
9 customer of record for the community remote-net-metering system. The commission shall have
10 the authority to make determinations as to the applicability of this credit to specific generation
11 facilities to the extent there is any uncertainty or disagreement.

12 (8) "Farm" shall be defined in accordance with § 44-27-2, except that all buildings
13 associated with the farm shall be eligible for net-metering credits as long as: (i) The buildings are
14 owned by the same entity operating the farm or persons associated with operating the farm; and
15 (ii) The buildings are on the same farmland as the project on either a tract of land contiguous
16 with, or reasonably proximate to, such farmland or across a public way from such farmland.

17 (9) "Hospital" means and shall be defined and established as set forth in chapter 17 of
18 title 23.

19 (10) "Multi-municipal collaborative" means a group of towns and/or cities that enter into
20 an agreement for the purpose of co-owning a renewable-generation facility or entering into a
21 financing arrangement pursuant to subdivision (14).

22 (11) "Municipality" means any Rhode Island town or city, including any agency or
23 instrumentality thereof, with the powers set forth in title 45 of the general laws.

24 (12) "Net metering" means using electrical energy generated by an eligible, net-metering
25 system for the purpose of self-supplying electrical energy and power at the eligible net-metering-
26 system site, or with respect to a community remote-net-metering system, for the purpose of
27 generating net-metering credits to be applied to the electric bills of the eligible credit recipients
28 associated with the community net-metering system. The amount so generated will thereby offset
29 consumption at the eligible net-metering system site through the netting process established in
30 this chapter, or with respect to a community remote-net-metering system, the amounts generated
31 in excess of that amount will result in credits being applied to the eligible credit-recipient
32 accounts associated with the community remote-net-metering system.

33 (13) "Net-metering customer" means a customer of the electric-distribution company
34 receiving and being billed for distribution service whose distribution account(s) are being net

1 metered.

2 (14) "Net-metering financing arrangement" means arrangements entered into by a public
3 entity, educational institution, hospital, nonprofit, or multi-municipal collaborative with a private
4 entity to facilitate the financing and operation of a net-metering resource, in which the private
5 entity owns and operates an eligible net-metering resource on behalf of a public entity,
6 educational institution, hospital, nonprofit, or multi-municipal collaborative, where:~~(i) The~~
7 ~~eligible net metering resource is located on property owned or controlled by the public entity,~~
8 ~~educational institution, hospital, or one of the municipalities, as applicable, and (ii) The the~~
9 production from the eligible net-metering resource and primary compensation paid by the public
10 entity, educational institution, hospital, nonprofit, or multi-municipal collaborative to the private
11 entity for such production is directly tied to the consumption of electricity occurring at the
12 designated net-metered accounts.

13 (15) "Nonprofit" means a nonprofit corporation as defined and established through
14 chapter 6 of title 7, and shall include religious organizations that are tax exempt pursuant to 26
15 U.S.C. § 501(d).

16 (16) "Person" means an individual, firm, corporation, association, partnership, farm, town
17 or city of the State of Rhode Island, multi-municipal collaborative, or the State of Rhode Island or
18 any department of the state government, governmental agency, or public instrumentality of the
19 state.

20 (17) "Project" means a distinct installation of an eligible net-metering system or a
21 community remote-net-metering system. An installation will be considered distinct if it is
22 installed in a different location, or at a different time, or involves a different type of renewable
23 energy.

24 (18) "Public entity" means the federal government, the state of Rhode Island,
25 municipalities, wastewater treatment facilities, public transit agencies, or any water distributing
26 plant or system employed for the distribution of water to the consuming public within this state
27 including the water supply board of the city of Providence.

28 (19) "Renewable net-metering credit" means a credit that applies to an eligible net-
29 metering system or a community remote-net-metering system up to one hundred percent (100%)
30 of either the renewable self-generator's usage at the eligible net-metering-system site or the sum
31 of the usage of the eligible credit-recipient accounts associated with the community remote net-
32 metering system over the applicable billing period. This credit shall be equal to the total kilowatt
33 hours of electrical energy generated up to the amount consumed on-site, and/or generated up to
34 the sum of the eligible credit-recipient account usage during the billing period multiplied by the

1 sum of the distribution company's:

- 2 (i) Standard offer service kilowatt hour charge for the rate class applicable to the net-
3 metering customer, except that for remote public entity and multi-municipality collaborative net-
4 metering systems that submit an application for an interconnection study on or after July 1, 2017,
5 and community remote-net-metering systems, the standard offer service kilowatt-hour charge
6 shall be net of the renewable energy standard charge or credit;
7 (ii) Distribution kilowatt-hour charge;
8 (iii) Transmission kilowatt-hour charge; and
9 (iv) Transition kilowatt-hour charge.

10 Notwithstanding the foregoing, except for systems that have requested an interconnection
11 study for which payment has been received by the distribution company, or if an interconnection
12 study is not required, a completed and paid interconnection application, by December 31, 2018,
13 the renewable net-metering credit for all remote public entity and multi-municipal collaborative
14 net-metering systems shall not include the distribution kilowatt hour charge commencing on
15 January 1, 2050.

16 (20) "Renewable self-generator" means an electric distribution service customer of record
17 for the eligible net-metering system or community remote-net-metering system at the eligible net-
18 metering-system site which system is primarily designed to produce electrical energy for
19 consumption by that same customer at its distribution service account(s), and/or, with respect to
20 community remote-net-metering systems, electrical energy which generates net-metering credits
21 to be applied to offset the eligible credit-recipient account usage.

22 (21) "Third party" means and includes any person or entity, other than the renewable self-
23 generator, who or that owns or operates the eligible net-metering system or community remote-
24 net-metering system on the eligible net-metering-system site for the benefit of the renewable self-
25 generator.

26 (22) "Third-party, net-metering financing arrangement" means the financing of eligible
27 net-metering systems or community remote-net-metering systems through lease arrangements or
28 power/credit purchase agreements between a third party and renewable self-generator, except for
29 those entities under a public entity net-metering finance arrangement. A third party engaged in
30 providing financing arrangements related to such net-metering systems with a public or private
31 entity is not a public utility as defined in § 39-1-2.

32 **39-26.4-3. Net metering.**

33 (a) The following policies regarding net metering of electricity from eligible net-metering
34 systems and community remote-net-metering systems and regarding any person that is a

1 renewable self-generator shall apply:

2 (1)(i) The maximum, allowable capacity for eligible net-metering systems, based on
3 nameplate capacity, shall be ten megawatts (10 MW), effective sixty (60) days after passage. The
4 aggregate amount of net metering in the Block Island Power Company and the Pascoag Utility
5 District shall not exceed three percent (3%) of peak load for each utility district; and

6 (ii) Through December 31, 2018, the maximum, aggregate amount of community remote-
7 net-metering systems built shall be thirty megawatts (30 MW). Any of the unused MW amount
8 after December 31, 2018, shall remain available to community remote-net-metering systems until
9 the MW aggregate amount is interconnected.

10 The office of energy resources shall, in consultation with Rhode Island housing, the
11 electric and gas distribution company, and the working group defined under § 42-140-11.5(d),
12 examine the following criteria in determining a recommended megawatt capacity expansion of
13 the community remote-net-metering program and filing such petition to the commission:

14 (A) Estimate on the number of housing units and percentage of housing stock that is
15 unable to access rooftop or on-site solar, due to physical, ownership or financial constraints.

16 (B) Total number of affordable housing complexes;

17 (C) Estimate megawatt usage of the state's total housing stock;

18 (D) Estimated percentage of housing stock that could obtain renewable energy generation
19 through community-remote-net-metering;

20 (E) Programmatic recommendations to achieve recommended megawatt capacity in
21 disturbed land areas while minimizing or avoiding projects being built in residential zones and
22 areas of environmental concern;

23 (F) Consumer protection recommendations or sample documents;

24 (G) Recommendations and relevant data from the renewable energy implementation
25 report pursuant to § 42-140-11.5; and

26 (H) Estimate on percentage of renewable generation that this program would represent
27 towards the state renewable energy standard and resilient Rhode Island act.

28 (iii) The office of energy resources shall provide the recommended annual megawatt
29 capacity and period of years between 2020 and 2025 to achieve the target to the public utilities
30 commission no later than September 30, 2019.

31 (iv) The public utilities commission shall issue a decision on the office of energy
32 resources recommendation within one hundred fifty days (150) days of the filing made to the
33 commission and shall base their decision on the criteria used pursuant to § 39-26.4-3(a)(ii) and
34 any other relevant data deemed appropriate by the commission.

1 (v) If the public utilities commission approves the office or energy resources
2 recommendation for the annual program capacity or makes a modification to the annual program
3 megawatt capacity, the program shall begin annually on March 15, 2020.

4 (vi) Any capacity awarded to projects between 2020 and 2025 that is terminated by an
5 applicant or electric distribution company shall remain within the program and be awarded to
6 eligible projects.

7 ~~After December 31, 2018, the commission may expand or modify the aggregate amount
8 after a public hearing upon petition by the office of energy resources. The commission shall
9 determine within six (6) months of such petition being docketed by the commission whether the
10 benefits of the proposed expansion exceed the cost.~~ This aggregate amount shall not apply to any
11 net-metering financing arrangement involving public entity facilities, multi-municipal
12 collaborative facilities, educational institutions, the federal government, hospitals, or nonprofits.
13 By June 30, 2018, the commission shall conduct a study examining the cost and benefit to all
14 customers of the inclusion of the distribution charge as a part of the net-metering calculation.

15 (vii) Effective January 1, 2020, the maximum, allowable capacity for eligible net-
16 metering systems, based on nameplate capacity, shall not exceed ten megawatts (10 MW) in
17 residential areas within a municipality by any landowner of contiguous owned lot properties for
18 any new interconnection applications submitted to the electric distribution company after
19 December 31, 2019. The megawatt or contiguous lot restrictions shall not apply to any
20 interconnection applications submitted to the electric distribution company by December 31,
21 2019. Any municipality shall have the discretion to waive the megawatt and contiguous lot
22 restriction for any project on a case by case basis if the municipality makes that determination
23 through an adopted municipal resolution. The municipality shall host a public hearing in
24 accordance with the zoning enabling act on the matter prior to passage of a resolution. The
25 municipality shall provide a copy of the approved resolution to the office of energy resources that
26 shall be submitted to the electric distribution company. The office of energy resources shall notify
27 the municipality when the filing is made to the electric distribution company. An applicant with a
28 project would not be able to submit any interconnection application to the electric distribution
29 company until the resolution is submitted to the electric distribution company. This section shall
30 not apply to projects sited on preferred siting areas previously within residential zones. This
31 section shall not apply to non-residential zoned properties.

32 (viii) Effective January 1, 2020, the maximum, allowable capacity for eligible net-
33 metering systems, based on nameplate capacity, shall not exceed four megawatts (4 MW) for any
34 projects that are within identified areas of environmental concern. Such projects in areas of

1 environmental concern shall not be allowed on contiguous parcels for any new interconnection
2 applications submitted to the electric distribution company after December 31, 2019. The
3 megawatt or contiguous lot restrictions shall not apply to any interconnection applications
4 submitted to the electric distribution company by December 31, 2019. Any municipality shall
5 have the discretion to waive the megawatt and contiguous lot restriction for any project on a case
6 by case basis if the municipality makes that determination through an adopted municipal
7 resolution. The municipality shall host a public hearing in accordance with the zoning enabling
8 act on the matter prior to passage of a resolution. The municipality shall provide a copy of the
9 approved resolution to the office of energy resources that shall be submitted to the electric
10 distribution company. The office of energy resources shall notify the municipality when the filing
11 is made to the electric distribution company. An applicant with a project would not be able to
12 submit any interconnection application to the electric distribution company until the resolution is
13 submitted to the electric distribution company.

14 (2) For ease of administering net-metered accounts and stabilizing net-metered account
15 bills, the electric-distribution company may elect (but is not required) to estimate for any twelve-
16 month (12) period:

17 (i) The production from the eligible net-metering system or community remote-net-
18 metering system; and

19 (ii) Aggregate consumption of the net-metered accounts at the eligible net-metering-
20 system site or the sum of the consumption of the eligible credit-recipient accounts associated with
21 the community remote-net-metering system, and establish a monthly billing plan that reflects the
22 expected credits that would be applied to the net-metered accounts over twelve (12) months. The
23 billing plan would be designed to even out monthly billings over twelve (12) months, regardless
24 of actual production and usage. If such election is made by the electric-distribution company, the
25 electric-distribution company would reconcile payments and credits under the billing plan to
26 actual production and consumption at the end of the twelve-month (12) period and apply any
27 credits or charges to the net-metered accounts for any positive or negative difference, as
28 applicable. Should there be a material change in circumstances at the eligible net-metering system
29 site or associated accounts during the twelve-month (12) period, the estimates and credits may be
30 adjusted by the electric-distribution company during the reconciliation period. The electric-
31 distribution company also may elect (but is not required) to issue checks to any net-metering
32 customer in lieu of billing credits or carry-forward credits or charges to the next billing period.
33 For residential-eligible net-metering systems and community-remote-net-metering systems
34 twenty-five kilowatts (25 kw) or smaller, the electric-distribution company, at its option, may

1 administer renewable net-metering credits month to month allowing unused credits to carry
2 forward into the following billing period.

3 (3) If the electricity generated by an eligible net-metering system or community remote-
4 net-metering system during a billing period is equal to, or less than, the net-metering customer's
5 usage at the eligible net-metering-system site or the sum of the usage of the eligible credit-
6 recipient accounts associated with the community remote-net-metering system during the billing
7 period, the customer shall receive renewable net-metering credits, that shall be applied to offset
8 the net-metering customer's usage on accounts at the eligible net-metering-system site, or shall be
9 used to credit the eligible credit-recipient's electric account.

10 (4) If the electricity generated by an eligible net-metering system or community remote-
11 net-metering system during a billing period is greater than the net-metering customer's usage on
12 accounts at the eligible net-metering-system site or the sum of the usage of the eligible credit-
13 recipient accounts associated with the community remote-net-metering system during the billing
14 period, the customer shall be paid by excess renewable net-metering credits for the excess
15 electricity generated up to an additional twenty-five percent (25%) beyond the net-metering
16 customer's usage at the eligible net-metering-system site, or the sum of the usage of the eligible
17 credit-recipient accounts associated with the community remote net-metering system during the
18 billing period; unless the electric-distribution company and net-metering customer have agreed to
19 a billing plan pursuant to subdivision (2).

20 (5) The rates applicable to any net-metered account shall be the same as those that apply
21 to the rate classification that would be applicable to such account in the absence of net-metering,
22 including customer and demand charges, and no other charges may be imposed to offset net-
23 metering credits.

24 (b) The commission shall exempt electric-distribution company customer accounts
25 associated with an eligible, net-metering system from back-up or standby rates commensurate
26 with the size of the eligible net-metering system, provided that any revenue shortfall caused by
27 any such exemption shall be fully recovered by the electric-distribution company through rates.

28 (c) Any prudent and reasonable costs incurred by the electric-distribution company
29 pursuant to achieving compliance with subsection (a) and the annual amount of any renewable
30 net-metering credits or excess, renewable net-metering credits provided to accounts associated
31 with eligible net-metering systems or community remote-net-metering systems, shall be
32 aggregated by the distribution company and billed to all distribution customers on an annual basis
33 through a uniform, per-kilowatt-hour (kwh) surcharge embedded in the distribution component of
34 the rates reflected on customer bills.

1 (d) The billing process set out in this section shall be applicable to electric-distribution
2 companies thirty (30) days after the enactment of this chapter.

3 SECTION 6. This act shall take effect upon passage.

=====

LC001999

=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT - RHODE ISLAND ENERGY
RESOURCES ACT

- 1 This act would provide for the establishment of comprehensive solar energy siting
- 2 ordinances in each municipality of the state. The act would also allow the installation of master-
- 3 meters in housing developments in certain instances. The act would also establish maximum
- 4 allowable capacity limits for eligible net-metering systems.
- 5 This act would take effect upon passage.

=====
LC001999
=====