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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- PUBLIC UTILITIES COMMISSION

Introduced By: Senator V. Susan Sosnowski

Date Introduced: March 18, 2021

Referred To: Senate Commerce

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.**

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

9 (b) The commission shall establish not later than June 1, 2008, standards for system
10 reliability and energy efficiency and conservation procurement that 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, that 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, that 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 cost
11 than acquisition of additional supply, including supply for periods of high demand.

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

15 (d) To implement the provisions of this section:

16 (1) The commissioner of the office of energy resources and the energy efficiency and
17 resources management council, either jointly or separately, shall provide the commission findings
18 and recommendations with regard to system reliability and energy efficiency and conservation
19 procurement on or before March 1, 2008, and triennially ~~on or before March 1,~~ thereafter through
20 ~~March 1, 2024~~ [March 1, 2036](#). The report shall be made public and be posted electronically on the
21 website of the office of energy resources.

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

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

30 (4) Each electrical and natural gas distribution company shall submit to the commission on
31 or before September 1, 2008, and triennially ~~on or before September 1~~ thereafter through ~~September~~
32 ~~1, 2024~~ [September 1, 2036](#), a plan for system reliability and energy efficiency and conservation
33 procurement. In developing the plan, the distribution company may seek the advice of the
34 commissioner and the council. The plan shall include measurable goals and target percentages for

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

5 (5) The commission shall issue an order approving all energy-efficiency and conservation
6 measures that are cost-effective and lower cost than acquisition of additional supply, with regard
7 to the plan from the electrical and natural gas distribution company, and reviewed and approved by
8 the energy efficiency and resources management council, and any related annual plans, and shall
9 approve a fully reconciling funding mechanism to fund investments in all efficiency and
10 conservation measures that are cost-effective and lower cost than acquisition of additional supply,
11 not ~~greater than sixty (60) days after it is filed with the commission~~ less than thirty (30) days prior
12 to the start of a new program year.

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 of the
16 office of energy resources, and the energy efficiency and resources management council which
17 may provide the distribution company recommendations with regard to effective implementation
18 of least-cost procurement. The report shall include the targets for each energy resource included in
19 the order approving the plan and the achieved percentage for energy resource, including the
20 achieved percentages for efficiency, distributed generation, demand response, combined heat and
21 power, and renewables, as well as the current funding allocations for each eligible energy resource
22 and the businesses and vendors in Rhode Island participating in the programs. The report shall be
23 posted electronically on the website of the office of energy resources.

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

33 (iii) The energy-efficiency annual plan shall include, but not be limited to, a plan for
34 identifying and recruiting qualified combined heat and power projects, incentive levels, contract

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

8 (iv) The energy efficiency and resource management council shall conduct at least one
9 public review meeting annually, to discuss and review the combined heat and power program, with
10 at least seven (7) business days' notice, prior to the electric and gas distribution utility submitting
11 the plan to the commission. The commission shall evaluate the submitted combined heat and power
12 program as part of the annual energy-efficiency plan. The commission shall issue an order
13 approving the energy-efficiency plan and programs ~~within sixty (60) days of the filing~~ not less than
14 thirty (30) days prior to the start of a new program year.

15 (e) 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 the procurement, the
18 commission may establish a mandatory rate-adjustment clause for the company so affected in order
19 to provide for full recovery of reasonable and prudent overhead and fixed costs.

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

25 (g)(1) The office of energy resources shall conduct a study and analysis of the electric and
26 gas distribution company's state energy efficiency programs that will examine implemented
27 program and planned conservation measures and review and confirm the claimed energy savings.
28 In carrying out this study, the office shall utilize a representative sample of different customer
29 classes and measures that have and/or will be participating in the state energy efficiency programs.
30 At a minimum, the study performed by the office of energy resources shall include the following
31 in its scope of work:

32 (i) Independently review and summarize the electric and gas distribution company process
33 for incorporating results from completed evaluation studies into ongoing energy efficiency program
34 reporting and implementation.

1 (ii) Conduct an independent review of gas and electricity efficiency programs, which may
2 include billing analysis techniques. The scope and subjects of this analysis will be decided by the
3 working group with input and advice from an independent consultant. The analysis will be
4 conducted by a qualified independent consultant using industry accepted methods.

5 (iii) Review the data-collection practices, including metering equipment used; sampling
6 frequency; sample sizes; and data validation procedures, and the methods for data analysis
7 employed, as deemed appropriate by the independent evaluator.

8 (iv) Study results and recommendations will be presented to the public utilities commission
9 and the energy efficiency and resource management council.

10 (2) The office of energy resources shall consult with the working group in development of
11 the request for proposals (RFP), and during the course of the study, including the preliminary study
12 results. The working group shall be comprised of one representative from each of the following
13 groups chosen by the office of energy resources:

14 (i) Large commercial and industrial energy users;

15 (ii) Small business energy users;

16 (iii) Residential energy users;

17 (iv) Municipal and state energy users;

18 (v) Low-income energy users;

19 (vi) Electric and gas distribution company; and

20 (vii) Energy efficiency and resource management council.

21 (3) The office of energy resources, in consultation with the electric and gas distribution
22 company and representatives referenced in subsection (g)(2), shall be authorized to hire an energy
23 consulting company or firm to carry out the energy efficiency verification study. The costs
24 associated with this study, including, but not limited to, those associated with the consultant or firm
25 contract and reasonable administrative costs incurred by the office in the execution of subsection
26 (g) of this section, shall be recoverable through the system benefit charge subject to commission
27 approval. Funding shall be transferred from the electric and gas distribution utility to the office of
28 energy resources upon request by the office.

29 (4) The office of energy resources shall submit this report on or before October 30, 2019,
30 to the governor, the president of the senate, and the speaker of the house. The office and its selected
31 energy consulting company or firm shall host two (2) public presentations on the preliminary and
32 final results of the study.

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

1 **39-2-1.2. Utility base rate -- Advertising, demand-side management, and renewables.**

2 (a) In addition to costs prohibited in § 39-1-27.4(b), no public utility distributing or
3 providing heat, electricity, or water to or for the public shall include as part of its base rate any
4 expenses for advertising, either direct or indirect, that promotes the use of its product or service, or
5 is designed to promote the public image of the industry. No public utility may furnish support of
6 any kind, direct or indirect, to any subsidiary, group, association, or individual for advertising and
7 include the expense as part of its base rate. Nothing contained in this section shall be deemed as
8 prohibiting the inclusion in the base rate of expenses incurred for advertising, informational or
9 educational in nature, that is designed to promote public safety conservation of the public utility's
10 product or service. The public utilities commission shall promulgate such rules and regulations as
11 are necessary to require public disclosure of all advertising expenses of any kind, direct or indirect,
12 and to otherwise effectuate the provisions of this section.

13 (b) Effective as of ~~January 1, 2008~~ January 1, 2021, and for a period of fifteen (15) years
14 thereafter, each electric distribution company shall include a charge ~~per kilowatt hour delivered~~
15 fund demand-side management programs. The 0.3 mills per kilowatt-hour delivered to fund
16 renewable energy programs shall remain in effect until December 31, ~~2022~~ 2035. The electric
17 distribution company shall establish and, after July 1, 2007, maintain, two (2) separate accounts,
18 one for demand-side management programs (the "demand-side account"), which shall be funded
19 by the electric demand-side charge and administered and implemented by the distribution company,
20 subject to the regulatory reviewing authority of the commission, and one for renewable energy
21 programs, which shall be administered by the Rhode Island commerce corporation pursuant to §
22 42-64-13.2 and shall be held and disbursed by the distribution company as directed by the Rhode
23 Island commerce corporation for the purposes of developing, promoting, and supporting renewable
24 energy programs. During the time periods established in this subsection, the commission may, in
25 its discretion, after notice and public hearing, increase the sums for demand-side management and
26 renewable resources. In addition, the commission shall, after notice and public hearing, determine
27 the appropriate charge for these programs. The office of energy resources, and/or the administrator
28 of the renewable energy programs, may seek to secure for the state an equitable and reasonable
29 portion of renewable energy credits or certificates created by private projects funded through those
30 programs. As used in this section, "renewable energy resources" shall mean: (1) Power generation
31 technologies, as defined in § 39-26-5, "eligible renewable energy resources," including off-grid and
32 on-grid generating technologies located in Rhode Island, as a priority; (2) Research and
33 development activities in Rhode Island pertaining to eligible renewable energy resources and to
34 other renewable energy technologies for electrical generation; or (3) Projects and activities directly

1 related to implementing eligible renewable energy resources projects in Rhode Island.
2 Technologies for converting solar energy for space heating or generating domestic hot water may
3 also be funded through the renewable energy programs. Fuel cells may be considered an energy
4 efficiency technology to be included in demand-side management programs. Special rates for low-
5 income customers in effect as of August 7, 1996, shall be continued, and the costs of all of these
6 discounts shall be included in the distribution rates charged to all other customers. Nothing in this
7 section shall be construed as prohibiting an electric distribution company from offering any special
8 rates or programs for low-income customers which are not in effect as of August 7, 1996, subject
9 to the approval by the commission.

10 (1) The renewable energy investment programs shall be administered pursuant to rules
11 established by the Rhode Island commerce corporation. Said rules shall provide transparent criteria
12 to rank qualified renewable energy projects, giving consideration to:

- 13 (i) The feasibility of project completion;
- 14 (ii) The anticipated amount of renewable energy the project will produce;
- 15 (iii) The potential of the project to mitigate energy costs over the life of the project; and
- 16 (iv) The estimated cost per kilowatt-hour (KWh) of the energy produced from the project.
- 17 (c) [Deleted by P.L. 2012, ch. 241, art. 4, § 14.]

18 (d) The chief executive officer of the commerce corporation is authorized and may enter
19 into a contract with a contractor for the cost-effective administration of the renewable energy
20 programs funded by this section. A competitive bid and contract award for administration of the
21 renewable energy programs may occur every three (3) years and shall include, as a condition, that
22 after July 1, 2008, the account for the renewable energy programs shall be maintained and
23 administered by the commerce corporation as provided for in subsection (b) of this section.

24 (e) Effective ~~January 1, 2007~~ January 1, 2021, and for a period of ~~sixteen (16)~~ fifteen (15)
25 years thereafter, each gas distribution company shall include, with the approval of the commission,
26 a charge ~~per deca-therm delivered~~ to fund demand-side management programs (the "gas demand-
27 side charge"), including, but not limited to, programs for cost-effective energy efficiency, energy
28 conservation, combined heat and power systems, and weatherization services for low-income
29 households.

30 (f) Each gas company shall establish a separate account for demand-side management
31 programs (the "gas demand-side account") that shall be funded by the gas demand-side charge and
32 administered and implemented by the distribution company, subject to the regulatory reviewing
33 authority of the commission. The commission may establish administrative mechanisms and
34 procedures that are similar to those for electric demand-side management programs administered

1 under the jurisdiction of the commission and that are designed to achieve cost-effectiveness and
2 high, life-time savings of efficiency measures supported by the program.

3 (g) The commission may, if reasonable and feasible, except from this demand-side
4 management charge:

5 (1) Gas used for distribution generation; and

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

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

16 (i) Effective ~~January 1, 2007~~ January 1, 2022, the commission shall allocate from demand-
17 side management gas and electric funds authorized pursuant to this section, an amount not to exceed
18 ~~two percent (2%)~~ three percent (3%) of such funds on an annual basis for the retention of expert
19 consultants, and reasonable administration costs of the energy efficiency and resources
20 management council associated with planning, management, and evaluation of energy-efficiency
21 programs, renewable energy programs, system reliability least-cost procurement, and with
22 regulatory proceedings, contested cases, and other actions pertaining to the purposes, powers, and
23 duties of the council, which allocation may by mutual agreement, be used in coordination with the
24 office of energy resources to support such activities.

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

33 (k) On April 15, of each year, the office and the council shall submit to the governor, the
34 president of the senate, and the speaker of the house of representatives, separate financial and

1 performance reports regarding the demand-side management programs, including the specific level
2 of funds that were contributed by the residential, municipal, and commercial and industrial sectors
3 to the overall programs; the businesses, vendors, and institutions that received funding from
4 demand-side management gas and electric funds used for the purposes in this section; and the
5 businesses, vendors, and institutions that received the administrative funds for the purposes in
6 subsections (i) and (j). These reports shall be posted electronically on the websites of the office of
7 energy resources and the energy efficiency and resources management council.

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

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

15 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 from March 1, 2024, to March 1, 2036, the obligation of the
2 commissioner of the office of energy resources and the energy efficiency and resource management
3 council to provide triennial commission findings and recommendations, with regards to system
4 reliability, energy efficiency and conservation procurement. It also extends until January 1, 2036,
5 the obligation of electric distribution companies to include a charge to fund demand-side
6 management programs.

7 This act would take effect upon passage.

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