2022 -- H 7531

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - NET METERING- RENEWABLE ENERGY GROWTH

Introduced By: Representatives Speakman, Cortvriend, Carson, Donovan, Fogarty, Potter, McGaw, and Fellela

Date Introduced: February 18, 2022

Referred To: House Corporations

It is enacted by the General Assembly as follows:

SECTION 1. Sections 39-26.4-2 and 39-26.4-3 of the General Laws in Chapter 39-26.4 entitled "Net Metering" are hereby amended to read as follows:


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

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

(2) “Conservation opportunity areas” means areas identified in the 2015 DEM Wildlife Action Plan as priority areas for conserving Rhode Island’s species of greatest conservation need and key habitats. The terrestrial components of these areas include: core forests (unfragmented forest blocks greater than two hundred fifty (250) acres, high value and high vulnerability habitat, natural heritage areas (which represent known occurrences of rare species), important coastal habitats, and corridors (largely undeveloped paths that connect the core natural areas, river corridors, and other pathways).

(2)(3) "Electric distribution company" shall have the same meaning as § 39-1-2, but shall not include Block Island Power Company or Pascoag Utility District, each of whom shall be required to offer net metering to customers through a tariff approved by the public utilities commission after a public hearing. Any tariff or policy on file with the public utilities commission on the date of passage of this chapter shall remain in effect until the commission approves a new tariff.

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

(i) Residential accounts in good standing.

(ii) "Low- or moderate-income housing eligible credit recipient" means an electric service account or accounts in good standing associated with any housing development or developments owned or operated by a public agency, nonprofit organization, limited-equity housing cooperative, or private developer that receives assistance under any federal, state, or municipal government program to assist the construction or rehabilitation of housing affordable to low- or moderate-income households, as defined in the applicable federal or state statute, or local ordinance, encumbered by a deed restriction or other covenant recorded in the land records of the municipality in which the housing is located, that:

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

(B) Restricts the monthly rent, including a utility allowance, that may be charged to residents, to an amount that does not exceed thirty percent (30%) of the gross, monthly income of a household earning eighty percent (80%) of the area median income as defined annually by HUD;
(C) Has an original term of not less than thirty (30) years from initial occupancy.

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

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

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

(5)(6) "Eligible net-metering system" means a facility generating electricity using an eligible net-metering resource that is reasonably designed and sized to annually produce electricity in an amount that is equal to, or less than, the renewable self-generator's usage at the eligible net-metering system site measured by the three-year (3) average annual consumption of energy over the previous three (3) years at the electric distribution account(s) located at the eligible net-metering system site. A projected annual consumption of energy may be used until the actual three-year (3) average annual consumption of energy over the previous three (3) years at the electric distribution account(s) located at the eligible net-metering system site becomes available for use in determining eligibility of the generating system. The eligible net-metering system may be owned by the same entity that is the customer of record on the net-metered accounts or may be owned by a third party that is not the customer of record at the eligible net-metering system site and which may offer a third-party, net-metering financing arrangement or net-metering financing arrangement, as applicable. Notwithstanding any other provisions of this chapter, any eligible net-metering resource: (i) Owned by a public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative or (ii) Owned and operated by a renewable-generation developer on behalf of a public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative through a net-metering financing arrangement shall be treated as an eligible net-metering system and all accounts designated by the public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative for net metering shall be treated as accounts eligible for net metering within an eligible net-metering system site. Notwithstanding any other provision of this chapter, no net-metering system located or planned to be located on or in a conservation opportunity area shall be considered an "eligible net metering system" as provided pursuant to § 39-26.4-3(a).

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

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

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

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

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

(12) "Municipality" means any Rhode Island town or city, including any agency or instrumentality thereof, with the powers set forth in title 45.

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

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

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

"Nonprofit" means a nonprofit corporation as defined and established through
chapter 6 of title 7, and shall include religious organizations that are tax exempt pursuant to 26

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

"Preferred sites" means landfills, gravel pits, golf courses, brownfields, superfund sites, parking lots or sites that are designated appropriate for carports, and all rooftops including, but not limited to, those on residential, commercial, industrial, agricultural, and municipal buildings.

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

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

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

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

(iii) Transmission kilowatt-hour charge; and

(iv) Transition kilowatt-hour charge.

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

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

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

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


(a) The following policies regarding net metering of electricity from eligible net-metering systems and community remote net-metering systems and regarding any person that is a renewable self-generator shall apply:

(1)(i) The maximum allowable capacity for eligible net-metering systems, based on nameplate capacity, shall be ten megawatts (10 MW), effective sixty (60) days after passage for systems that either have requested an interconnection study for which payment has been received by the distribution company or, if an interconnection study is not required, have completed and paid for an interconnection application by date of passage. For all other eligible net-metering systems that have not requested an interconnection study, the maximum allowable capacity shall be ten megawatts (10 MW), effective sixty (60) days after passage.
systems, the projects shall not be sited in conservation opportunity areas. For projects in preferred sites, there is no cap on project size. The aggregate amount of net metering in the Block Island Utility District doing business as Block Island Power Company and the Pascoag Utility District shall not exceed a maximum percentage of peak load for each utility district as set by the utility district based on its operational characteristics, subject to commission approval; and

(ii) Through December 31, 2018, the maximum aggregate amount of community remote net-metering systems built shall be thirty megawatts (30 MW). Any of the unused MW amount after December 31, 2018, shall remain available to community remote net-metering systems until the MW aggregate amount is interconnected. After December 31, 2018, the commission may expand or modify the aggregate amount after a public hearing upon petition by the office of energy resources. The commission shall determine within six (6) months of such petition being docketed by the commission whether the benefits of the proposed expansion exceed the cost. This aggregate amount shall not apply to any net-metering financing arrangement involving public entity facilities, multi-municipal collaborative facilities, educational institutions, the federal government, hospitals, or nonprofits. By June 30, 2018, the commission shall conduct a study examining the cost and benefit to all customers of the inclusion of the distribution charge as a part of the net-metering calculation.

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

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

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

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

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

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

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

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

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

Program" are hereby amended to read as follows:

39-26.6-1. Purpose.

The purpose of this chapter is to enable the state to meet its climate and resilience goals,
including those established in chapter 6.2 of title 42 ("act on climate"). This includes the goals to
facilitate and promote installation of grid-connected generation of renewable energy; support and
encourage development of distributed renewable energy generation systems while protecting
important conservation opportunity areas essential to climate resilience and complying with Rhode
Island's climate change mandates; reduce environmental impacts; reduce carbon emissions that
contribute to climate change by encouraging the siting of renewable energy projects in the load
zone of the electric distribution company and in preferred areas that have already been disturbed
by industry or other uses; diversify the energy-generation sources within the load zone of the
electric distribution company; stimulate economic development; improve distribution-system
resilience and reliability within the load zone of the electric distribution company; and reduce
distribution-system costs.


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

(1) "Board" shall mean the distributed-generation board as established pursuant to the
provisions of § 39-26.2-10 under the title distributed generation standard contract board, but shall
also fulfill the responsibilities set forth in this chapter.

(2) "Ceiling price" means the bidding price cap applicable to an enrollment for a given
distributed-generation class, that shall be approved annually for each renewable energy class
pursuant to the procedure established in this chapter. The ceiling price for each technology should
be a price that would allow a private owner to invest in a given project at a reasonable rate of return,
based on recently reported and forecast information on the cost of capital and the cost of generation
equipment. The calculation of the reasonable rate of return for a project shall include, where
applicable, any state or federal incentives, including, but not limited to, tax incentives.

(3) "Commercial-scale solar project" means a solar distributed-generation project with the
(4) "Commission" means the Rhode Island public utilities commission.

(5) "Community remote distributed-generation system" means a distributed-generation facility greater than two hundred fifty kilowatt (250 KW) nameplate direct current that allocates bill credits for each kilowatt hour (KWh) generated to a minimum of three (3), eligible recipient-customer accounts, provided that no more than fifty percent (50%) of the credits produced by the system are allocated to one eligible recipient-customer account, and provided further that at least fifty percent (50%) of the credits produced by the system are allocated to eligible recipients in an amount not to exceed that which is produced annually by twenty-five kilowatt (25 KW) AC capacity. The community remote distributed-generation system may transfer credits to eligible recipient-customer accounts in an amount that is equal to, or less than, the sum of the usage of the eligible recipient-customer accounts measured by the three-year-average (3) annual consumption of energy over the previous three (3) years. A projected, annual consumption of energy may be used until the actual three-year-average (3) annual consumption of energy over the previous three (3) years at the eligible recipient-customer accounts becomes available for use in determining eligibility of the generating system. The community remote distributed-generation system may be owned by the same entity that is the customer of record on the net-metered account or may be owned by a third party.

(6) "Conservation opportunity areas" means areas identified in the 2015 DEM wildlife action plan as priority areas for conserving Rhode Island’s species of greatest conservation need and key habitats. The terrestrial components of these areas include: core forests (unfragmented forest blocks greater than two hundred fifty (250) acres, high value and high vulnerability habitat, natural heritage areas (which represent known occurrences of rare species), important coastal habitats, and corridors (largely undeveloped paths that connect the core natural areas, river corridors, and other pathways).

Notwithstanding any other provision of this chapter, no renewable-distributed-generation project that is located or planned to be located in or on a conservation opportunity area shall be considered an eligible renewable-distributed-generation project or otherwise be eligible to participate in this program.

(7) "Distributed-generation facility" means an electrical-generation facility located in the electric distribution company's load zone with a nameplate capacity no greater than five megawatts (5 MW), using eligible renewable energy resources as defined by § 39-26-5, including biogas created as a result of anaerobic digestion, but, specifically excluding all other listed eligible biomass fuels, and connected to an electrical power system owned, controlled, or operated by the
electric distribution company. For purposes of this chapter, a distributed-generation facility must be a new resource that:

   (i) Has not begun operation;

   (ii) Is not under construction, but excluding preparatory site work that is less than twenty-five percent (25%) of the estimated total project cost; and

   (iii) Except for small-scale solar projects, does not have in place investment or lending agreements necessary to finance the construction of the facility prior to the submittal of an application or bid for which the payment of performance-based incentives is sought under this chapter except to the extent that such financing agreements are conditioned upon the project owner being awarded performance-based incentives under the provisions of this chapter. For purposes of this definition, preexisting hydro generation shall be exempt from the provisions of subsection (6)(i) regarding operation, if the hydro-generation facility will need a material investment to restore or maintain reliable and efficient operation and meet all regulatory, environmental, or operational requirements. For purposes of this provision, “material investment” shall mean investment necessary to allow the project to qualify as a new, renewable energy resource under § 39-26-2. To be eligible for this exemption, the hydro-project developer at the time of submitting a bid in the applicable procurement must provide reasonable evidence with its bid application showing the level of investment needed, along with any other facts that support a finding that the investment is material, the determination of which shall be a part of the bid review process set forth in § 39-26.6-16 for the award of bids.

   (8) "Distributed-generation project” means a distinct installation of a distributed-generation facility. An installation will be considered distinct if it does not violate the segmentation prohibition set forth in § 39-26.6-9.

   (9) "Electric distribution company” means a company defined in § 39-1-2(a)(12), supplying standard-offer service, last-resort service, or any successor service to end-use customers, but not including the Block Island Power Company or the Pascoag Utility District.


   (11) "Large distributed-generation project” means a distributed-generation project that has a nameplate capacity that exceeds the size of a small distributed-generation project in a given year, but is no greater than five megawatts (5 MW) nameplate capacity.

   (12) "Large-scale solar project” means a solar distributed-generation project with the nameplate capacity specified in § 39-26.6-7.
(12) “Medium-scale solar project” means a solar distributed-generation project with the nameplate capacity specified in § 39-26.6-7.

(13) "Office" means the Rhode Island office of energy resources.

(14) "Preferred sites" means landfills, gravel pits, golf courses, brownfields, superfund sites, parking lots or sites that are designated appropriate for carports, and all rooftops including, but not limited to, those on residential, commercial, industrial, agricultural, and municipal buildings.

(15) "Program year" means a year beginning April 1 and ending March 31, except for the first program year, that may commence after April 1, 2015, subject to commission approval.

(16) "Renewable energy certificate" means a New England Generation Information System renewable energy certificate as defined in § 39-26-2(14).

(17) "Renewable energy classes" means categories for different renewable energy technologies using eligible renewable energy resources as defined by § 39-26-5, including biogas created as a result of anaerobic digestion, but, specifically excluding all other listed eligible biomass fuels specified in § 39-26-2(6). For each program year, in addition to the classes of solar distributed generation specified in § 39-26.6-7, the board shall determine the renewable energy classes as are reasonably feasible for use in meeting distributed-generation objectives from renewable energy resources and are consistent with the goal of meeting the annual target for the program year. The board may make recommendations to the commission to add, eliminate, or adjust renewable energy classes for each program year, provided that the solar classifications set forth in § 39-26.6-7 shall remain in effect for at least the first two (2) program years and no distributed-generation project may exceed five megawatts (5 MW) of nameplate capacity be sited in conservation opportunity areas.

(18) "Shared solar facility" means a single small-scale or medium-scale solar facility that must allocate bill credits to at least two (2), and no more than fifty (50), accounts in the same customer class and on the same or adjacent parcels of land. Public entities may allocate such bill credits to at least two (2), and up to fifty (50), accounts without regard to physical location so long as the facility and accounts are within the same municipality. In no case will the annual allocated credits in KWh exceed the prior three-year (3) annual average usage, less any reductions for verified energy-efficiency measures installed at the customer premises, of the customer account to which the bill credits are transferred.

(19) "Small distributed-generation project" means a distributed-generation renewable energy project that has a nameplate capacity within the following: Wind: fifty kilowatts (50 KW) to one and one-half megawatts (1.5 MW); small-scale solar projects and medium-scale solar
projects with the capacity limits as specified in § 39-26.6-7. For technologies other than solar and wind, the board shall set the nameplate capacity-size limits, but such limits may not exceed one megawatt (1 MW).

(19)(21) "Small-scale solar project" means a solar distributed-generation project with the nameplate capacity specified in § 39-26.6-7.

39-26.6-4. Continuation of board.

(a) The distributed generation standard contract board shall remain fully constituted and authorized as provided in chapter 26.2 of this title; provided, however, that the name shall be changed to the "distributed-generation board." Additional purposes of the board shall be to:

(1) Evaluate and make recommendations to the commission regarding ceiling prices and annual targets, the make-up of renewable energy classifications eligible under the distributed-generation growth program, the terms of the tariffs, and other duties as set forth in this chapter;

(2) Provide consistent, comprehensive, informed, and publicly accountable involvement by representatives of all interested stakeholders affected by, involved with, or knowledgeable about the development of distributed-generation projects that are eligible for performance-based incentives under the distributed-generation growth program; and

(3) Monitor and evaluate the effectiveness of the distributed-generation growth program.

(b) The office, in consultation with the board, shall be authorized to hire, or to request the electric distribution company to hire, the services of qualified consultants to make any studies of conditions, activities, or problems related to the state's energy needs, usage, and supplies to carry out its responsibilities, which shall include performing ceiling price studies subject to commission approval that shall be granted or denied within sixty (60) days of receipt of such request from the office. The cost of the studies consultants shall be recoverable through the rate-reconciliation provisions of the electric distribution company set forth in § 39-26.6-25, subject to commission approval. In addition, the office, in consultation with the board, may request the commission to approve other costs incurred by the board, office, or the electric distribution company to utilize consultants for annual programmatic services or to perform any other studies and reports, subject to the review and approval of the commission, that shall be granted or denied within one hundred twenty (120) days of receipt of the request from the office, and that shall be recoverable through the same reconciliation provisions.

(c) Revenues generated through the rate reconciliation process to finance the expenses incurred as outlined in subsection (b) shall be transferred to the office and deposited in a restricted-receipt account within the general fund. The restricted-receipt account shall be exempt from the indirect cost recovery assessment under § 35-4-27.
39-26.6-5. Tariffs proposed and approved.

(a) Each year, for a period of at least five (5) program years, the electric distribution company shall file tariffs with the commission that are designed to provide a multiyear stream of performance-based incentives to eligible renewable-distributed-generation projects for a term of years, under terms and conditions set forth in the tariffs and approved by the commission. The tariffs shall set forth the rights and obligations of the owner of the distributed-generation project and the conditions upon which payment of performance-based incentives by the electric distribution company will be paid. The tariffs shall include the non-price conditions set forth in §§ 39-26.2-7(2)(i) -- (vii) for small distributed-generation projects (other than small- and medium-scale solar) and large distributed-generation projects; provided, however, that the time periods for the projects to reach ninety percent (90%) of output shall be extended to twenty-four (24) months (other than eligible anaerobic-digestion projects, which shall be thirty-six (36) months, and eligible small-scale hydro, which shall be forty-eight (48) months). The non-price conditions in the tariffs for small- and medium-scale solar shall take into account the different circumstances for distributed-generation projects of the smaller sizes.

(b) In addition to the tariff(s), the filing shall include the rules governing the solicitation and enrollment process. The solicitation rules will be designed to ensure the orderly functioning of the distributed-generation growth program and shall be consistent with the legislative purposes of this chapter.

(c) In proposing the tariff(s) and solicitation rules applicable to each year, the tariff(s) and rules shall be developed by the electric distribution company and will be reviewed by the office and the board before being sent to the commission for its approval. The proposed tariffs shall include the ceiling prices and term lengths for each tariff that are recommended by the board. The term lengths shall be from fifteen (15) to twenty (20) years; provided, however, that the board may recommend shorter terms for small-scale solar projects. Whatever term lengths between fifteen (15) and twenty (20) years are chosen for any given tariff, the evaluation of the bids for that tariff shall be done on a consistent basis such that the same term lengths for competing bids are used to determine the winning bids.

(d) The board shall use the same standards for setting ceiling prices as set forth in § 39-26.2-5. In setting the ceiling prices, the board may specifically consider:

1. Transactions for newly developed renewable energy resources, by technology and size, in the ISO-NE control area and the northeast corridor;
2. Pricing from bids received during the previous program year;
3. Environmental benefits, including, but not limited to, reducing carbon emissions;
(4) For community remote distributed-generation systems, administrative costs and financial benefits for participating customers;

(5) System benefits;

(6) Cost-effectiveness;

(7) Location of projects, including climate resilience and conservation benefits; and

(8) Labor standards to promote fair labor standards, support local jobs and prioritize hiring and training for workers adversely affected by the transition to renewable energy, and are underrepresented in the workforce, or facing employment barriers, including women, people of color, veterans, formerly incarcerated individuals, and people with disabilities.

(e) At least forty-five (45) days before filing the tariff(s) and solicitation rules, the electric distribution company shall provide the tariff(s) and rules in draft form to the board for review. The commission shall have the authority to determine the final terms and conditions in the tariff and rules. Once approved, the commission shall retain exclusive jurisdiction over the performance-based incentive payments, terms, conditions, rights, enforcement, and implementation of the tariffs and rules, subject to appeals pursuant to chapter 5 of this title.


(a) Tariff(s) shall be proposed for each of the following solar distributed-generation classes:

(1) Small-scale solar projects;

(2) Medium-scale solar projects;

(3) Commercial-scale solar projects; and

(4) Large-scale solar projects;

(5) Solar installed on carports; and

(6) Solar installed on school buildings.

(b) Such classes of solar distributed-generation projects shall be established based on nameplate megawatt size as follows:

(1) Large scale: solar projects from one megawatt (1 MW), up to and including, five megawatts (5 MW) nameplate capacity;

(2) Commercial scale: solar projects greater than two hundred fifty kilowatts (250 KW), but less than one megawatt (1 MW) nameplate capacity;

(3) Medium scale: solar projects greater than twenty-five kilowatts (25 KW), up to and including, two hundred fifty kilowatts (250 KW) nameplate capacity; and

(4) Small scale: solar projects, up to and including, twenty-five kilowatts (25 KW) nameplate capacity.
(c) Other classifications of solar projects may also be proposed by the board, including projects greater than five megawatts (5MW) if they are sited in preferred sites, subject to the approval of the commission. After the second program year, the board may make recommendations to the commission to adjust the size categories of the solar classes, provided that the medium-scale solar projects may not exceed two hundred fifty kilowatts (250 KW); and/or allocated capacity to community distributed-generation facilities, allowing them to compete or enroll under a distinct ceiling price.


(a) With the exception of the first program year (2015), the electric distribution company, in consultation with the board and office, shall conduct at least three (3) tariff enrollments for each distributed-generation class each program year. For the first program year, the board may recommend that either two (2) or three (3) enrollments be conducted.

(b) During each program year, the tariff enrollments shall have both an annual targeted amount of nameplate megawatts ("annual MW target") and a nameplate megawatt target for each separate enrollment event ("enrollment MW target"). The enrollment MW target shall comprise the specific portion of the annual MW target sought to be obtained in that enrollment. The enrollment MW targets shall be recommended by the board each year, subject to commission approval. The board shall also recommend a megawatt target for each class ("class MW target") that comprises a specified portion of the enrollment MW target, subject to commission approval. If the electric distribution company, the office, and the board mutually agree, they may reallocate megawatts during an enrollment from one class to another without commission approval if there is an over-subscription in one class and an under-subscription in another, provided that the annual MW target is not being exceeded, except as provided in § 39-26.6-7.

(c) The annual MW targets shall be established as follows; provided, however, that at least three megawatts (3 MW) of nameplate capacity shall be carved out exclusively for small-scale solar projects in each of the first four (4) program years:

(1) For the first program year (2015), the annual MW target shall be twenty-five nameplate megawatts (25 MW);

(2) For the second program year, the annual targets shall be forty nameplate megawatts (40 MW);

(3) For the third and fourth program years, the annual target shall be forty nameplate megawatts (40MW), subject to the conditions set forth in subsection (f) of this section having been met for the applicable prior program year as determined in the manner specified in subsection (g) of this section;
(4) For the fifth program year, the annual target shall be set to obtain the balance of capacity needed to achieve one hundred sixty nameplate megawatts (160 MW) within the five-year (5) distributed-generation growth program, subject to subsection (e) of this section and the conditions set forth in subsection (f) of this section having been met for the fourth program year as determined in the manner specified in subsection (g) of this section; and

(5) From the year 2020 through the year 2029, all projects that bid in under the relevant ceiling price are eligible, with the annual target of up to two hundred megawatts (200 MW) for each program year shall be an additional forty nameplate megawatts (40 MW) above the annual target for the preceding program year.

(d) During the fifth year of the distributed-generation growth program, the board may recommend to the commission an extension of time in the event that additional time is required to achieve the full one hundred sixty nameplate megawatt (160 MW) target of the program. The commission shall approve the recommendation of the board; provided, however, that the commission may make any modifications to the board's recommendation that the commission deems appropriate, consistent with the legislative purposes of this chapter as set forth herein.

(e) To the extent there was a shortfall of capacity procured under chapter 26.2 of this title from distributed-generation procurements in 2014, such shortfall amount may be added to the one hundred sixty megawatt (160 MW) target for acquisition in the fifth program year under this chapter. In no event shall the electric distribution company be required to exceed the aggregate amount of one hundred sixty (160) nameplate capacity plus any such shortfall amount over the five (5) years, but may do so voluntarily, in consultation with the board and subject to commission approval.

(f) The conditions specified in subsections (c)(3) and (c)(4) of this section are as follows:

(1) That it is reasonable to conclude that the bid prices submitted in the procurements for the large-scale solar and commercial-scale solar classes were reasonably competitive in the immediately preceding program year; (2) That it is reasonable to conclude that the annual MW target specified for the next program year is reasonably achievable; and (3) That the electric distribution company was able to, or with reasonably prudent efforts should have been able to, perform the studies and system upgrades on a timely basis necessary to accommodate the number of applications associated with the targets without materially adversely affecting other electric-distribution construction projects needed to provide reliable and safe electric-distribution service. To the extent the board or the commission concludes that any of these conditions have not been met for the applicable program year, the board may recommend, and/or the commission may adopt, a new annual MW target, based on the factors set forth in subsection (h) of this section.
(g) Before the third, fourth, and fifth program years, each year the board shall review the conditions specified in subsection (f) of this section and make a recommendation to the commission for findings as to whether they have been met for the applicable year. The recommendation shall be filed with the commission, with copies to the office and the electric distribution company, and any person who has made a written request to the commission to be included in such notification, such list which may be obtained from the commission clerk, and a notice of such filing shall be posted by the commission on its website. If no party files an objection to the recommended findings within ten (10) business days of the posting, the commission may accept them without hearings. If an objection is filed with a reasonable explanation for its basis, the commission shall hold hearings and make the factual determination of whether the conditions have been met.

(h) In the event that the conditions in subsection (f) of this section have not been met for any program year, then the board and the commission shall take into account the factors set forth below in setting the annual MW target for the following year. In addition, for every program year the board and the commission shall take into account these factors in setting the class MW targets, and the enrollment MW targets for the following year: (1) That the new annual, class, and enrollment levels reasonably assure that competition among projects for the applicable bidding classifications remains robust and likely to yield reasonable and competitive program costs; (2) That, assuming prudent management of the program, the electric distribution company should be able to perform the studies and system upgrades on a timely basis necessary to accommodate the number of applications associated with the targets without materially adversely affecting other electric-distribution construction projects needed to provide reliable and safe electric-distribution service; and (3) Any other reasonable factors that are consistent with the legislative purpose of this chapter as set forth herein, including the program purpose to facilitate the development of renewable distributed generation in the load zone of the electric distribution company at reasonable cost.

(i) The renewable energy growth program is intended to achieve at least an aggregate amount of one hundred sixty nameplate megawatts (160 MW) over five (5) years, plus any shortfall amount added in pursuant to subsection (e) of this section. However, after the second program year, the board may, based on market data and other information available to it, including pricing received during previous program years, recommend changes to the annual target for any program year above or below the specified targets in subsection (c) of this section if the board concludes that market conditions are likely to produce favorably low or unfavorably high target pricing during the upcoming program year, provided that the recommendation may not result in the five-year (5), one-hundred-sixty-megawatt-nameplate (160 MW) target, plus any shortfall added pursuant to
subsection (e) of this section, being exceeded. Any megawatt reduction in an annual target shall be
added to the target in the fifth year of the program (and any subsequent years if necessary) such
that the overall program target of one-hundred-sixty-megawatt-nameplate (160 MW) capacity, plus
any shortfall added pursuant to subsection (e) of this section, is achieved. In considering these
issues, the board and the commission may take into account the reasonableness of current pricing
and its impact on all electric distribution customers and the legislative purpose of this chapter as
set forth herein, including the program purpose to facilitate the development of renewable
distributed generation in the load zone of the electric distribution company at reasonable cost.

(j) The provisions of § 39-26.1-4 shall apply to the annual value of performance-based
incentives (actual payments plus the value of net-metering credits, as applicable) provided by the
electric distribution company to all the distributed-generation projects under this chapter, subject
to the following conditions:

(1) The targets set for the applicable program year for the applicable project classifications
were met or, if not met, such failure was due to factors beyond the reasonable control of the electric
distribution company;

(2) The electric distribution company has processed applications for service and completed
interconnections in a timely and prudent manner for the projects under this chapter, taking into
account factors within the electric distribution company’s reasonable control. The commission is
authorized to establish more specific performance standards to implement the provisions of this
chapter; and

(3) The incentive shall be one and three-quarters percent (1.75%) of the annual value of
performance-based incentives. The commission is authorized to establish more specific
performance standards to implement the provisions of this paragraph.


In order to provide the electric distribution company and the board with the flexibility to
encourage distributed-generation projects to be located in designated geographical areas within its
load zone where there is an identifiable system benefit, reliability benefit, or cost savings to the
distribution system, conservation benefit, or climate resilience benefit in that geographical area, the
electric distribution company, in consultation with the board, or and the office, may shall propose
to include an incentive-payment adder to the bid price of any winning bidder that proposes a
distributed-generation project in the preferred sites that require remediation. The company, board,
or office can also propose disincentive subtractors for projects outside of preferred sites desired
geographical area. The electric distribution company also may propose other incentive payments
to achieve other technical or public policy objectives that provide identifiable benefits to customers.
Any incentive-payment adders must be approved by the commission, and shall not be counted as part of the bid price when the bids are selected at an enrollment event.

SECTION 3. This act shall take effect upon passage.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS - NET METERING - RENEWABLE ENERGY GROWTH

***

1 This act would provide that certain eligible net-metering systems projects, including solar
2 siting, cannot be sited in conservation opportunity areas.
3 This act would take effect upon passage.

==========
LC004640
==========