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LC003841/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- VEGETATION MANAGEMENT
FOR ELECTRIC SYSTEM RELIABILITY

Introduced By: Representatives Kennedy, Azzinaro, Diaz, Casimiro, Ackerman, and
Edwards

Date Introduced: January 10, 2024

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 2-14-5 of the General Laws in Chapter 2-14 entitled "Tree Wardens"
2 is hereby amended to read as follows:

3 **2-14-5. Trees under control of warden — Entry on private property.**

4 (a) The tree warden in a town or city has the care and control of all trees and shrubs, in
5 whole or in part within the limits of any public road or grounds and within the limits of his or her
6 town or city, except those on roads under the control of the department of transportation and those
7 in public parks or grounds which are under the jurisdiction and control of the department of
8 environmental management or the park commission of any town or city. The tree warden may
9 assume the care and control of trees or shrubs in any public park if requested, in writing, by the
10 department of environmental management or the park commission of any city or town. The care
11 and control extends to any limbs, roots or parts of trees and shrubs that extend or overhang the
12 limits or bounds of any public road or grounds, and the tree warden, or his or her agent, or an
13 authorized agent of the department of transportation, or an authorized agent of the department of
14 environmental management, or an authorized agent of the park commission of any town or city,
15 may enter upon private property when necessary to exercise care and control.

16 **(b) Notwithstanding the provisions of subsection (a) of this section, an electric distribution**
17 **company shall have the right to carry out vegetation management standards and practices as**
18 **approved by the division of public utilities and carriers under § 39-33-3.**

1 SECTION 2. Sections 2-15-6 and 2-15-8 of the General Laws in Chapter 2-15 entitled
2 "Protection of Trees and Plants Generally" are hereby amended to read as follows:

3 **2-15-6. Injuries to trees and shrubs prohibited.**

4 (a) [Except as provided for in chapter 33 of title 39, no](#) ~~No~~ person shall, without the consent
5 of the tree warden, the department of transportation, the department of environmental management,
6 or the park commission of any town or city use climbing spurs for the purpose of climbing
7 ornamental or shade trees, and no person or agent of a firm or corporation shall remove, cut down,
8 prune, wilfully injure, or deface any shrub or tree within the limits of any public way or grounds
9 without the written permission of the tree warden, or the department of transportation, or the
10 department of environmental management, or the park commission of any town or city.

11 (b) Any person, firm or corporation removing or cutting down a tree located along a state
12 or municipal highway shall replace the tree with a hardy young tree of a similar kind in the same
13 general location of the tree cut down or removed.

14 **2-15-8. Permits for cutting or removal of plants or debris — Replacement of damaged**
15 **or removed trees.**

16 (a) Whenever any person, firm or corporation other than a tree warden or his or her deputy,
17 or an authorized agent of the department of transportation, or an authorized agent of the department
18 of environmental management, or an authorized agent of the park commission of any town or city,
19 [or an electric distribution company that is effectuating vegetation management standards and](#)
20 [practices as approved by the division of public utilities and carriers pursuant to § 39-33-3,](#) desires
21 the cutting or removal, in whole or in part, of any public shrub or ornamental or shade tree, or the
22 burning of any rubbish or debris upon any public highway or in any park or public grounds, that
23 person, firm or corporation shall apply in writing to the tree warden or the department of
24 transportation, the department of environmental management, or the park commission of any town
25 or city, as the case may be, for permission to do the cutting, removing or burning and shall obtain
26 a written permit before the cutting, removing or burning shall commence.

27 (b) When the application is made for the cutting or removal of trees along any public
28 highway for the purpose of moving, constructing or demolishing any building, the permit shall
29 contain a provision that the applicant shall replace any trees that are removed or in the opinion of
30 the issuer are substantially damaged in the process at his or her own expense and file a bond in an
31 amount and with surety suitable to the issuer of the permit to assure performance of the same. The
32 sum of the diameter of the replacement trees shall be substantially equivalent to the sum of the
33 diameters of the trees which were cut or removed, and shall be planted within the immediate
34 community area.

1 (c) Any person, firm, corporation or governmental entity that removes or substantially
2 damages, in whole or in part, any tree on public grounds shall replace the tree with a substantially
3 equivalent tree or trees, the sum of the diameters of which are equal to twice that removed or
4 damaged, in the immediate vicinity of the tree removed or damaged. This subsection does not apply
5 to a public utility or its authorized agent when the work being performed is in accordance with a
6 written tree trimming and tree replacement program filed with and approved by the tree warden in
7 the municipality where the work is being done or by the state forester for work to be performed on
8 state land and in municipalities that do not have functioning tree wardens [or in accordance with](#)
9 [vegetation management standards and practices approved pursuant to § 39-33-3.](#)

10 SECTION 3. Section 11-35-1 of the General Laws in Chapter 11-35 entitled "Public
11 Utilities" is hereby amended to read as follows:

12 **11-35-1. Consent of property owner required for electric lines — Tree-trimming —**
13 **Removal on notice.**

14 ~~No~~ [Except as provided for in chapter 33 of title 39, no](#) person shall place any electric wire,
15 apparatus, pole, bracket, insulator, or other device or appliance for the purpose of conducting
16 currents of electricity upon any private property without the consent of the owners or of the agent
17 of the owners; nor shall any electric wire, apparatus, pole, bracket, insulator, or other device or
18 appliance for the purpose of conducting currents of electricity be passed through or affixed to any
19 tree useful for shade or ornamental purposes, nor shall a tree be cut, trimmed, or interfered with,
20 except under the direction and immediate supervision of the surveyor of highways in whose district
21 the tree is located; provided, that any owner or agent may give notice in writing to the person or
22 corporation owning any electric wire, apparatus, pole, bracket, insulator, or other device or
23 appliance for the purpose of conducting currents of electricity when it shall have been so placed
24 with the consent of the owner or agent, to remove it or any of them from any private property within
25 thirty (30) days after the delivery of the notice, and that, in default of the removal in accordance
26 with the terms of the notice, the owner or agent may remove them or any of them.

27 SECTION 4. Section 34-20-1 of the General Laws in Chapter 34-20 entitled "Trespass and
28 Actions for Possession" is hereby amended to read as follows:

29 **34-20-1. Liability for unauthorized cutting of trees or wood.**

30 ~~Every~~ [Except as provided for in chapter 33 of title 39, every](#) person who shall cut, destroy,
31 or carry away any tree, timber, wood or underwood whatsoever, lying or growing on the land of
32 any other person, without leave of the owner thereof, shall, for every such trespass, pay the party
33 injured twice the value of any tree so cut, destroyed, or carried away; and for the wood or
34 underwood, thrice the value thereof; to be recovered by civil action.

1 SECTION 5. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 33

4 VEGETATION MANAGEMENT FOR ELECTRIC SYSTEM RELIABILITY

5 **39-33-1. Legislative findings.**

6 The general assembly finds and declares:

7 (1) Global climate change is increasing the frequency and intensity of storm events, and is
8 increasing the number of harmful pests and fungi that threaten local trees and other vegetation;

9 (2) Tree-related damage is the leading cause of power outages, and these risks are amplified
10 during storm events;

11 (3) Power restoration efforts are vital; however, these efforts are costly endeavors for local
12 ratepayers and for our economy;

13 (4) More comprehensive and statewide vegetation management standards and practices can
14 reduce the likelihood of power outages, drive utility cost efficiencies, enhance public safety, and
15 help reduce ratepayer costs;

16 (5) Electric system reliability is paramount for a modern and vibrant economy, and is
17 critical to the safety and well-being of all citizens - particularly as society's dependence on the grid
18 increases due to the electrification of transportation, heating and other energy demands; and

19 (6) A uniform and streamlined process for authorizing the electric distribution company's
20 management of vegetation that encroaches upon or is likely to encroach upon electric distribution
21 system equipment will help drive system and cost efficiencies across the grid and ensure
22 communities and property owners are treated equitably across the state.

23 **39-33-2. Definitions.**

24 When used in this chapter:

25 (1) "Commission" means the Rhode Island public utilities commission.

26 (2) "Division" means the Rhode Island division of public utilities and carriers.

27 (3) "Right tree, right place program" means a set of voluntary recommendations and
28 educational materials for property owners to consider when planting and/or maintaining trees and
29 other vegetation to prevent impacts to the electric distribution system, avoid potentially hazardous
30 conditions, and help reduce the frequency of power outages.

31 (4) "Vegetation management standards and practices" means, but is not limited to, a set of
32 utility pruning specifications, standards, and practices related to the care and maintenance of trees,
33 shrubs, and other woody plants located on or near electric distribution system infrastructure, with
34 a purpose to prevent the loss of electric service, strengthen electric distribution system reliability

1 and safety, prevent damage to utility equipment, avoid access impairment, and uphold the intended
2 usage of the facility and/or utility space.

3 **39-33-3. Vegetation management standards and practices.**

4 (a) Each electric distribution company as defined by § 39-1-2(a) having greater than one
5 hundred thousand (100,000) customers shall file with the division vegetation management
6 standards and practices for application across its service territory.

7 (b) Vegetation management standards and practices shall, at a minimum, include the
8 following:

9 (1) Specifications, under various design scenarios, for vegetation clearing on and around
10 utility infrastructure along public and private rights of way;

11 (2) A notification process for municipalities, state agencies, and/or private property owners
12 that may be impacted by vegetation management activities. This process shall provide notification
13 to affected parties at least thirty (30) days in advance of any scheduled vegetation management
14 activity and allow for exclusions to preserve public safety and/or respond to storm or other
15 emergency events. Notification shall include how a customer can contact the electric distribution
16 company with questions or complaints concerning vegetation management activities and provide a
17 toll-free telephone number with service in English and Spanish. For municipalities, notification
18 shall be provided to tree wardens and shall include a workplan that provides information on the
19 locations, vendors, and schedules associated with planned vegetation management activities in the
20 community;

21 (3) Establishment of an educational outreach "right tree, right place" program that provides
22 the public with information including, but not limited to, the types of trees and other vegetation that
23 can be safely planted near utility-owned power lines and other electric system infrastructure, and
24 recommended set back dimensions for new plantings near utility infrastructure. The program may
25 also give consideration to municipal tree inventories, tree equity programs and tree canopy
26 programs where they exist. The electric distribution company may partner with state agencies,
27 municipalities, tree wardens and/or community or nonprofit organizations in the development
28 and/or implementation of this program;

29 (4) A website hosted by the electric distribution company that includes a copy of proposed
30 or approved vegetation management standards and practices, and related reference and educational
31 materials including those materials developed pursuant to subsection (b)(3) of this section, and
32 provides a toll-free customer service number with service in English and Spanish for customer
33 questions or complaints;

34 (5) A description of how the electric distribution company will comply with state arborist

1 licensing requirements pursuant to chapter 19 of title 2; and

2 (6) A process by which the electric distribution company will seek approval from property
3 owners for tree removal, including, but not limited to, the removal of dead or diseased trees that
4 pose a risk to the electric system and system reliability.

5 (c) The electric distribution company shall consider industry best practices and standards,
6 such as applicable Occupational Safety and Health Administration (OSHA) and American National
7 Standards Institute (ANSI) standards, in the development of its vegetation management standards
8 and practices.

9 (d) Prior to development of its vegetation management standards and practices, the electric
10 distribution company shall hold at least one joint meeting of city or town tree wardens appointed
11 pursuant to chapter 14 of title 2 to discuss the type of work to be completed by the company,
12 identify collaborative strategies to address emerging threats to vegetation and protect desirable
13 trees, and consider other issues relevant to vegetation management and the protection of electric
14 distribution system infrastructure. The electric distribution company shall also present an overview
15 of its proposed vegetation management standards and practices to city or town tree wardens at least
16 ninety (90) days prior to filing its standards and practices pursuant to subsection (a) of this section,
17 and accept written comments from tree wardens for thirty (30) days following its presentation. The
18 electric distribution company may meet with city or town tree wardens, from time to time, to
19 provide updates on its vegetation management standards and practices.

20 (e) The electric distribution company shall send each city or town council in its service
21 territory a letter informing them that proposed vegetation management standards and practices have
22 been filed with the division. The electric distribution company shall also provide electronic
23 notification of the same to city or town tree wardens and tree commissions in its service territory.

24 (f) Upon receipt, the division shall post the electric distribution company's proposed
25 vegetation management standards and practices on its website and conduct a review of the proposed
26 standards and practices to ensure they comply with industry standards, account for the impacts of
27 a changing climate, and facilitate the operation of a safe and highly reliable electric distribution
28 system for all electric customers.

29 (1) The division shall accept public comment on proposed vegetation management
30 standards and practices for at least thirty (30) days prior to rendering a decision to approve, approve
31 with modifications, or deny the standards and practices, which shall be issued in writing within
32 ninety (90) days of receipt.

33 (2) If modifications are specified in the division's decision, the electric distribution
34 company shall file revised vegetation management standards and practices for review and approval

1 within sixty (60) days of receipt of a written decision.

2 (g)(1) Notwithstanding any other provision of law or ordinance, upon approval by the
3 division, the electric distribution company shall be authorized to implement its vegetation
4 management standards and practices across its service territory.

5 (2) Except for any permits required pursuant to R.I. general laws § 2-1-18 et seq or any
6 rules or regulations promulgated by the department of environmental management, and
7 notwithstanding the notice provisions described in subsection (b)(2) of this section, state and local
8 permits, licenses, assents, variances, or any other form of authorizations or approvals shall not be
9 required for vegetation management activities that are part of vegetation management standards
10 and practices approved by the division pursuant to this chapter.

11 (3) The electric distribution company shall comply with all municipal ordinances
12 including, but not limited to, ordinances concerning public safety, roadway access, and scheduling,
13 when implementing its vegetation management standards and practices, except that a municipal
14 ordinance shall not deny the company's right to trim or otherwise compel the company to apply a
15 vegetation management standard that deviates from that approved by the division pursuant to this
16 chapter. The electric distribution company shall give consideration to municipal ordinances
17 concerning local vegetation, where they exist.

18 (h) Pursuant to the requirements of § 39-1-27.7.1, the electric distribution company shall
19 be permitted to seek recovery of all reasonable costs incurred under this section, inclusive of those
20 reasonable costs incurred by the division. The division is authorized to assess the electric
21 distribution company's reasonable costs to employ on a contract basis any utility and/or vegetation
22 management experts, including, but not limited to, certified arborists, foresters and horticulturalists.
23 The electric distribution company shall be entitled to recovery of those assessed costs through its
24 annual infrastructure, safety, and reliability spending plan, or such other rate recovery mechanism
25 the public utility commission deems appropriate. Nothing in this section shall be construed to
26 derogate from the statutory authority of the public utility commission to establish budget limits and
27 to set just and reasonable rates or the division from advocating a position in public utility
28 commission proceedings, including annual filings made under § 39-1-27.7.1 for implementation of
29 vegetation management and the associated budget that is different from that which is filed by the
30 electric distribution company. The public utility commission may consider the reasonableness of
31 the pace of expenditures from year to year and the chapter impacts resulting from the proposals for
32 cost recovery.

33 (i) The electric distribution company shall file updated vegetation management standards
34 and practices with the division at least once every four (4) years.

1 (j) Electric distribution customers may contact the electric distribution company if they
2 wish to discuss utility vegetation management activities. If additional information or contact is
3 needed, the electric distribution company shall phone or email the customer within ten (10) business
4 days of receipt of a complaint and work in good faith to reasonably address customer concerns in
5 a manner consistent with its approved vegetation management standards and practices. A customer
6 that is not satisfied with the electric distribution company’s response may contact their city or town
7 tree warden, who shall review the matter and work with the electric distribution company to resolve
8 the matter consistent with vegetation management standards approved pursuant to this chapter. To
9 the extent a customer is still not satisfied after discussions with both the electric distribution
10 company and local tree warden, they may register a complaint with the division to resolve any
11 disputed matters in a timely manner.

12 (k) Nothing in this section shall prohibit the division from promulgating rules and
13 regulations and/or extending the applicability of existing rules and regulations to complaints made
14 under this section.

15 **39-33-4. Existing rights and electric distribution companies.**

16 Nothing in this chapter shall be interpreted to limit or restrict the rights that electric
17 distribution companies currently have to conduct vegetation management activities provided by
18 existing statute or regulation, including, but not limited to, those rights conferred by 650 RICR 20-
19 00-9.6 and 250 RICR 150-15-3.6, as amended.

20 **39-33-5. Liberal construction of chapter required.**

21 This chapter shall be construed liberally in aid of its declared purposes.

22 **39-33-6. Severability.**

23 If any provision of this chapter or the application thereof to any person or circumstances is
24 held invalid, the invalidity shall not affect other provisions or applications of the chapter that can
25 be given effect without the invalid provision or application, and to this end the provisions of this
26 chapter are declared to be severable.

27 SECTION 6. 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 -- VEGETATION MANAGEMENT
FOR ELECTRIC SYSTEM RELIABILITY

1 This act would require an electric distribution company to develop a vegetation
2 management plan approved by the division of public utilities and carriers to implement vegetation
3 management activities for vegetation clearing on and around utility infrastructure along public and
4 private rights of way.

5 This act would take effect upon passage.

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