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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- UTILITY THERMAL ENERGY
NETWORK AND JOBS ACT

Introduced By: Representatives Cortvriend, McGaw, Carson, Handy, Kislak, Boylan,
Spears, Fogarty, Edwards, and Knight

Date Introduced: January 26, 2024

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. 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 UTILITY THERMAL ENERGY NETWORK AND JOBS ACT

5 **39-33-1. Short title.**

6 This act shall be known and may be cited as the "Utility Thermal Energy Network and Jobs
7 Act".

8 **39-33-2. Thermal energy networks.**

9 (a) The general assembly finds and declares that thermal energy networks are essential
10 infrastructure in meeting the just transition, equity, and decarbonization requirements of chapter
11 6.2 of title 42 ("act on climate") and further finds and declares that:

12 (1) To the extent feasible, the public utility company that provides electric distribution as
13 defined in § 39-1-2(a)(12), as well as natural gas as defined in § 39-1-2(a)(17) shall maximize cost-
14 effective investments in thermal energy networks when it is in the public interest;

15 (2) The public utilities commission shall exercise its authority to implement the provisions
16 of this chapter and, to the extent feasible, support the implementation of thermal energy networks,
17 pursuant to chapter 6.2 of title 42 (Act on Climate).

18 (b) Within one year of the effective date of this chapter, the public utilities commission

1 shall initiate a proceeding to support the development of thermal energy networks for the purpose
2 of meeting the greenhouse gas emissions, just transition, and equity goals of chapter 6.2 of title 42.
3 The matters the commission shall consider in such proceeding shall include, but shall not be limited
4 to, the appropriate ownership, market, cost-effectiveness, and rate structures for thermal energy
5 networks and whether the provision of thermal energy services by gas and/or electric utilities is in
6 the public interest.

7 (1) The commission shall promulgate rules and regulations within two (2) years to:

8 (i) Create fair market access rules for utility-owned thermal energy networks to accept
9 thermal energy that aligns with the climate justice, just transition, and greenhouse gas emissions
10 reductions requirements of chapter 6.2 of title 42 and that does not increase greenhouse gas
11 emissions or co-pollutants;

12 (ii) Exempt small-scale thermal energy networks not owned by utilities from commission
13 regulation;

14 (iii) Promote the training and transition of utility workers impacted by this chapter; and

15 (iv) Encourage third party participation and competition where it will maximize benefits
16 to customers; and

17 (v) Establish equitable rules for cost recovery by utilities for thermal energy networks.

18 (2) In establishing rules and regulations for thermal energy networks, the commission shall
19 convene a stakeholder advisory committee composed of technical experts, members with relevant
20 engineering expertise, and public members or entities who will be significantly impacted by the
21 expansion of thermal energy networks. The advisory committee shall be consulted on a range of
22 questions developed by the commission to support the regulation of thermal energy networks.

23 **39-33-3. Thermal energy network infrastructure plans.**

24 (a) No later than September 1, 2026, and every three (3) years thereafter, the public utility
25 company shall issue a plan over a three (3) year period for cost-effective investments in thermal
26 energy network infrastructure to assist in the just transition to a clean, affordable, and reliable
27 distribution system in a cost-effective manner. To the extent feasible, the plan shall ensure that at
28 least forty- percent (40%) of its investments benefit environmental justice communities. The plan
29 shall be in compliance with the regulations set forth in § 39-33-2 and each decision made within
30 the plan shall be justified by the public utility company.

31 (b) The public utility company shall propose the plan to the public utilities commission in
32 a filing for review and approval within ninety (90) days. The commission shall determine whether
33 it is in the public interest to approve or modify such thermal energy network plans and shall issue
34 an order directing the public utility company to implement such proposed or modified thermal

1 energy network plans. If the public utility company fails to show justification behind any decisions
2 made within the plan, the commission shall order the public utility company to clarify or modify
3 any outstanding decisions in compliance with the requirements of this chapter.

4 **39-33-4. Thermal energy pilot projects.**

5 (a) Within three (3) months of the effective date of this chapter, the public utility company
6 that provides electric distribution as defined in § 39-1-2(a)(12), as well as natural gas as defined in
7 § 39-1-2(a)(17) shall initiate a process to support the development of thermal energy networks for
8 the purpose of meeting the greenhouse gas emissions and just transition goals of chapter 6.2 of title
9 42. The matters considered by the public utility company shall be to determine the feasibility of
10 constructing at least three (3) and up to five (5) thermal energy network pilot projects. The public
11 utility company may use outside engineering experts to provide technical expertise on studying
12 feasibility if it deems outside experts will provide expertise beyond the knowledge and capacity of
13 current employees. The public utility company shall not seek recovery through any cost recovery
14 mechanism of the incremental costs associated with studying the feasibility of thermal energy
15 networks, and will hold customers harmless from those incremental costs.

16 (1) Considerations when determining such feasibility shall include, but shall not be limited
17 to:

18 (i) Greenhouse gas emissions reductions;

19 (ii) A cost-effective analysis that includes measures that are projected to generate energy
20 cost savings and avoided social cost of carbon dioxide equal to or greater than overnight capital
21 costs and operations and maintenance costs over the useful life of the equipment;

22 (iii) Engineering and design requirements;

23 (iv) Operations and maintenance requirements;

24 (v) Ownership of buildings receiving benefits from thermal energy networks and/or entities
25 responsible for facilities receiving benefits from thermal energy networks; and

26 (vi) Communities receiving the greatest benefits from reduced air pollution and improved
27 air quality.

28 (2) In meeting the requirements of this section, the public utility company shall develop an
29 initial list of locations to study the feasibility of constructing pilot thermal energy networks. Those
30 locations shall be diverse in geography, customer class, and average annual consumption of thermal
31 energy. The initial list shall include, but not be limited to:

32 (i) The port of Providence and neighboring communities;

33 (ii) Residential buildings, hospitals, and healthcare facilities located in lower South
34 Providence;

- 1 (iii) Facilities within the jurisdiction of the Rhode Island Convention Center Authority;
2 (iv) Facilities within the jurisdiction of the Quonset Development Corporation;
3 (v) University of Rhode Island;
4 (vi) Aquidneck Island; and
5 (vii) The Port of Galilee.

6 (3) The public utility company is authorized to negotiate directly with relevant entities that
7 oversee facilities under consideration by the public utility company to construct pilot thermal
8 energy networks. Negotiations may include, but not be limited to, contract terms, equitable
9 financing agreements, oversight, design, and engineering. The public utility company is hereby
10 authorized and directed to maximize federal funding and financing opportunities through the
11 Inflation Reduction Act, the Infrastructure Investment and Jobs Act, as well as state funding and
12 financing opportunities. At least one pilot project shall be proposed in an environmental justice
13 focus area, as defined by the department of environmental management.

14 (4) Upon making a final determination of locations that meet the feasibility requirements
15 in § 39-33-2(a)(1), the public utility company shall develop a final list and submit in a public filing
16 to the public utilities commission for review and approval at least three (3) and up to five (5)
17 proposed pilot thermal energy network projects within nine (9) months of the effective date of this
18 chapter. The pilot project proposals shall include specific customer protection plans and shall be
19 made publicly available on the commission's website and shall be subject to a public comment
20 period of no less than thirty (30) days.

21 (b)(1) Upon receiving the filing from the public utility company, the public utility
22 commission shall review and consider for approval the list of proposed pilot thermal energy
23 network projects. The public utility commission is authorized to conditionally approve any pilot
24 thermal energy network projects proposed by the public utility company. If the public utility
25 company determines through its negotiations with relevant entities that it is unable to meet the
26 requirements of this chapter, the commission shall have the authority to evaluate and rule on any
27 outstanding terms in dispute, and order the public utility company to proceed with constructing the
28 pilot thermal energy networks. The commission shall determine whether it is in the public interest
29 to approve or modify such pilot thermal energy network projects and shall issue an order directing
30 the public utility company to implement such proposed or modified pilot thermal energy network
31 projects.

32 (2) In considering whether pilot thermal energy network projects are in the public interest,
33 the commission shall consider whether the pilot project will develop information useful for the
34 commission's promulgation of rules and regulations governing thermal energy networks, whether

1 the pilot project furthers the climate justice and/or emissions reduction mandates of chapter 6.2 of
2 title 42, whether the pilot project advances financial and technical approaches to equitable and
3 affordable building electrification, and whether the pilot project creates benefits to customers and
4 society at large, including, but not limited to, public health benefits in areas with disproportionate
5 environmental or public health burdens, job retention and creation, reliability, and increased
6 affordability of renewable thermal energy options.

7 (3) The public utility company shall proceed with construction of pilot thermal energy
8 networks within six (6) months of final approval of the public utility commission.

9 (c) The public utility company shall report to the commission, on a quarterly basis, and
10 until completion of the pilot thermal energy network project as determined by the commission, the
11 status of each pilot thermal energy network project. The commission shall post and make publicly
12 available such reports on its website. The report shall include, but not be limited to the:

13 (1) The stage of development of each pilot project;

14 (2) Barriers to development;

15 (3) Number of customers served;

16 (4) Costs of the pilot project;

17 (5) Number of jobs retained or created by the pilot project; and

18 (6) Any other such information the commission deems to be in the public interest.

19 **39-33-5. Just transition standards.**

20 (a) Any thermal energy network created under this section shall demonstrate that the public
21 utility company has entered into a labor peace agreement with a bona fide labor organization of
22 jurisdiction that is actively engaged in representing gas and electric company employees. The labor
23 peace agreement shall apply to the employees necessary for the maintenance and operation of such
24 thermal energy network. The labor peace agreement shall be an ongoing material condition of
25 authorization to maintain and operate such thermal energy networks. The employees eligible for
26 these positions shall first be selected from and offered to a pool of transitioning utility workers who
27 have lost, or are at risk of losing, their employment with a utility downsizing its gas transmission
28 and distribution system. Such a list of potential employees shall be provided by affected unions and
29 provided to the department of labor and training. The department of labor and training shall update
30 and provide such list to the public utility company ninety (90) days prior to purchase, acquisition,
31 and/or construction of any thermal energy network created under this section.

32 (b) As part of any agreement with a public entity to construct a thermal energy network
33 project that enters or crosses a public right-of-way, as defined in § 39-1-2, the public utility
34 company shall:

1 (1) For projects valued over twenty-five million dollars (\$25,000,000), the public utility
2 company shall conduct an independent, objective, reasoned study, using reviewable criteria, to
3 determine whether adoption of a project labor agreement on the proposed project or projects will
4 help achieve the goals of the state purchases act.

5 (2) For projects of one million dollars (\$1,000,000) or greater, the public utility company
6 shall require contractors on the project to participate in a non-provisionally approved
7 apprenticeship program for all apprenticeable crafts or trades that will be employed on the project,
8 and shall employ registered apprentices to perform fifteen percent (15%) of the total labor hours.

9 (3) For projects in excess of ten million dollars (\$10,000,000), all construction workers
10 shall be paid in accordance with the wages and benefits required pursuant to chapter 13 of title 37
11 with all contractors and subcontractors required to file certified payrolls, which shall be considered
12 public records, on a monthly basis for all work completed in the preceding month on a uniform
13 form prescribed by the department of labor and training. Failure to follow the requirements pursuant
14 to chapter 13 of title 37 shall constitute a material violation and a material breach of the agreement
15 with the state.

16 (4) The public utility company shall take all necessary actions to ensure that each contractor
17 and subcontractor involved in the construction of the project completes a sworn certification that
18 the prime contractor, general contractor, or subcontractor:

19 (i) Has the necessary resources to perform the portion of the covered project to which the
20 contractor or subcontractor is assigned, including the necessary technical, financial, and personnel
21 resources;

22 (ii) Has all required contractor, specialty contractor or trade licenses, certifications or
23 certificates required of any business entity or individual by applicable state or local law;

24 (iii) May participate in apprenticeship programs pursuant to 29 C.F.R. Part 29 and Part 30
25 for the occupations the contractor will employ for its awarded scope of work on the covered project;

26 (iv) Pursuant to § 39-33-3(b)(2), ensure that no less than fifteen percent (15%) of the labor
27 hours worked on the project shall be performed by registered apprentices for all crafts or trades
28 with approved apprenticeship programs that will be employed on the project;

29 (v) During the previous three (3) years:

30 (A) Has not been debarred by any government agency;

31 (B) Has not defaulted on any project;

32 (C) Has not had any license, certification, or other credential relating to the business
33 revoked or suspended; and

34 (D) Has not been found in violation of any law applicable to the contractor's or

1 subcontractor's business that resulted in the payment of a fine, back pay damages, or any other type
2 of penalty in the amount of five thousand dollars (\$5,000) or more.

3 (5) Piping during new thermal energy network construction shall be undertaken by
4 journeyperson pipefitters or journeyperson pipefitter apprentices, as defined in § 28-27-4.2.

5 (c) The department of labor and training shall promulgate such rules and regulations as are
6 necessary to implement the enforcement of this chapter.

7 **39-33-6. Severability.**

8 If any provision of this chapter or the application thereof to any person or circumstances is
9 held invalid, such invalidity shall not affect other provisions or applications of the chapter, which
10 can be given effect without the invalid provision or application, and to this end the provisions of
11 this chapter are declared to be severable.

12 SECTION 2. Sections 39-1-1, 39-1-2 and 39-1-3 of the General Laws in Chapter 39-1
13 entitled "Public Utilities Commission" are hereby amended to read as follows:

14 **39-1-1. Declaration of policy — Purposes.**

15 (a) The general assembly finds and therefore declares that:

16 (1) The businesses of distributing electrical energy, producing and transporting
17 manufactured and natural gas, thermal energy, operating water works and thermal energy networks,
18 furnishing supplies of water for domestic, industrial, and commercial use, offering to the public
19 transportation of persons and property, furnishing and servicing telephonic and wireless audio and
20 visual communication systems, and operation of community antenna television systems are
21 affected with a public interest;

22 (2) Supervision and reasonable regulation by the state of the manner in which the
23 businesses construct their systems and carry on their operations within the state are necessary to
24 protect and promote the convenience, health, comfort, safety, accommodation, and welfare of the
25 people, and are a proper exercise of the police power of the state; and

26 (3) Preservation of the state's resources, commerce, and industry requires the assurance of
27 adequate public transportation and communication facilities, water supplies, and an abundance of
28 energy, all supplied to the people with reliability, at economical cost, and with due regard for the
29 preservation and enhancement of the environment, the conservation of natural resources, including
30 scenic, historic, and recreational assets, and the strengthening of long-range, land-use planning.

31 (b) It is hereby declared to be the policy of the state to provide fair regulation of public
32 utilities and carriers in the interest of the public, to promote availability of adequate, efficient, and
33 economical energy, communication, and transportation services and water supplies to the
34 inhabitants of the state, to provide just and reasonable rates and charges for such services and

1 supplies, without unjust discrimination, undue preferences or advantages, or unfair or destructive
2 competitive practices, and to cooperate with other states and agencies of the federal government in
3 promoting and coordinating efforts to achieve realization of this policy.

4 (c) To this end, there is hereby vested in the public utilities commission and the division of
5 public utilities and carriers the exclusive power and authority to supervise, regulate, and make
6 orders governing the conduct of companies offering to the public in intrastate commerce energy,
7 communication, and transportation services and water supplies for the purpose of increasing and
8 maintaining the efficiency of the companies, according desirable safeguards and convenience to
9 their employees and to the public, and protecting them and the public against improper and
10 unreasonable rates, tolls, and charges by providing full, fair, and adequate administrative
11 procedures and remedies, and by securing a judicial review to any party aggrieved by such an
12 administrative proceeding or ruling.

13 (d) The legislature also finds and declares, as of 1996, the following:

14 (1) That lower retail electricity rates would promote the state's economy and the health and
15 general welfare of the citizens of Rhode Island;

16 (2) That current research and experience indicates that greater competition in the electricity
17 industry would result in a decrease in electricity rates over time;

18 (3) That greater competition in the electricity industry would stimulate economic growth;

19 (4) That it is in the public interest to promote competition in the electricity industry and to
20 establish performance-based ratemaking for regulated utilities;

21 (5) That in connection with the transition to a more competitive electric utility industry,
22 public utilities should have a reasonable opportunity to recover transitional costs associated with
23 commitments prudently incurred in the past pursuant to their legal obligations to provide reliable
24 electric service at reasonable costs;

25 (6) That it shall be the policy of the state to encourage, through all feasible means and
26 measures, states where fossil-fueled, electric-generating units producing air emissions affecting
27 Rhode Island air quality are located to reduce such emissions over time to levels that enable cost-
28 effective attainment of environmental standards within Rhode Island; and

29 (7) That in a restructured electrical industry the same protections currently afforded to low-
30 income customers shall continue.

31 (e) The legislature further finds and declares as of 2006:

32 (1) That prices of energy, including especially fossil-fuels and electricity, are rising faster
33 than the cost of living and are subject to sharp fluctuations, which conditions create hardships for
34 many households, institutions, organizations, and businesses in the state;

1 (2) That while utility restructuring has brought some benefits, notably in transmission and
2 distribution costs and more efficient use of generating capacities, it has not resulted in competitive
3 markets for residential and small commercial-industrial customers, lower overall prices, or greater
4 diversification of energy resources used for electrical generation;

5 (3) That the state's economy and the health and general welfare of the people of Rhode
6 Island benefit when energy supplies are reliable and least-cost; and

7 (4) That it is a necessary move beyond basic utility restructuring in order to secure for
8 Rhode Island, to the maximum extent reasonably feasible, the benefits of reasonable and stable
9 rates, least-cost procurement, and system reliability that includes energy resource diversification,
10 distributed generation, and load management.

11 **39-1-2. Definitions.**

12 (a) Terms used in this title shall be construed as follows, unless another meaning is
13 expressed or is clearly apparent from the language or context:

14 (1) "Administrator" means the administrator of the division of public utilities and carriers.

15 (2) "Airport" and "landing field" mean and include all airports and landing fields other
16 than those owned by the state.

17 (3) "Chairperson" means the chairperson of the public utilities commission.

18 (4) "Charter carrier" means and includes all carriers for hire or compensation within this
19 state not included in the definition of common carrier.

20 (5) "Commission" means the public utilities commission.

21 (6) "Commissioner" means a member of the public utilities commission.

22 (7) "Common carrier," except when used in chapters 12, 13, and 14 of this title, means and
23 includes all carriers for hire or compensation, including railroads, street railways, express, freight
24 and freight-line companies, dining-car companies, steam boat, motor boat, power boat, hydrofoil,
25 and ferry companies and all other companies operating any agency or facility for public use in the
26 conveyance over fixed routes, or between fixed termini within this state of persons or property by,
27 or by a combination of, land, air, or water.

28 (8) "Company" means and includes a person, firm, partnership, corporation, quasi-
29 municipal corporation, association, joint-stock association or company, and his, her, its, or their
30 lessees, trustees, or receivers appointed by any court.

31 (9) "Customer" means a company taking service from an electric distribution company at
32 a single point of delivery or meter location.

33 (10) "Distribution facility" means plant or equipment used for the distribution of electricity
34 and that is not a transmission facility.

1 (11) “Division” means the division of public utilities and carriers.

2 (12) “Electric distribution company” means a company engaging in the distribution of
3 electricity or owning, operating, or controlling distribution facilities and shall be a public utility
4 pursuant to subsection (20) of this section.

5 (13) “Electric transmission company” means a company engaging in the transmission of
6 electricity or owning, operating, or controlling transmission facilities. An electric transmission
7 company shall not be subject to regulation as a public utility except as specifically provided in the
8 general laws, but shall be regulated by the Federal Energy Regulatory Commission and shall
9 provide transmission service to all nonregulated power producers and customers, whether affiliated
10 or not, on comparable, nondiscriminatory prices and terms. Electric transmission companies shall
11 have the power of eminent domain exercisable following a petition to the commission pursuant to
12 § 39-1-31.

13 (14) “Liquefied natural gas” means a fluid in the liquid state composed predominantly of
14 methane and that may contain minor quantities of ethane, propane, nitrogen, or other components
15 normally found in natural gas.

16 (15) “Manufacturing customers” means all customers that have on file with an electric
17 distribution company a valid certificate of exemption from the Rhode Island sales tax indicating
18 the customer’s status as a manufacturer pursuant to § 44-18-30.

19 (16) “Motor carriers” means any carrier regulated by the administrator pursuant to chapters
20 3, 11, 12, 13, and 14 of this title.

21 (17) “Natural gas” means the combustible, gaseous mixture of low-molecular-weight,
22 paraffin hydrocarbons, generated below the surface of the earth, containing mostly methane and
23 ethane with small amounts of propane, butane, and hydrocarbons, and sometimes nitrogen, carbon
24 dioxide, hydrogen sulfide, and helium.

25 (18) “Nonprofit housing development corporation” means a nonprofit corporation that has
26 been approved as a 26 U.S.C. § 501(c)(3) corporation by the Internal Revenue Service, and is
27 organized and operated primarily for the purpose of providing housing for low- and moderate-
28 income persons.

29 (19) “Nonregulated power producer” means a company engaging in the business of
30 producing, manufacturing, generating, buying, aggregating, marketing, or brokering electricity for
31 sale at wholesale or for retail sale to the public; provided however, that companies that negotiate
32 the purchase of electric generation services on behalf of customers and do not engage in the
33 purchase and resale of electric generation services shall be excluded from this definition. A
34 nonregulated power producer shall not be subject to regulation as a public utility except as

1 specifically provided in the general laws.

2 (20) "Public right-of-way" means the area on, below, or above any street, avenue,
3 boulevard, road, highway, sidewalk, alley, waterway, land, or easement that is owned, leased, or
4 controlled by a public or quasi-public entity.

5 ~~(20)~~(21) "Public utility" means and includes every company that is an electric distribution
6 company and every company operating or doing business in intrastate commerce and in this state
7 as a railroad, street railway, common carrier, gas, thermal energy, liquefied natural gas, water,
8 telephone, telegraph, and pipeline company, and every company owning, leasing, maintaining,
9 managing, or controlling any plant or equipment, or any part of any plant or equipment, within this
10 state for manufacturing, producing, transmitting, distributing, delivering, or furnishing natural or
11 manufactured gas, directly or indirectly, to or for the public, or any cars or equipment employed
12 on, or in connection with, any railroad or street railway for public or general use within this state,
13 or any pipes, mains, poles, wires, conduits, fixtures, through, over, across, under, or along any
14 public highways, parkways, or streets, public lands, waters, or parks for the transmission,
15 transportation, or distribution of gas, or thermal energy networks for sale to the public for light,
16 heat, cooling, or power for providing audio or visual telephonic or telegraphic communication
17 service within this state, or any pond, lake, reservoir, stream, well, or distributing plant or system
18 employed for the distribution of water to the consuming public within this state, including the water
19 supply board of the city of Providence; provided, that, except as provided in § 39-16-9 and in P.L.
20 1933, ch. 2072, as amended, this definition shall not be construed to apply to any public waterworks
21 or water service owned and furnished by any city, town, water district, fire district, or any other
22 municipal or quasi-municipal corporation, excepting the water supply board of the city of
23 Providence, unless any city, town, water district, fire district, municipal or quasi-municipal
24 corporation obtains water from a source owned or leased by the water resources board, either
25 directly or indirectly, or obtains a loan from the board pursuant to the provisions of chapter 15.1 of
26 title 46, or sells water, on a wholesale or retail basis, inside and outside the territorial limits of the
27 city or town, water district, fire district, municipal or quasi-municipal corporation, except, however,
28 that a public waterworks or water service owned and furnished by any city, town, water district,
29 fire district, or any other municipal or quasi-municipal corporation that sells water, on a wholesale
30 or retail basis, inside and outside its territorial limits, shall not be construed as a public utility if it
31 has fewer than one-thousand five hundred (1,500) total customer-service connections and provided
32 outside sales do not exceed ten percent (10%) of the total water service connections or volumetric
33 sales and provided the price charged to outside customers, per unit of water, is not greater than the
34 price charged to inside customers for the same unit of water, nor to the Rhode Island public transit

1 authority, or to the production and/or distribution of steam, heat, or water by the Rhode Island port
2 authority and economic development corporation in the town of North Kingstown; provided that,
3 production or distribution is not in utilized in the functions or operations of thermal energy
4 networks; and the term “public utility” shall also mean and include the Narragansett Bay water
5 quality management district commission; and provided that the ownership or operation of a facility
6 by a company that dispenses alternative fuel or energy sources at retail for use as a motor vehicle
7 fuel or energy source, and the dispensing of alternative fuel or energy sources at retail from such a
8 facility, does not make the company a public utility within the meaning of this title solely because
9 of that ownership, operation, or sale; and provided further that this exemption shall not apply to
10 presently regulated public utilities that sell natural gas or are dispensers of other energy sources;
11 and provided further, that the term “public utility” shall not include any company:

12 (i) Producing or distributing steam or heat from a fossil-fuel-fired cogeneration plant
13 located at the university of Rhode Island South Kingstown, Rhode Island;

14 (ii) Producing and/or distributing thermal energy and/or electricity to a state-owned facility
15 from a plant located on an adjacent site, regardless of whether steam lines cross a public highway;
16 provided that, the steam lines are not utilized in the distribution or operations of thermal energy
17 through thermal energy networks; and

18 (iii) Providing wireless service.

19 ~~(21)~~(22) “Purchasing cooperatives” shall mean any association of electricity consumers
20 that join for the purpose of negotiating the purchase of power from a nonregulated power producer,
21 provided however, that purchasing cooperatives shall not be required to be legal entities and are
22 prohibited from being engaged in the re-sale of electric power.

23 ~~(22)~~(23) “Railroad” means and includes every railroad other than a street railway, by
24 whatsoever power, operated for public use in the conveyance in this state of persons or property
25 for compensation, with all bridges, ferries, tunnels, switches, spurs, tracks, stations, wharves, and
26 terminal facilities of every kind, used, operated, controlled, leased, or owned by or in connection
27 with any railroad.

28 ~~(23)~~(24) “Retail access” means the use of transmission and distribution facilities owned by
29 an electric transmission company or an electric distribution company to transport electricity sold
30 by a nonregulated power producer to retail customers pursuant to § 39-1-27.3.

31 ~~(24)~~(25) “Street railway” means and includes every railway by whatsoever power operated
32 or any extension or extensions, branch, or branches thereof, for public use in the conveyance in this
33 state of persons or property for compensation, being mainly upon, along, above, or below any street,
34 avenue, road, highway, bridge, or public place in any city or town, and including all switches, spurs,

1 tracks, rights of trackage, subways, tunnels, stations, terminals, and terminal facilities of every kind,
2 used, operated, controlled, or owned by or in connection with any street railway.

3 (26) "Thermal energy", when used in this chapter means piped non-combustible fluids used
4 for transferring heat into and out of buildings for the purpose of eliminating any resultant on-site
5 greenhouse gas emissions of all types of heating and cooling processes, including, but not limited
6 to, comfort heating and cooling, domestic hot water, and refrigeration.

7 (27) "Thermal energy network", when used in this chapter, means all real estate, fixtures
8 and personal property operated, owned, used or to be used for or in connection with or to facilitate
9 a utility-scale distribution infrastructure project that supplies thermal energy.

10 ~~(25)~~(28) "Transmission facility" means plant or equipment used for the transmission of
11 electricity as determined by the Federal Energy Regulatory Commission pursuant to federal law as
12 of the date of the property transfers pursuant to § 39-1-27(c).

13 ~~(26)~~(29) "Wireless service" means communication services provided over spectrum
14 licensed by or subject to the jurisdiction of the Federal Communications Commission.

15 (b) Notwithstanding any provision of this section or any provision of the act entitled, "An
16 Act Relating to the Utility Restructuring Act of 1996" (hereinafter "utility restructuring act"), upon
17 request by the affected electric utility, the commission may exempt from the utility restructuring
18 act or any provision(s) thereof, an electric utility that meets the following requirements:

19 (1) The utility is not selling or distributing electricity outside of the service territory in
20 effect for that utility on the date of passage of the utility restructuring act; and

21 (2) The number of kilowatt hours sold or distributed annually by the utility to the public is
22 less than five percent (5%) of the total kilowatt hours consumed annually by the state. Provided,
23 however, that nothing contained in this section shall prevent the commission from allowing
24 competition in the generation of electricity in service territories of utilities exempted in whole or in
25 part from the utility restructuring act pursuant to this section, as long as such allowance of
26 competition is conditioned upon payment to the exempted electric utility of a nonbypassable
27 transition charge calculated to recover the elements comparable in nature to the elements in § 39-
28 1-27.4(b) and (c) taking into consideration any unique circumstances applicable to the exempted
29 electric utility.

30 **39-1-3. Commission and division established — Functions of commission —**
31 **Administrator.**

32 (a) To implement the legislative policy set forth in § 39-1-1 and to serve as the agencies of
33 the state in effectuating the legislative purpose, there are hereby established a public utilities
34 commission and a division of public utilities and carriers. The commission shall serve as a quasi-

1 judicial tribunal with jurisdiction, powers, and duties to implement and enforce the standards of
2 conduct under § 39-1-27.6 and to hold investigations and hearings involving the rates, tariffs, tolls,
3 and charges, and the sufficiency and reasonableness of facilities and accommodations of railroad,
4 gas, electric distribution, [thermal energy, thermal energy networks](#), water, telephone, telegraph, and
5 pipeline public utilities; the location of railroad depots and stations, and the control of grade
6 crossings; the revocation, suspension, or alteration of certificates issued pursuant to § 39-19-4;
7 appeals under § 39-1-30; petitions under § 39-1-31; and proceedings under § 39-1-32.

8 (b) The administrator shall be a person who is not a commissioner and who shall exercise
9 the jurisdiction, supervision, powers, and duties not specifically assigned to the commission,
10 including the execution of all laws relating to public utilities and carriers and all regulations and
11 orders of the commission governing the conduct and charges of public utilities and who shall
12 perform other duties and have powers as are hereinafter set forth. The administrator shall be a
13 person who is appointed by the governor for an initial term of six (6) years. The administrator shall
14 be appointed with the advice and consent of the senate. The director of administration, with the
15 approval of the governor, shall allocate the administrator to one of the grades established by the
16 pay plan for unclassified employees. The public utilities administrator also shall have powers and
17 duties as provided in § 46-15.3-20.

18 SECTION 3. Section 39-2-1.2 of the General Laws in Chapter 39-2 entitled "Duties of
19 Utilities and Carriers" is hereby amended to read as follows:

20 **39-2-1.2. Utility base rate — Advertising, demand-side management, and renewables.**

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

32 (b) Effective as of January 1, 2008, and for a period of twenty (20) years thereafter, each
33 electric distribution company shall include a charge per kilowatt-hour delivered to fund demand-
34 side management programs. The 0.3 mills per kilowatt-hour delivered to fund renewable energy

1 programs shall remain in effect until December 31, 2028. The electric distribution company shall
2 establish and, after July 1, 2007, maintain, two (2) separate accounts, one for demand-side
3 management programs (the “demand-side account”), which shall be funded by the electric demand-
4 side charge and administered and implemented by the distribution company, subject to the
5 regulatory reviewing authority of the commission, and one for renewable energy programs, which
6 shall be administered by the Rhode Island commerce corporation pursuant to § 42-64-13.2 and shall
7 be held and disbursed by the distribution company as directed by the Rhode Island commerce
8 corporation for the purposes of developing, promoting, and supporting renewable energy programs.

9 During the time periods established in this subsection, the commission may, in its
10 discretion, after notice and public hearing, increase the sums for demand-side management and
11 renewable resources. In addition, the commission shall, after notice and public hearing, determine
12 the appropriate charge for these programs. The office of energy resources, and/or the administrator
13 of the renewable energy programs, may seek to secure for the state an equitable and reasonable
14 portion of renewable energy credits or certificates created by private projects funded through those
15 programs. As used in this section, “renewable energy resources” shall mean: (1) Power generation
16 technologies, as defined in § 39-26-5, “eligible renewable energy resources,” including off-grid
17 and on-grid generating technologies located in Rhode Island, as a priority; (2) Research and
18 development activities in Rhode Island pertaining to eligible renewable energy resources and to
19 other renewable energy technologies for electrical generation; or (3) Projects and activities directly
20 related to implementing eligible renewable energy resources projects in Rhode Island.
21 Technologies for converting solar energy for space heating or generating domestic hot water may
22 also be funded through the renewable energy programs. Fuel cells may be considered an energy
23 efficiency technology to be included in demand-side management programs. Special rates for low-
24 income customers in effect as of August 7, 1996, shall be continued, and the costs of all of these
25 discounts shall be included in the distribution rates charged to all other customers. Nothing in this
26 section shall be construed as prohibiting an electric distribution company from offering any special
27 rates or programs for low-income customers which are not in effect as of August 7, 1996, subject
28 to the approval by the commission.

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

- 32 (i) The feasibility of project completion;
- 33 (ii) The anticipated amount of renewable energy the project will produce;
- 34 (iii) The potential of the project to mitigate energy costs over the life of the project; and

1 (iv) The estimated cost per kilowatt-hour (KWh) of the energy produced from the project.

2 (c) [Deleted by P.L. 2012, ch. 241, art. 4, § 14.]

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

9 (e) Effective January 1, 2007, and for a period of twenty-one (21) years thereafter, each
10 gas distribution company shall include, with the approval of the commission, a charge per deca
11 therm delivered to fund demand-side management programs (the “gas demand-side charge”),
12 including, but not limited to, programs for cost-effective energy efficiency, energy conservation,
13 combined heat and power systems, and weatherization services for low-income households.

14 (f) Each gas company shall establish a separate account for demand-side management
15 programs (the “gas demand-side account”) that shall be funded by the gas demand-side charge and
16 administered and implemented by the distribution company, subject to the regulatory reviewing
17 authority of the commission. The commission may establish administrative mechanisms and
18 procedures that are similar to those for electric demand-side management programs administered
19 under the jurisdiction of the commission and that are designed to achieve cost-effectiveness and
20 high, life-time savings of efficiency measures supported by the program.

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

23 (1) Gas used for distribution generation; and

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

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

34 (i) Effective January 1, 2007, the commission shall allocate, from demand-side

1 management gas and electric funds authorized pursuant to this section, an amount not to exceed
2 three percent (3%) of such funds on an annual basis for the retention of expert consultants, and
3 reasonable administration costs of the energy efficiency and resource management council
4 associated with planning, management, and evaluation of energy-efficiency programs, renewable
5 energy programs, system reliability, least-cost procurement, and with regulatory proceedings,
6 contested cases, and other actions pertaining to the purposes, powers, and duties of the council,
7 which allocation may by mutual agreement, be used in coordination with the office of energy
8 resources to support such activities.

9 (j) Effective January 1, 2016, the commission shall annually allocate from the
10 administrative funding amount allocated in subsection (i) from the demand-side management
11 program as described in subsection (i) as follows: (1) for the energy efficiency and resource
12 management council, no more than forty percent (40%) for the purposes identified in subsection (i)
13 and (2) sixty percent (60%) of three percent (3%) from the demand-side management gas and
14 electric funds annually to the office of energy resources for activities associated with planning,
15 management, and evaluation of energy-efficiency programs, renewable energy programs, system
16 reliability, least-cost procurement, and with regulatory proceedings, contested cases, and other
17 actions pertaining to the purposes, powers, and duties of the office of energy resources and shall
18 have exclusive authority to direct the use of the office administrative and programmatic funds.

19 (k) On April 15, of each year, the office and the council shall submit to the governor, the
20 president of the senate, and the speaker of the house of representatives, separate financial and
21 performance reports regarding the demand-side management programs, including the specific level
22 of funds that were contributed by the residential, municipal, and commercial and industrial sectors
23 to the overall programs; the businesses, vendors, and institutions that received funding from
24 demand-side management gas and electric funds used for the purposes in this section; and the
25 businesses, vendors, and institutions that received the administrative funds for the purposes in
26 subsections (i) and (j). These reports shall be posted electronically on the websites of the office of
27 energy resources and the energy efficiency and resources management council.

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

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

1 (n) Effective January 1, 2022, the commission shall allocate, from demand-side
2 management gas and electric funds authorized pursuant to this section, five million dollars
3 (\$5,000,000) of such funds on an annual basis to the Rhode Island infrastructure bank. Gas and
4 electric demand-side funds transferred to the Rhode Island infrastructure bank pursuant to this
5 section shall be eligible to be used in any energy efficiency, renewable energy, clean transportation,
6 clean heating, energy storage, or demand-side management project financing program administered
7 by the Rhode Island infrastructure bank notwithstanding any other restrictions on the use of such
8 collections set forth in this chapter. The infrastructure bank shall report annually to the commission
9 within ninety (90) days of the end of each calendar year how collections transferred under this
10 section were utilized.

11 (o) The Rhode Island office of energy resources, in coordination with the energy efficiency
12 and resource management council, and following consultation with the public utilities commission
13 and division of public utilities and carriers, shall issue a request for proposals for the cost-effective
14 administration and implementation of statewide energy efficiency programs funded by this section
15 no later than September 30, 2023. The draft request for proposals shall be reviewed through at least
16 one technical session at the public utilities commission prior to issuance. Public utilities
17 commission approval shall not be required. The Rhode Island office of energy resources, in
18 coordination with the energy efficiency and resource management council, shall evaluate proposals
19 and determine whether energy efficiency administration and implementation by the electric and gas
20 distribution company or a third party is likely to achieve the most net benefits for electric and gas
21 customers in Rhode Island. After January 1, 2025, the office of energy resources may, periodically,
22 and at its discretion, issue additional requests for proposals for the administration and
23 implementation of statewide energy efficiency programs funded through this chapter of an electric
24 distribution company as defined in § 39-1-2(a)(12) or gas distribution company included as a
25 public utility in § 39-1-2(a)(20) that has greater than one hundred thousand (100,000) customers.

26 (1) Nothing in this chapter shall prohibit the electric and/or gas distribution company from
27 submitting a proposal to administer and implement the state energy efficiency programs.

28 (2) If the office of energy resources, in coordination with the energy efficiency and resource
29 management council, determines that the use of a third-party administrator is likely to achieve the
30 most net benefits for electric and gas customers in Rhode Island, it shall file its recommendation
31 with the public utilities commission, which shall docket and rule on the matter pursuant to its
32 general statutory authorization.

33 (3) If the commission determines that the recommended third-party administrator is in the
34 interest of Rhode Island utility customers, it shall provide for the full cost recovery for the third-

1 party administrator consistent with the terms of the approved contract, and which shall reflect the
2 overall annual budget approved by the commission. The third-party administrator shall be subject
3 to all the requirements set forth for the electric and gas distribution company per § 39-1-27.7.

4 (4) If the commission determines that a third-party administrator will administer the state
5 energy efficiency programs on or after June 1, 2024, the commission shall direct the gas and electric
6 distribution company to collect and transfer the gas and electric energy efficiency funds to the third-
7 party administrator for the annual state energy efficiency program beginning with the program year
8 and thereafter for the remaining program years. The gas and electric distribution company shall
9 transfer the annual administrative funds to the office of energy resources and energy efficiency and
10 resource management council.

11 (5) If a third-party administrator implements the annual energy efficiency programs then
12 they shall be required to develop and design the annual state energy efficiency program with the
13 office of energy resources and energy efficiency and resource management council, including a
14 vote by the energy efficiency and resource management council prior to the third-party
15 administrator filing the annual program plan to the public utilities commission for review and a
16 decision.

17 (6) The third-party administrator shall file the annual state energy efficiency program plan
18 to the public utilities commission for review and approval no later than September 30, 2024, and
19 annually thereafter on such date.

20 (7) The third-party administrator shall provide all information requested by the office of
21 energy resources, energy efficiency and resource management council, division of public utilities
22 and carriers, and the public utilities commission, including responses to data requests, which are
23 necessary for the agencies to carry out their respective oversight roles, and shall be accountable to
24 the same standards as the utility with administering and implementing energy efficiency, system
25 reliability, and least-cost procurement standards and goals in accordance with § 39-1-27.7 and this
26 section.

27 (8) If the office does not recommend advancement of a third-party administrator, the
28 electric and gas distribution company shall continue to administer statewide energy efficiency
29 programs.

30 (p) Effective January 1, 2025, the commission shall allocate from demand-side
31 management gas funds authorized pursuant to this section sufficient funds for the purposes of
32 constructing and maintaining thermal energy networks, as defined in § 39-1-2.

1 SECTION 4. This act shall take effect upon passage.

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LC004070
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- UTILITY THERMAL ENERGY
NETWORK AND JOBS ACT

1 This act would establish thermal energy networks for the purpose of creating thermal
2 energy network infrastructure within this state by any public utility company that provides electric
3 and natural gas distribution, in an effort to maximize cost-effective investments in thermal energy
4 networks when deemed in the public interest by the public utilities commission (PUC).

5 This act would take effect upon passage.

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