

2014 -- S 2439 SUBSTITUTE A

LC004570/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS

Introduced By: Senator William A. Walaska

Date Introduced: February 27, 2014

Referred To: Senate Environment & Agriculture

(Governor)

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 31

4 AFFORDABLE CLEAN ENERGY SECURITY ACT

5 **39-31-1. Legislative Findings.** -- (a) The general assembly finds and declares:

6 (1) The state and New England face significant short and long-term energy system  
7 challenges that may undermine the reliable operation of the bulk electric system and spur  
8 unsustainable levels of price volatility, and these challenges may have a substantial impact on  
9 energy affordability for ratepayers and undermine the economic competitiveness of our state by  
10 servicing as a detriment to capital investment and job growth;

11 (2) Planned retirements of fossil fuel, nuclear and other electric generators, along with the  
12 lack of new interstate natural gas pipeline infrastructure and capacity into the region, may  
13 exacerbate these conditions;

14 (3) Rhode Island benefits from a holistic energy strategy that pursues both local  
15 investment in clean energy resources such as energy efficiency and renewable distributed  
16 generation and regional investment in energy infrastructure projects that strengthen system  
17 reliability and diversify our supply portfolio, and the combination of these strategies advance our  
18 economic development interests and environmental quality;

19 (4) Rhode Island is committed to the increased use of no and low carbon energy

1 resources which diversify our energy supply portfolio, provide affordable energy to consumers,  
2 and strengthen our shared quality of life and environment, and that new energy infrastructure  
3 investments may help facilitate the development and interconnection of such resources;

4 (5) Rhode Island is part of an integrated, regional energy system and addressing these  
5 challenges, while meeting state energy and economic goals, requires a coordinated, multi-state  
6 approach that takes into account affordability, energy security, reliability, fuel diversity, and  
7 environmental sustainability.

8 **39-31-2. Purpose.--** The purpose of this chapter is to:

9 (1) Secure the future of the Rhode Island and New England economies, and their shared  
10 environment, by making coordinated, cost-effective, strategic investments in energy resources  
11 and infrastructure such that the New England states improve energy system reliability and  
12 security; enhance economic competitiveness by reducing energy costs to attract new investment  
13 and job growth opportunities; and protect the quality of life and environment for all residents and  
14 businesses;

15 (2) Utilize coordinated competitive processes, in collaboration with other New England  
16 states and their instrumentalities, to advance strategic investment in energy infrastructure and  
17 energy resources provided that the total energy security, reliability, environmental and economic  
18 benefits to Rhode Island and it's ratepayers exceed the costs of such projects, and ensure that the  
19 benefits and costs of such energy infrastructure investments are shared appropriately among the  
20 New England states; and

21 (3) Encourage a multi-state or regional approach to energy policy that advances the  
22 objectives of achieving a reliable, clean energy future that is consistent with meeting regional  
23 greenhouse gas reduction goals at reasonable cost to ratepayers.

24 **39-31-3. Commercially reasonable defined.--** When used in this chapter the term  
25 "commercially reasonable" means terms and pricing that are reasonably consistent with what an  
26 experienced power market analyst would expect to see in transactions involving regional energy  
27 resources and regional energy infrastructure. Commercially reasonable shall include having a  
28 credible project operation date, as determined by the commission, but a project need not have  
29 completed the requisite permitting process to be considered commercially reasonable.  
30 Commercially reasonable shall include that the total energy security, reliability, environmental  
31 and economic benefits to Rhode Island and its ratepayers exceed the costs of such projects. If  
32 there is a dispute about whether any terms or pricing are commercially reasonable, the  
33 commission shall make the final determination after evidentiary hearings.

34 **39-31-4. Regional energy planning.--** (a) Consistent with the purposes of this chapter

1 the office of energy resources, in consultation and coordination with the public utility company  
2 that provides electric distribution as defined in § 39-1-2(12), as well as natural gas as provided in  
3 § 39-1-2(20), the New England States' Committee on Electricity (NESCOE), ISO-NE and the  
4 other New England states are authorized to:

5 (1) Participate in the development and issuance of regional or multi-state competitive  
6 solicitation(s) for the development and construction of domestic electric transmission projects  
7 that would allow for the reliable transmission of large or small scale regional or international  
8 hydroelectric power to New England load centers that will benefit the state of Rhode Island and  
9 it's ratepayers, and that such solicitations may be issued by NESCOE or the electric or natural gas  
10 distribution company to further the purposes of this chapter;

11 (2) Participate in the development and issuance of regional or multi-state competitive  
12 solicitation(s) for the development and construction of regional electric transmission projects that  
13 would allow for the reliable transmission of eligible renewable energy resources as defined by §  
14 39-26-5(a) to New England load centers that will benefit Rhode Island and its ratepayers, and that  
15 such solicitations may be issued by NESCOE or the electric or natural gas distribution company  
16 to further the purposes of this chapter; and

17 (3) Participate in the development and issuance of regional or multi-state competitive  
18 solicitation(s) for the development and construction of regional natural gas pipeline infrastructure  
19 and capacity that will benefit Rhode Island and its ratepayers by strengthening energy system  
20 reliability and security and, in doing so, potentially mitigate energy price volatility which  
21 threatens the economic vitality and competitiveness of Rhode Island residents and businesses, and  
22 that such solicitations may be issued by NESCOE or the electric or natural gas distribution  
23 company to further the purposes of this chapter.

24 (4) Provide for a thirty (30) day public comment period on infrastructure projects selected  
25 pursuant to this chapter. During this public comment period, the following state agencies shall  
26 provide advisory opinions on the topics specified:

27 (i) The department of environmental management (DEM) shall provide an advisory  
28 opinion on the expected statewide environmental impacts resulting from the proposed project(s).

29 (ii) Commerce RI shall provide an advisory opinion on the expected statewide economic  
30 impacts resulting from the proposed project(s).

31 (iii) OER shall provide an advisory opinion on the expected energy security, reliability,  
32 environmental, and economic impacts resulting from the proposed project(s).

33 (iv) The division of public utilities shall provide an advisory opinion on the expected  
34 ratepayer impacts resulting from the proposed project(s).

1           **39-31-5. Regional energy procurement.--** (a) Consistent with the purposes of this  
2 chapter the public utility company that provides electric distribution as defined in § 39-1-2(12) as  
3 well as natural gas as defined in § 39-1-2(20) in consultation with the office of energy resources  
4 and the division of public utilities and carriers is authorized to voluntarily participate in multi-  
5 state or regional efforts to:

6           (1) Procure domestic or international large or small scale hydroelectric power and eligible  
7 renewable energy resources, including wind, as defined by section 39-26-5(a) on behalf of  
8 electric ratepayers, provided however that large scale hydroelectric power shall not be eligible  
9 under the renewable energy standard established by chapter 39-26 of the general laws;

10           (2) Procure incremental natural gas pipeline infrastructure and capacity into New  
11 England to help strengthen energy system reliability and facilitate the economic interests of the  
12 state and its ratepayers;

13           (3) Support the development and filing of necessary tariffs and other appropriate cost  
14 recovery mechanisms as proposed by the office of energy resources or the division of public  
15 utilities and carriers which allocate the costs of new electric transmission and natural gas pipeline  
16 infrastructure and capacity projects selected pursuant to the provisions of this chapter to  
17 ratepayers, such that costs are shared among participating states in an equitable manner; and

18           (4) To the extent that the public utility company that provides electric distribution as  
19 defined in § 39-1-2(12) as well as natural gas as provided in § 39-1-2(20) pursues the objectives  
20 identified above, the public utility company shall utilize all appropriate competitive processes,  
21 and maintain compliance with applicable federal and state siting laws.

22           (b) Any procurement authorized under this section shall be commercially reasonable.

23           **39-31-6. Utility filings with the Public Utilities Commission. --** (a) Pursuant to the  
24 procurement activities in § 39-31-5, the public utility company that provides electric distribution  
25 as defined in § 39-1-2(12) and public utilities that distribute natural gas as provided by § 39-1-  
26 2(20) are authorized to voluntarily file proposals with the commission for approval to implement  
27 these policies and achieve the purposes of this chapter. The company's proposals may include,  
28 but are not limited to, the following authorizations:

29           (1) Subject to review and approval of the Public Utilities Commission, to enter into long-  
30 term contracts through appropriate competitive processes for large or small scale hydroelectric  
31 power and/or renewable energy resources that are eligible under the renewable energy standard  
32 established by chapter 26 of title 39; provided, however, that large scale hydroelectric power shall  
33 not be eligible under the renewable energy standard established by chapter 26 of title 39 and  
34 provided that:

1           (i) The electric distribution company may, subject to review and approval of the  
2 commission, select a reasonable, open and competitive method of soliciting proposals from  
3 renewable energy developers, including domestic or international large or small scale  
4 hydroelectric power, which may include public solicitations and individual negotiations;

5           (ii) The solicitation process shall permit a reasonable amount of discretion for the parties  
6 to engage in arms-length negotiations over final contract terms;

7           (iii) Each long-term contract entered into pursuant to this section shall contain a condition  
8 that it shall not be effective without commission review and approval;

9           (iv) The electric distribution company shall file such contract(s), along with a  
10 justification for its decision, within a reasonable time after it has executed the contract following  
11 a solicitation or negotiation;

12           (v) The commission may approve the contract(s) if it determines that: (A) The contract is  
13 commercially reasonable; (B) The requirements for the solicitation have been met; and (C) The  
14 contract is consistent with the purposes of this chapter.

15           (2) Subject to review and approval of the commission, to enter into long-term contracts  
16 for natural gas pipeline infrastructure and capacity that are commercially reasonable and advance  
17 the purposes of this chapter at levels beyond those commitments necessary to serve local gas  
18 distribution customers, and may do so either directly or in coordination with other New England  
19 states and instrumentalities, utilities, generators, or other appropriate contracting parties.

20           (3) Participate in a multi-state or regional sharing of costs through Federal Energy  
21 Regulatory Commission (FERC) approved tariffs for the costs of electric transmission and  
22 pipeline infrastructure projects pursued under this chapter.

23           (b) The commission shall hold public hearings to review any contract filing that may be  
24 made pursuant to this chapter and issue a written order approving or rejecting the contract within  
25 one hundred eighty (180) days of filing; in rejecting a contract the commission may advise the  
26 parties of the reason for the contract being rejected and provide an option for the parties to  
27 attempt to address the reasons for rejection in a revised contract within a specified period not to  
28 exceed ninety (90) days.

29           **39-31-7. Duties of the Commission.** -- (a) The commission may approve any proposals  
30 made by the electric and gas distribution company that are commercially reasonable and advance  
31 the purposes of this chapter. The commission's authority shall include, without limitation, the  
32 authority to:

33           (1) Approve long-term contracts entered into pursuant to the goals and provisions of this  
34 chapter for large or small scale hydroelectric power and renewable energy resources that are

1 eligible under the renewable energy standard established by chapter 26 of title 39; provided,  
2 however, that large scale hydroelectric power shall not be eligible under the renewable energy  
3 standard established by chapter 26 of title 39;

4 (2) Approve long-term contracts for natural gas pipeline infrastructure and capacity  
5 consistent with this chapter;

6 (3) Approve rate-recovery mechanisms proposed by the electric and gas distribution  
7 companies relating to costs incurred under this chapter by the electric and gas distribution  
8 company that facilitate the multi-state or regional sharing of costs necessary to implement electric  
9 transmission and natural gas pipeline infrastructure projects pursued under this chapter, including  
10 any costs incurred through FERC approved tariffs related to such multi-state or regional energy  
11 infrastructure procurements;

12 (4) Address any proposed changes to standard offer procurements, standard offer pricing  
13 and retail choice rules;

14 (5) Provide for the recovery of reasonable costs from all distribution customers incurred  
15 by the electric and gas distribution company in furtherance of the purposes of this chapter which  
16 may include, but are not limited to, costs incurred under any contracts approved by the  
17 commission under this section and costs associated with the management of incremental capacity  
18 resulting from interstate gas pipeline expansion projects pursued pursuant to this chapter and  
19 costs associated with investments in local gas distribution network assets necessary to implement  
20 such interstate gas pipeline expansion projects;

21 (6) Approve cost allocation proposals filed by the gas distribution company and/or the  
22 electric distribution company that appropriately allocate natural gas infrastructure and capacity  
23 costs incurred under this section between electric and gas distribution customers of the electric  
24 and gas distribution company in a manner proportional to the energy benefits accrued by Rhode  
25 Island's gas and electric customers from making such investments. In making its determination,  
26 the commission shall consider projected reductions in regional wholesale electric prices as a  
27 benefit which accrues to electric ratepayers. The allocation of costs shall include all distribution  
28 customers, regardless from whom they are purchasing their commodity service; and

29 (7) Approve any other proposed regulatory or ratemaking changes that reasonably  
30 advance the goals set forth herein.

31 (b) The grant of authorizations under this chapter shall not be construed as creating a  
32 mandate or obligation on the part of the electric and gas distribution company to enter into any  
33 contracts or file any proposals pursuant to this chapter.

34 (c) The PUC shall accept public comment on any power purchase agreement filed by the

1 distribution utility, as authorized under this chapter, for a period no less than thirty (30) days from  
2 the date of filing.

3 (1) During this public comment period, the following state agencies shall provide  
4 advisory opinions to the PUC on the topics specified:

5 (i) The department of environmental management (DEM) shall provide an advisory  
6 opinion on the expected statewide environmental impacts resulting from the proposed power  
7 purchase agreement(s).

8 (ii) Commerce RI shall provide an advisory opinion on the expected statewide economic  
9 impacts resulting from the proposed power purchase agreement(s).

10 (iii) OER shall provide an advisory opinion on the expected energy security, reliability,  
11 environmental, and economic impacts resulting from the proposed power purchase agreement(s).

12 (2) The PUC shall notify the aforementioned agencies upon the filing of any power  
13 purchase agreement filed by the distribution utility pursuant to this chapter, and notify them of  
14 any related hearings and/or proceedings.

15 **39-31-8. Verification of energy generation and attributes of imported electricity. --**

16 (a) The office of energy resources and other appropriate state agencies shall work with the New  
17 England states' committee on electricity (NESCOE), ISO-NE, NEPOOL, NICE, the GIS  
18 administrator, and other stakeholders to implement changes to the New England power pool  
19 generation information system (NEPOOL GIS), and any other mechanisms necessary to track and  
20 verify the energy generation and attributes of electricity imported into New England as a result of  
21 projects implemented under the provisions of this chapter.

22 SECTION 2. 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

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1           This act would create the "Affordable Clean Energy Security Act" to establish a  
2 framework for the state, in coordination with other New England states, to make strategic  
3 investments in resources and infrastructure to achieve a clean, reliable energy future.

4           This act would take effect upon passage.

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