

1 pursuant to the provisions of chapter 39-26.2-9, or the office of energy resources. Until such time
2 as the board is duly constituted, the office of energy resources shall serve as the board with the
3 same powers and duties pursuant to this chapter.

4 (4) “Distributed generation contract capacity” means ten percent (10%) of an electric
5 distribution company’s minimum long-term contract capacity under the long-term contracting
6 standard for renewable energy in section 39-26.1-2, inclusive of solar capacity. The distributed
7 generation contract capacity shall be reserved for acquisition by the electric distribution company
8 through standard contracts pursuant to the provisions of this chapter.

9 (5) “Distributed generation facility” means an electrical generation facility that is a newly
10 developed renewable energy resource as defined in section 39-26.1-2, located in the electric
11 distribution company’s load zone with a nameplate capacity no greater than five megawatts (5
12 MW), using eligible renewable energy resources as defined by section 39-26-5, including biogas
13 created as a result of anaerobic digestion, but, specifically excluding all other listed eligible
14 biomass fuels, and connected to an electrical power system owned, controlled, or operated by the
15 electric distribution company.

16 (6) “Distributed generation project” means a distinct installation of a distributed
17 generation facility. An installation will be considered distinct if it is installed in a different
18 geographical location and at a different time, or if it involves a different type of renewable energy
19 class.

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

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

26 (9) “Program year” means a calendar year beginning January 1 and ending December 31.

27 (10) “Renewable energy classes” means categories for different renewable energy
28 technologies using eligible renewable energy resources as defined by section 39-26-5. For each
29 program year, the board shall determine the renewable energy classes as are reasonably feasible
30 for use in meeting distributed generation objectives from renewable energy resources and are
31 consistent with the goal of meeting the annual target for the program year. For the program year
32 ending December 31, 2012, there shall be at least four (4) technology classes and at least two (2)
33 shall be for solar generation technology, and at least one shall be for wind. The board may add,
34 eliminate, or adjust renewable energy classes for each program year with public notice given at

1 least sixty (60) days previous to any renewable energy class change becoming effective. For each
2 program year, the board shall set renewable energy class targets for each class established. Class
3 targets are the total program-year target amounts of nameplate capacity reserved for standard
4 contracts for each renewable energy class. The sum of all the class targets shall equal the annual
5 target.

6 (11) “Renewable energy credit” means a New England Generation Information System
7 renewable energy certificate as defined in subdivision 39-26-2(15);

8 (12) “Small distributed generation project” means a distributed generation project that
9 has a nameplate capacity no larger than the following: Solar: five hundred kilowatts (500 KW);
10 Wind: one and one-half megawatts (1.5 MW). For technologies other than solar and wind, the
11 board shall set the nameplate capacity size limits, but such limits may not exceed one megawatt.
12 The board may lower the nameplate capacity from year to year for any of these categories, but
13 may not increase the capacity beyond what is specified in this definition. In no case may a
14 project developer be allowed to segment a distributed generation project into smaller sized
15 projects in order to fall under this definition.

16 (13) “Standard contract” means a contract with a term of fifteen (15) years at a fixed rate
17 for the purchase of all capacity, energy, and attributes generated by a distributed generation
18 facility. A contract may have a different term if it is mutually agreed to by the seller and the
19 electric distribution company and it is approved by the commission. The terms of the standard
20 contract for each program year and for each renewable energy class shall be set pursuant to the
21 provisions of this chapter.

22 (14) “Standard contract ceiling price” means the standard contract price for the output of
23 a distributed generation facility which price is approved annually for each renewable energy class
24 pursuant to the procedure established in this chapter, for the purchase of energy, capacity,
25 renewable energy certificates, and all other environmental attributes and market products that are
26 available or may become available from the distributed generation facility.

27 **39-26.2-4. Standard contracts – Annual targets.** – (a) To the extent eligible projects are
28 available and submit conforming applications, an electric distribution company shall enter into
29 standard contracts for an aggregate nameplate capacity of at least forty megawatts (40 MW) of
30 distributed generation projects by the end of 2014, unless such schedule is extended by the board.
31 The contracting shall be spread over four (4) years, based on the annual targets, aggregated to
32 reflect annual targets from prior program years, contained in the following four (4) year phased
33 schedule, unless such schedule is adjusted by the board in any given year:

34 (1) By December 30, 2011: a minimum of five megawatts (5 MW) nameplate;

1 (2) By December 30, 2012: a minimum aggregate of twenty megawatts (20 MW)
2 nameplate;

3 (3) By December 30, 2013: a minimum aggregate of thirty megawatts (30 MW)
4 nameplate;

5 (4) By December 30, 2014: a minimum aggregate of forty megawatts (40 MW)
6 nameplate.

7 (b) By October 15, 2011 and each calendar year following until October 15, 2013, the
8 board may recommend to the commission that the annual target for the following program year
9 be adjusted upward to reflect any shortfalls in meeting the previous program year's annual target
10 or to reflect any standard contracts entered into during prior program years that are voided. The
11 board may also recommend to the commission that the annual target for the following program
12 year be adjusted downward by any amounts that the previous program year's annual targets were
13 exceeded by the standard contracts entered into during that program year.

14 (c) The board may, based on market data and other information available to it including
15 pricing for standard contracts received during previous program years, recommend a reduction of
16 the annual target for the upcoming program year where the board determines that market
17 conditions would be likely to produce unfavorably high target pricing for standard contracts
18 during that upcoming program year. In considering such issues, the board may take into account
19 the reasonableness of current pricing and its impact on all electric distribution customers who will
20 be paying for the output for up to twenty (20) years at such prices. The board may also
21 recommend an extension of time to achieve the forty megawatt (40 MW) target, to allow for
22 contracting to occur after 2014, if necessary.

23 (d) The electric distribution company must contract for at least forty megawatts (40
24 MW) of nameplate capacity distributed generation projects by the end of 2014, unless such
25 schedule is extended by the board. The electric distribution company may not be required to
26 contract for more than forty megawatts (40 MW) or the distributed generation contract capacity,
27 but may do so voluntarily, subject to commission approval.

28 (e) Each year, the board shall file its recommendations relating to the schedule, along
29 with its report and recommendations regarding ceiling prices, for the commission's review and
30 approval as specified in subsection 39-26.2-5(b).

31 **39-26.2-5. Standard contract ceiling price.** – (a) Within a period of time sufficient to
32 accomplish the purposes of this section, but not longer than ninety (90) days after the effective
33 date of this chapter, the board shall set ceiling prices and annual targets for each renewable
34 energy class of distributed generation for the 2011 program year and make a filing with the

1 commission pursuant to this chapter recommending such prices and targets. Thereafter annually
2 by no later than October 15 of each year, the board shall make filings with the commission to
3 recommend the standard contract ceiling prices and annual targets for each renewable energy
4 class of distributed generation facility. The ceiling price for each technology should be a price
5 that would allow a private owner to invest in a given project at a reasonable rate of return, based
6 on recent reported and forecast information on the cost of capital, and the cost of generation
7 equipment. In setting the ceiling prices, the board also may consider: (1) Transactions for newly
8 developed renewable energy resources, by technology and size, in the ISO-NE region and the
9 northeast corridor; (2) Pricing for standard contracts received during the previous program year;
10 (3) Environmental benefits, including, but not limited to, reducing carbon emissions, and system
11 benefits; and (4) Cost effectiveness. The board shall in performing this assessment involve
12 representation from its advisory council, if applicable, and from the office of energy resources,
13 the electric distribution company, and the energy efficiency and resources management council.
14 The board shall hold, with at least ten (10) business days notice, a public community review
15 meeting. The board shall issue a report of its findings from the assessment process recommending
16 standard contract ceiling prices for the upcoming program year. Such report shall be filed with
17 the commission, along with a recommendation for the approval of the ceiling prices for the
18 program year.

19 (b) The commission shall open a docket to consider for approval ceiling prices proposed
20 by the board. In reviewing the recommended ceiling prices the commission shall give due
21 consideration to the recommendations and report of the board and the standards set forth in
22 subsection (a) of this section. The commission shall issue a decision within sixty (60) days after
23 said recommendations and report are filed with the commission establishing the ceiling prices to
24 be used by electric distribution companies in standard contracts applicable to each renewable
25 energy class in order to effectuate the purposes and provisions of this chapter.

26 (c) During any program year, the board may on its own initiative, elect to revisit the
27 ceiling prices if the board determines that the prices are either too low or too high. In such case, it
28 may make a filing with the commission to seek a modification to the program for that year, which
29 shall be acted upon by the commission within sixty (60) days. While such request is pending, the
30 electric distribution company may suspend executing standard contracts until a decision is
31 reached on the request.

32 **39-26.2-6. Standard contract enrollment program.** – (a) Each electric distribution
33 company shall conduct at least three (3) standard contract enrollments during each program year;
34 however, during 2011 the electric distribution company need only conduct one enrollment. Each

1 enrollment shall be open for a two (2) week period during which the electric distribution
2 company is required to receive standard short-form applications requesting standard contracts for
3 distributed generation energy projects. The short-form applications shall require the applicant to
4 provide the project owner's identity and the project's proposed location, nameplate capacity, and
5 renewable energy class and allow for additional information relative to the permitting, financial
6 feasibility, ability to build, and timing for deployment of the proposed projects. For small
7 distributed generation projects, the applicant must submit an affidavit confirming that the project
8 is not a segment of a larger project being planned for enlargement over time. For large
9 distributed generation projects, the short-form application shall also require the applicant to bid a
10 bundled price for the sale of the energy, capacity, renewable energy certificates, and all other
11 environmental attributes and market products that are available or may become available from the
12 distributed generation facility, on a per kilowatt-hour basis for the output of the project. Subject
13 to the provisions of subsections (b) and (c) below, the electric distribution company shall not be
14 required to enter into standard contracts in excess of the annual target for the applicable program
15 year and shall not be required to enter into standard contracts in excess of any limit set by the
16 board and approved by the commission for a given enrollment. However, the electric distribution
17 company may voluntarily exceed an enrollment period limit as long as it does not exceed an
18 annual target for the applicable program year.

19 (b) For small distributed generation projects, the electric distribution company on a first-
20 come, first-served basis, shall enter into standard contracts at the applicable standard contract
21 ceiling price with any distributed generation project which meets the requirements of all
22 applicable tariffs and regulations, and meets the criteria of a renewable energy class in effect,
23 until the class target is met. Enrollment periods will be governed by a solicitation and enrollment
24 process rules that shall be filed with the commission each October 15 by the electric distribution
25 company, and approved by the commission within sixty (60) days of such filing.

26 (c) For large distributed generation projects, the electric distribution company shall select
27 projects for standard contracts based on the lowest proposed prices received, but not to exceed the
28 applicable standard contract ceiling price, provided, that the selected projects meet the
29 requirements of all applicable tariffs and regulations and meet the criteria of a renewable energy
30 class in effect until the class target is met. Except for 2011, no enrollment period shall seek to
31 enroll more than one-third (1/3) of the annual goal for the distribution company for large
32 distributed generation projects.

33 (d) If there are more projects than what is specified for a class target at the same price,
34 the electric distribution company shall review the applications submitted and select first those

1 projects that appear to be the furthest along in development and likely to be deployed. Those
2 projects that are likely to be deployed on the earliest timelines shall be selected. To the extent the
3 electric distribution company is unable to make a clear distinction on this basis, the electric
4 company shall report the results to the board and not enter into contracts with those projects that
5 are tied on pricing. In such case, the board may take such action as it deems appropriate for the
6 selection of projects, including seeking more information from the projects. Alternatively, the
7 board may consider adjustments to the ceiling price and a rebid, or simply wait until the next
8 enrollment.

9 (e) Should an electric distribution company determine that it has entered into sufficient
10 standard contracts to achieve a program-year class target, it shall immediately report this to the
11 board, the office of energy resources, and the commission, and cease entering into standard
12 contracts for that renewable energy class for the remainder of the program year. An electric
13 distribution company may exceed the renewable energy class target if the last standard contract
14 entered into may cause the total purchased to exceed the target.

15 (f) The electric distribution company is authorized to enter into standard contracts up to
16 the applicable ceiling price. As long as the terms of the standard contract are materially the same
17 as the standard contract terms approved by the commission and the pricing is no higher than the
18 applicable ceiling price, such contracts shall be deemed prudent and approved by the commission
19 for purposes of recovering the costs in rates.

20 (g) A distributed generation project that also is being employed by a customer for net
21 metering purposes may submit an application to sell the excess output from its distributed
22 generation project. In such case, however, at the election of the self-generator all of the renewable
23 energy certificates and environmental attributes pertaining to the energy consumed on site may be
24 sold to the electric distribution company on a month-to-month basis outside of the terms of the
25 standard contract. In such case, the portion of the renewable energy certificates that pertain to the
26 energy consumed on site during the net metering billing period shall be priced at the average
27 market price of renewable energy certificates, which may be determined by using the price of
28 renewable energy certificates purchased or sold by the electric distribution company.

29 **39-26.2-7. Standard contract – Form and provisions.** – The following process shall be
30 implemented to establish the non-price terms and conditions of the standard contract:

31 (1) A working group (“contract working group”) shall be established and supervised by
32 the board, consisting of the following members: (i) The director of the office of energy resources;
33 (ii) A designee from the division of public utilities and carriers; (iii) Two (2) designees of the
34 electric distribution company; (iv) Two (2) individuals designated by the office of energy

1 resources who are experienced developers of renewable generation projects; (v) One individual
2 designated by the office of energy resources who represents a customer of the electric distribution
3 company; and (vi) A lawyer designated by the office of energy resources who has at least three
4 (3) years of experience in negotiating and/or developing power purchase agreements. With
5 respect to the lawyer designated in (vi) above, the electric distribution company shall enter into a
6 cost reimbursement agreement with such lawyer, to compensate the lawyer for the time spent
7 serving in the contract working group at the reasonable hourly rate negotiated by the office of
8 energy resources. The costs incurred by the electric distribution company under the
9 reimbursement agreement shall be recovered in rates by the electric distribution company in the
10 year incurred or the year following incurrence through an appropriate filing with the commission.
11 The contract working group shall be an advisory group that is not to be considered to be an
12 agency for purposes of the administrative procedures act or any other laws pertaining to public
13 bodies.

14 (2) The contract working group shall work in good faith to develop standard contracts
15 that would be applicable for various technologies for both small and large distributed generation
16 projects. The standard contracts should balance the need for the project to obtain financing
17 against the need for the distribution company to protect itself and its distribution customers
18 against unreasonable risks. The standard contract should be developed from contracting terms
19 typically utilized in the wholesale power industry, taking into account the size of each project and
20 the technology. The standard contracts shall provide for the purchase of energy, capacity,
21 renewable energy certificates, and all other environmental attributes and market products that are
22 available or may become available from the distributed generation facility. However, the electric
23 distribution company shall retain the right to separate out pricing for each market product under
24 the contracts for administrative and accounting purposes to avoid any detrimental accounting
25 effects or for administrative convenience, provided that such accounting as specified in the
26 contract does not affect the price and financial benefits to the seller as a seller of a bundled
27 product. The standard contract also shall:

28 (i) Hold the distributed generation facility owner liable for the cost of interconnection
29 from the distributed generation facility to the interconnect point with the distribution system, and
30 for any upgrades to the existing distributed generation system that may be required by the electric
31 distribution company. However, a distributed generation facility owner may appeal to the
32 commission to reduce any required system upgrade costs to the extent such upgrades can be
33 shown to benefit other customers of the electric distribution company and the balance of such
34 costs shall be included in rates by the electric distribution company for recovery in the year

1 incurred or the year following incurrence;

2 (ii) Require the distributed generation facility owner to make a performance guarantee
3 deposit to the electric distribution company of fifteen dollars (\$15.00) for small distributed
4 generation projects or twenty-five dollars (\$25.00) for large distributed generation projects for
5 every renewable energy certificate estimated to be generated per year under the contract, but at
6 least five hundred dollars (\$500) and not more than seventy-five thousand dollars (\$75,000), paid
7 at the time of contract execution;

8 (iii) Require the electric distribution company to refund the performance guarantee
9 deposit on a pro-rated basis of renewable energy credits actually delivered by the distributed
10 generation facility over the course of the first year of the project's operation, paid quarterly;

11 (iv) Provide that if the distributed generation facility has not generated the output
12 proposed in its enrollment application within eighteen (18) months after execution of the contract,
13 the contract is automatically voided and the security guarantee is forfeited. Any forfeited
14 performance guarantee deposits shall be credited to all distribution customers in rates and not
15 retained by the electric distribution company;

16 (v) Provide for flexible payment schedules that may be negotiated between the buyer and
17 seller, but shall be no longer than quarterly if an agreement cannot be reached;

18 (vi) Require that an electric meter which conforms with standard industry norms be
19 installed to measure the electrical energy output of the distributed generation facility, and require
20 a system or procedure by which the distributed generation facility owner shall demonstrate
21 creation of renewable energy credits, in a manner recognized and accounted for by the GIS; such
22 demonstration of renewable energy credit creation to be at the distributed generation facility
23 owner's expense. The electric distribution company may, at its discretion, offer to provide such a
24 renewable energy credit measurement and accounting system or procedure to the distributed
25 generation facility owner, and the distributed generation facility owner may, at its discretion, use
26 the electric distribution company's program, or use that of an independent third party, approved
27 by the commission, and the costs of such measurement and accounting are paid for by the
28 distributed generation facility owner.

29 (3) If the contract working group reaches agreement on the terms of standard contracts,
30 the board shall file the contracts with the commission for approval. If there are any
31 disagreements, they shall be identified to the commission. The commission shall review the
32 standard contracts for conformance with the standards set forth in subsection (2). Should there be
33 any disputes, the commission shall issue an order resolving them. To the extent the commission
34 needs expert assistance to resolve any disagreements noted in the filing, the commission is

1 authorized to hire a consultant to assist it in the proceedings, the costs of which shall be recovered
2 from electric distribution customers pursuant to a uniform factor established by the commission
3 in rates for recovery by the electric distribution company in the year incurred or the year
4 following incurrence, as requested through a filing by the electric distribution company. The
5 commission shall issue an order approving standard forms of contract within sixty (60) days of
6 the filing.

7 **39-26.2-8. Standard contract - Reporting.** – (a) After each enrollment during a program
8 year the electric distribution companies shall provide a report to the board, office of energy
9 resources, and the commission of the aggregate amount of project nameplate capacity that was
10 the subject of standard contracts entered into during that enrollment and the prices under each of
11 the standard contracts that were executed.

12 (b) Each quarter of a program year, the electric distribution company shall provide an
13 accounting to office of energy resource, the board, and the commission of the total amount paid to
14 distributed generation facilities under standard contracts during that quarter, until the forty
15 megawatt (40 MW) target is met;

16 (c) Until the forty megawatt (40 MW) target is met, the electric distribution company
17 shall submit preliminary reports to office of energy resources, the board, and the commission
18 indicating the number of standard contracts and total estimated annual generation, price, class,
19 and any other relevant information for the purposes of better specifying classes, targets, or
20 standard contract prices so as to achieve the purposes set forth in this chapter. Such reports shall
21 be submitted no later than sixty (60) days prior to the end of the calendar year.

22 **39-26.2-9. Interaction with other statutory provisions.** – Except as expressly
23 differentiated in this chapter, standard contracts entered into pursuant to this chapter shall be
24 treated for all purposes as long-term contracts entered into under the provisions of the long-term
25 contracting standards for renewable energy found in chapter 26.1 of title 39 of the general laws,
26 and all such provisions shall apply to such contracts.

27 **39-26.2-10. Establishment of board -- Purposes.** – (a) There is hereby authorized,
28 created and established a board to be known as "The Distributed Generation Standard Contract
29 Board" with the powers and duties set forth in this chapter.

30 (b) The purposes of this board are to:

31 (1) Evaluate and make recommendations to the commission regarding ceiling prices and
32 annual contracting targets, the make-up of renewable energy classes, and the terms of standard
33 contracts under the provisions of this chapter;

34 (2) Provide consistent, comprehensive, informed and publicly accountable involvement

1 by representatives of groups impacted by, involved in, and knowledgeable regarding the
2 development of distributed generation projects that are eligible to enter into standard contracts;
3 and

4 (3) Monitor and evaluate the effectiveness of the distributed generation standard
5 contracting program for the purchase of the energy output of distributed renewable generation
6 projects.

7 **39-26.2-11. Composition and appointment.** – (a) The board shall consist of ten (10)
8 members appointed by the governor with the advice and consent of the senate; seven (7) members
9 shall be voting members, and the governor shall give due consideration to appointing persons
10 with knowledge of: (1) Energy regulation and law; (2) Large commercial/industrial users; (3)
11 Small commercial/industrial users; (4) Residential users; (5) Low income users; (6)
12 Environmental issues pertaining to energy; and (7) Construction of renewable generation. Three
13 (3) members shall be ex officio, non-voting members, one representing an electric distribution
14 company, one representing the commissioner of the office of energy resources and one
15 representing the economic development corporation. From the seven (7) voting members, the
16 governor shall appoint one person to be chairperson of the board and one person to be vice
17 chairperson of the board; the commissioner of the office of energy resources shall be the
18 executive secretary and executive director of the board.

19 (b) With the exception of the commissioner of the office of energy resources, and the
20 representative of the economic development corporation, the initial appointments of the other ex
21 officio, non-voting member shall be appointed for a term two (2) years, to be thereafter
22 reappointed or replaced by a nonvoting member with terms of two (2) years. Of the initial
23 appointments of voting members, three (3) voting members shall be appointed for a term of two
24 (2) years, to be thereafter reappointed or replaced by three (3) voting members with a term of two
25 (2) years, and four (4) voting members shall be appointed for a term of one year, to be thereafter
26 reappointed or replaced for each of the following three (3) years by four (4) voting members with
27 a term of one year.

28 (c) A simple majority of the total number of voting members shall constitute a quorum.

29 (d) A vacancy other than by expiration shall be filled in the manner of the original
30 appointment but only for the unexpired portion of the term. The appointing authority shall have
31 the power to remove its appointee for just cause.

32 (e) The members of the council shall not be compensated for their service but shall be
33 reimbursed for their actual expenses necessarily incurred in the performance of their duties. The
34 provisions of this subdivision shall not apply to the executive secretary/executive director.

1 **39-26.2-12. Powers and duties.** – The board shall have the power to:

2 (1) Develop and recommend to the public utilities commission for review and approval
3 ceiling prices for standard contracts under the distributed generation standard contracts;

4 (2) Develop and recommend to the commission adjustments up or down to the annual
5 target for standard contracts for the following program year;

6 (3) Monitor and evaluate performance under the distributed generation standard contracts
7 act, including an assessment of ratepayer impact, to be submitted annually in a report to the
8 governor and the general assembly.

9 (4) Participate in proceedings of the public utilities commission that pertain to the
10 purposes of the board.

11 (5) In order to provide funding for the purposes of engaging consultants and professional
12 services as necessary and appropriate for the board to fulfill its duties and purposes, an allocation
13 of no less than fifty thousand dollars (\$50,000) from unused portions of Regional Greenhouse
14 Gas Initiative (“RGGI”) auction proceeds not dedicated to efficiency measures but to overhead
15 expenses shall be transmitted from the office of energy resources to the board.

16 **39-26.2-13. Liberal construction of chapter required.** – This chapter shall be construed
17 liberally in aid of its declared purposes.

18 **39-26.2-14. Severability.** – If any provision of this chapter or the application thereof to
19 any person or circumstances is held invalid, such invalidity shall not affect other provisions or
20 applications of the chapter, which can be given effect without the invalid provision or application,
21 and to this end the provisions of this chapter are declared to be severable.

22 SECTION 2. This act shall take effect upon passage.

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LC02543/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - DISTRIBUTED GENERATION
STANDARD CONTRACTS

- 1 This act would facilitate, promote, support and develop the grid connected generation
- 2 renewable energy.
- 3 This act would take effect upon passage.

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LC02543/SUB A/2
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