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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIES -- NET METERING

Introduced By: Representatives Speakman, Boylan, Ajello, McGaw, Donovan, Tanzi,
Cortvriend, Knight, Kislak, and Potter

Date Introduced: March 01, 2023

Referred To: House Corporations

It is enacted by the General Assembly as follows:

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

3 **39-26.4-1. Purpose.**

4 The purpose of this chapter is to facilitate and promote installation of customer-sited, grid-
5 connected generation of renewable energy; to support and encourage customer development of
6 renewable generation systems; to reduce environmental and siting impacts; to reduce carbon
7 emissions that contribute to climate change by encouraging the local siting of renewable energy
8 projects; to diversify the state's energy generation sources; to stimulate economic development; to
9 improve distribution system resilience and reliability; and to reduce distribution system costs.

10 **39-26.4-2. Definitions.**

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

13 (1) "Community remote net-metering system" means a facility generating electricity using
14 an eligible net-metering resource that allocates net-metering credits to a minimum of one account
15 for a system associated with low- or moderate-income housing eligible credit recipients, or three
16 (3) eligible credit-recipient customer accounts, provided that no more than fifty percent (50%) of
17 the credits produced by the system are allocated to one eligible credit recipient, and provided further
18 at least fifty percent (50%) of the credits produced by the system are allocated to the remaining
19 eligible credit recipients in an amount not to exceed that which is produced annually by twenty-

1 five kilowatt (25 KW) AC capacity. The community remote net-metering system may transfer
2 credits to eligible credit recipients in an amount that is equal to or less than the sum of the usage of
3 the eligible credit recipient accounts measured by the three-year (3) average annual consumption
4 of energy over the previous three (3) years. A projected annual consumption of energy may be used
5 until the actual three-year (3) average annual consumption of energy over the previous three (3)
6 years at the eligible credit recipient accounts becomes available for use in determining eligibility
7 of the generating system. The community remote net-metering system may be owned by the same
8 entity that is the customer of record on the net-metered account or may be owned by a third party.
9 (2) “Core forest” refers to unfragmented forest blocks of single or multiple parcels totaling two
10 hundred fifty (250) acres or greater unbroken by development and at least twenty-five (25) yards
11 from mapped roads, with eligibility questions to be resolved by the director of the department of
12 environmental management. Such determination shall constitute a contested case as defined in §
13 42-35-1(5).

14 ~~(2)~~(3) “Electric distribution company” shall have the same meaning as § 39-1-2, but shall
15 not include Block Island Power Company or Pascoag Utility District, each of whom shall be
16 required to offer net metering to customers through a tariff approved by the public utilities
17 commission after a public hearing. Any tariff or policy on file with the public utilities commission
18 on the date of passage of this chapter shall remain in effect until the commission approves a new
19 tariff.

20 ~~(3)~~(4) “Eligible credit recipient” means one of the following eligible recipients in the
21 electric distribution company’s service territory whose electric service account or accounts may
22 receive net-metering credits from a community remote net-metering system. Eligible credit
23 recipients include the following definitions:

24 (i) Residential accounts in good standing.

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

33 (A) Restricts occupancy of no less than fifty percent (50%) of the housing to households
34 with a gross, annual income that does not exceed eighty percent (80%) of the area median income

1 as defined annually by the United States Department of Housing and Urban Development (HUD);

2 (B) Restricts the monthly rent, including a utility allowance, that may be charged to
3 residents, to an amount that does not exceed thirty percent (30%) of the gross, monthly income of
4 a household earning eighty percent (80%) of the area median income as defined annually by HUD;

5 (C) Has an original term of not less than thirty (30) years from initial occupancy.

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

10 (iii) “Educational institutions” means public and private schools at the primary, secondary,
11 and postsecondary levels.

12 (iv) “Commercial or industrial customers” means any non-residential customer of the
13 electric distribution company.

14 ~~(4)~~(5) “Eligible net-metering resource” means eligible renewable energy resource, as
15 defined in § 39-26-5 including biogas created as a result of anaerobic digestion, but, specifically
16 excluding all other listed eligible biomass fuels.

17 ~~(5)~~(6) “Eligible net-metering system” means a facility generating electricity using an
18 eligible net-metering resource that is reasonably designed and sized to annually produce electricity
19 in an amount that is equal to, or less than, the renewable self-generator’s usage at the eligible net-
20 metering system site measured by the three-year (3) average annual consumption of energy over
21 the previous three (3) years at the electric distribution account(s) located at the eligible net-metering
22 system site. A projected annual consumption of energy may be used until the actual three-year (3)
23 average annual consumption of energy over the previous three (3) years at the electric distribution
24 account(s) located at the eligible net-metering system site becomes available for use in determining
25 eligibility of the generating system. The eligible net-metering system may be owned by the same
26 entity that is the customer of record on the net-metered accounts or may be owned by a third party
27 that is not the customer of record at the eligible net-metering system site and which may offer a
28 third-party, net-metering financing arrangement or net-metering financing arrangement, as
29 applicable. Notwithstanding any other provisions of this chapter, any eligible net-metering
30 resource: (i) Owned by a public entity, educational institution, hospital, nonprofit, ~~or~~ multi-
31 municipal collaborative or (ii) Owned and operated by a renewable-generation developer on behalf
32 of a public entity, educational institution, hospital, nonprofit, ~~or~~ multi-municipal collaborative
33 through a net-metering financing arrangement shall be treated as an eligible net-metering system
34 and all accounts designated by the public entity, educational institution, hospital, nonprofit, ~~or~~

1 multi-municipal collaborative for net metering shall be treated as accounts eligible for net metering
2 within an eligible net-metering system site, or (iii) Owned and operated by a renewable-generation
3 developer on behalf of one or more commercial or industrial customer(s) through net-metering
4 financing arrangement(s) shall be treated as an eligible net-metering system within an eligible net
5 metering system site. Notwithstanding any other provision to the contrary, effective July 1, 2060
6 an eligible net metering system means a facility generating electricity using an eligible net metering
7 resource that is interconnected behind the same meter as the net metering customer's load.

8 ~~(6)~~(7) "Eligible net-metering system site" means the site where the eligible net-metering
9 system or community remote net-metering system is located or is part of the same campus or
10 complex of sites contiguous to one another and the site where the eligible net-metering system or
11 community remote net-metering system is located or a farm ~~in~~ on which the eligible net-metering
12 system or community remote net-metering system is located. Except for an eligible net-metering
13 system owned by or operated on behalf of a public entity, educational institution, hospital,
14 nonprofit, or multi-municipal collaborative ~~through a net-metering financing arrangement~~ or for a
15 commercial or industrial customer through a net-metering financing arrangement, the purpose of
16 this definition is to reasonably assure that energy generated by the eligible net-metering system is
17 consumed by net-metered electric service account(s) that are actually located in the same
18 geographical location as the eligible net-metering system. All energy generated from any eligible
19 net-metering system is, and will be considered, consumed at the meter where the renewable energy
20 resource is interconnected for valuation purposes. Except for an eligible net-metering system
21 owned by, or operated on behalf of, a public entity, educational institution, hospital, nonprofit, ~~or~~
22 multi-municipal collaborative or for a commercial or industrial customer through a net-metering
23 financing arrangement, or except for a community remote net-metering system, all of the net-
24 metered accounts at the eligible net-metering system site must be the accounts of the same customer
25 of record and customers are not permitted to enter into agreements or arrangements to change the
26 name on accounts for the purpose of artificially expanding the eligible net-metering system site to
27 contiguous sites in an attempt to avoid this restriction. However, a property owner may change the
28 nature of the metered service at the accounts at the site to be master metered in the owner's name,
29 or become the customer of record for each of the accounts, provided that the owner becoming the
30 customer of record actually owns the property at which the account is located. As long as the net-
31 metered accounts meet the requirements set forth in this definition, there is no limit on the number
32 of accounts that may be net metered within the eligible net-metering system site.

33 ~~(7)~~(8) "Excess renewable net-metering credit" means a credit that applies to an eligible net-
34 metering system or community remote net-metering system for that portion of the production of

1 electrical energy beyond one hundred percent (100%) and no greater than one hundred twenty-five
2 percent (125%) of the renewable self-generator's own consumption at the eligible net-metering
3 system site or the sum of the usage of the eligible credit recipient accounts associated with the
4 community remote net-metering system during the applicable billing period. Such excess
5 renewable net-metering credit shall be equal to the electric distribution company's avoided cost
6 rate, which is hereby declared to be the electric distribution company's ~~standard offer~~ [last resort](#)
7 service kilowatt hour (KWh) charge for the rate class and time-of-use billing period (if applicable)
8 applicable to the customer of record for the eligible net-metering system or applicable to the
9 customer of record for the community remote net-metering system. The commission shall have the
10 authority to make determinations as to the applicability of this credit to specific generation facilities
11 to the extent there is any uncertainty or disagreement.

12 ~~(8)~~[\(9\)](#) "Farm" shall be defined in accordance with § 44-27-2, except that all buildings
13 associated with the farm shall be eligible for net-metering credits as long as: (i) The buildings are
14 owned by the same entity operating the farm or persons associated with operating the farm; and (ii)
15 The buildings are on the same farmland as the project on either a tract of land contiguous with, or
16 reasonably proximate to, such farmland or across a public way from such farmland.

17 ~~(9)~~[\(10\)](#) "Hospital" means and shall be defined and established as set forth in chapter 17 of
18 title 23.

19 ~~(10)~~[\(11\)](#) "Multi-municipal collaborative" means a group of towns and/or cities that enter
20 into an agreement for the purpose of co-owning a renewable-generation facility or entering into a
21 financing arrangement pursuant to subsection ~~(14)~~ [\(15\)](#).

22 ~~(11)~~[\(12\)](#) "Municipality" means any Rhode Island town or city, including any agency or
23 instrumentality thereof, with the powers set forth in title 45.

24 ~~(12)~~[\(13\)](#) "Net metering" means using electrical energy generated by an eligible net-
25 metering system for the purpose of self-supplying electrical energy and power at the eligible net-
26 metering system site, or with respect to a community remote net-metering system, for the purpose
27 of generating net-metering credits to be applied to the electric bills of the eligible credit recipients
28 associated with the community net-metering system. The amount so generated will thereby offset
29 consumption at the eligible net-metering system site through the netting process established in this
30 chapter, or with respect to a community remote net-metering system, the amounts generated in
31 excess of that amount will result in credits being applied to the eligible credit-recipient accounts
32 associated with the community remote net-metering system.

33 ~~(13)~~[\(14\)](#) "Net-metering customer" means a customer of the electric distribution company
34 receiving and being billed for distribution service whose distribution account(s) are being net

1 metered.

2 ~~(14)~~(15) “Net-metering financing arrangement” means arrangements entered into by a
3 public entity, educational institution, hospital, nonprofit, ~~or~~ multi-municipal collaborative, or a
4 commercial or industrial customer with a private entity to facilitate the financing and operation of
5 a net-metering resource, in which the private entity owns and operates an eligible net-metering
6 resource on behalf of a public entity, educational institution, hospital, nonprofit, ~~or~~ multi-municipal
7 collaborative, or commercial or industrial customer, where: (i) The eligible net-metering resource
8 is located on property owned or controlled by the public entity, educational institution, hospital, ~~or~~
9 ~~one of the municipalities,~~ municipality, multi-municipal collaborative or commercial or industrial
10 customer as applicable; and (ii) The production from the eligible net-metering resource and primary
11 compensation paid by the public entity, educational institution, hospital, nonprofit, ~~or~~ multi-
12 municipal collaborative or commercial or industrial customer to the private entity for such
13 production is directly tied to the consumption of electricity occurring at the designated net-metered
14 accounts.

15 ~~(15)~~(16) “Nonprofit” means a nonprofit corporation as defined and established through
16 chapter 6 of title 7, and shall include religious organizations that are tax exempt pursuant to 26
17 U.S.C. § 501(d).

18 ~~(16)~~(17) “Person” means an individual, firm, corporation, association, partnership, farm,
19 town or city of the state of Rhode Island, multi-municipal collaborative, or the state of Rhode Island
20 or any department of the state government, governmental agency, or public instrumentality of the
21 state.

22 (18) “Preferred site” means a location for a renewable energy system that has had prior
23 development, including, but not limited to, landfills, gravel pits and quarries, highway and major
24 road median strips, brownfields, superfund sites, parking lots or sites that are designated
25 appropriate for carports, and all rooftops including, but not limited to, residential, commercial,
26 industrial and municipal buildings.

27 ~~(17)~~(19) “Project” means a distinct installation of an eligible net-metering system or a
28 community remote net-metering system. An installation will be considered distinct if it is installed
29 in a different location, or at a different time, or involves a different type of renewable energy.
30 Subject to the safe-harbor provisions in § 39-26.4-3(a)(1), new and distinct projects cannot be
31 located on adjoining parcels of land within core forests, except for preferred sites.

32 ~~(18)~~(20) “Public entity” means the federal government, the state of Rhode Island,
33 municipalities, wastewater treatment facilities, public transit agencies, or any water distributing
34 plant or system employed for the distribution of water to the consuming public within this state

1 including the water supply board of the city of Providence.

2 (21) "Public entity net metering system" means a system generating renewable energy at a
3 property owned or controlled by the public entity which is participating in a net metering financing
4 arrangement where the public entity has designated accounts in its name to receive net metering
5 credits.

6 ~~(19)~~(22) "Renewable net-metering credit" means a credit that applies to an eligible net-
7 metering system or a community remote net-metering system up to one hundred percent (100%) of
8 either the renewable self-generator's usage at the eligible net-metering system site or the sum of
9 the usage of the eligible credit-recipient accounts associated with the community remote net-
10 metering system over the applicable billing period. This credit shall be equal to the total kilowatt
11 hours of electrical energy generated up to the amount consumed on-site, and/or generated up to the
12 sum of the eligible credit-recipient account usage during the billing period multiplied by the sum
13 of the distribution company's:

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

19 (ii) Distribution kilowatt-hour charge;

20 (iii) Transmission kilowatt-hour charge; and

21 (iv) Transition kilowatt-hour charge.

22 For projects after April 15, 2023, subject to the allowable two hundred seventy-five
23 megawatts alternating current (275MWac), under § 39-26.4-3(a)(1)(vi), the credit shall be reduced
24 by twenty percent (20%).

25 Notwithstanding the foregoing, except for systems that have requested an interconnection
26 study for which payment has been received by the distribution company, or if an interconnection
27 study is not required, a completed and paid interconnection application, by December 31, 2018, the
28 renewable net-metering credit for all remote public entity and multi-municipal collaborative net-
29 metering systems shall not include the distribution kilowatt-hour charge commencing on January
30 1, 2050.

31 ~~(20)~~(23) "Renewable self-generator" means an electric distribution service customer of
32 record for the eligible net-metering system or community remote net-metering system at the eligible
33 net-metering system site which system is primarily designed to produce electrical energy for
34 consumption by that same customer at its distribution service account(s), and/or, with respect to

1 community remote net-metering systems, electrical energy which generates net-metering credits to
2 be applied to offset the eligible credit-recipient account usage.

3 ~~(21)~~(24) “Third party” means and includes any person or entity, other than the renewable
4 self-generator, who or that owns or operates the eligible net-metering system or community remote
5 net-metering system on the eligible net-metering system site for the benefit of the renewable self-
6 generator.

7 ~~(22)~~(25) “Third-party, net-metering financing arrangement” means the financing of
8 eligible net-metering systems or community remote net-metering systems through lease
9 arrangements or power/credit purchase agreements between a third party and renewable self-
10 generator, except for those entities under a public entity net-metering financing arrangement. A
11 third party engaged in providing financing arrangements related to such net-metering systems with
12 a public or private entity is not a public utility as defined in § 39-1-2.

13 **39-26.4-3. Net metering.**

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

17 (1)(i) The maximum allowable capacity for eligible net-metering systems, based on
18 nameplate capacity, shall be ten megawatts (10 MW), ~~effective sixty (60) days after passage.~~

19 (ii) Eligible net-metering systems shall be sited outside of core forests with the exception
20 of development on preferred sites in the core forest and the exception of systems that, as of April
21 15, 2023, (i) have submitted a complete application to the appropriate municipality for any required
22 permits and/or zoning changes or, (ii) have requested an interconnection study for which payment
23 has been received by the distribution company, or (iii) if an interconnection study is not required,
24 systems that have a completed and paid interconnection application.

25 (iii) For systems developed in core forests on preferred sites, no more than one hundred
26 thousand square feet (100,000 sq. ft) of core forest shall be removed, including for work required
27 for utility interconnection or development of a brownfield, in which case no more core forest than
28 necessary for interconnection or brownfield development shall be removed.

29 (iv) The aggregate amount of net metering in the Block Island Utility District doing
30 business as Block Island Power Company and the Pascoag Utility District shall not exceed a
31 maximum percentage of peak load for each utility district as set by the utility district based on its
32 operational characteristics, subject to commission approval; ~~and~~

33 ~~(ii)~~(v) Through December 31, 2018, the maximum aggregate amount of community remote
34 net-metering systems built shall be thirty megawatts (30 MW). Any of the unused MW amount

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

11 (vi) The maximum aggregate capacity of remote net metering allowable for ground-
12 mounted eligible net-metering systems, as defined by § 39-26.4-2(6), with the exception of systems
13 that have, as of April 15, 2023, submitted a complete application to the appropriate municipality
14 for any required permits and/or zoning changes or have requested an interconnection study for
15 which payment has been received by the distribution company, or if an interconnection study is not
16 required, a completed and paid interconnection application by the distribution company date of
17 passage, shall be two hundred seventy-five megawatts, alternating current (275 MWAC), excluding
18 off-shore wind. None of the systems to which this cap applies shall be in core forests unless on a
19 preferred site located within the core forest. A project counts against this maximum if it is in
20 operation or under construction by July 1, 2030, as determined by the local distribution company.
21 All eligible ground-mounted net-metering systems must be under construction or in operation by
22 July 1, 2030. This restriction shall not apply to the following: (1) the eligible net metering system
23 is interconnected behind the same meter as the net metering customer's load; and/or (2) the energy
24 generated by the eligible net-metering system is consumed by net-metered electric service
25 account(s) of the same owner of record that are actually located on the same or contiguous parcels
26 as the eligible net-metering system.

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

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

32 (ii) Aggregate consumption of the net-metered accounts at the eligible net-metering system
33 site or the sum of the consumption of the eligible credit-recipient accounts associated with the
34 community remote net-metering system, and establish a monthly billing plan that reflects the

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

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

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

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

1 metering credits.

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

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

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

15 (e) The Rhode Island office of energy resources shall redesign the community solar remote
16 net metering program to reflect the provisions of this chapter and to include a commercial or
17 industrial anchor tenant up to but not to exceed fifty percent (50%) of the project. The remaining
18 fifty percent (50%) must be allocated or subscribed to low- and moderate-income (LMI) residents
19 and/or those living in areas defined as disadvantaged and environmental justice communities. The
20 Rhode Island office of energy resources shall design the net metering credit rate and factor in
21 federal energy funding and tax credits to develop the most cost-effective rate for community solar
22 projects. It is expected that these projects will be operational for a twenty (20) year period. The
23 Rhode Island office of energy resources shall file a benefit and cost analysis with any program
24 proposal filed to the Rhode Island public utilities commission. Once the Rhode Island office of
25 energy resources files a program proposal to the Rhode Island public utilities commission, a docket
26 shall be established, and the Rhode Island public utilities commission shall issue a ruling on the
27 program no later than one-hundred and fifty (150) days. If a program is approved, it will be subject
28 to no greater than twenty megawatts (20 MW) per year for two years until the forty megawatts (40
29 MW) cap is met. Eligible net-metering systems shall be sited outside of core forests with the
30 exception of development on preferred sites in the core forest.

31 SECTION 2. Sections 39-26.6-1, 39-26.6-3, 39-26.6-5, 39-26.6-7, 39-26.6-10, and 39-
32 26.6-12, 39-26.6-15, 39-26.6-22 and 39-26.6-25 of the General Laws in Chapter 39-26.6 entitled
33 "The Renewable Energy Growth Program" are hereby amended to read as follows:

34 **39-26.6-1. Purpose.**

1 The purpose of this chapter is to ~~facilitate and promote installation of grid-connected~~
2 ~~generation of renewable energy; support and encourage development of distributed renewable~~
3 ~~energy generation systems; reduce environmental impacts; reduce carbon emissions that contribute~~
4 ~~to climate change by encouraging the siting of renewable energy projects in the load zone of the~~
5 ~~electric distribution company; diversify the energy generation sources within the load zone of the~~
6 ~~electric distribution company; stimulate economic development; improve distribution system~~
7 ~~resilience and reliability within the load zone of the electric distribution company; and reduce~~
8 ~~distribution system costs~~ enable the state to meet its climate and resilience goals, including those
9 established in the act on climate. This includes the goals to facilitate and promote installation of
10 grid-connected generation of renewable energy; support and encourage development of distributed
11 renewable energy generation systems while protecting important core forest areas essential to
12 climate resilience and complying with Rhode Island’s climate change mandates; reduce
13 environmental impacts; reduce carbon emissions that contribute to climate change by encouraging
14 the siting of renewable energy projects in the load zone of the electric distribution company and in
15 preferred areas that have already been disturbed by industry or other uses; diversify the energy-
16 generation sources within the load zone of the electric distribution company; stimulate economic
17 development; and improve distribution-system resilience and reliability with the load zone of the
18 electric distribution company.

19 **39-26.6-3. Definitions.**

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

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

24 (2) “Ceiling price” means the bidding price cap(s) applicable to ~~an~~ each annual enrollment
25 for a given distributed-generation class, that shall be approved ~~annually~~ for each renewable energy
26 class pursuant to the procedure established in this chapter. the ceiling price(s) are not required to,
27 but may be, approved for up to three years. The ceiling price for each technology should be a price
28 that would allow a private owner to invest in a given project at a reasonable rate of return, based
29 on recently reported and forecast information on the cost of capital and the cost of generation
30 equipment. The calculation of the reasonable rate of return for a project shall include, where
31 applicable, any state or federal incentives, including, but not limited to, tax incentives. Nothing
32 shall prohibit the distributed-generation board from proposing revised ceiling prices prior to a
33 program year to account for changes to available federal or state tax incentives, trade tariffs, or
34 other federal or state incentives which would affect the calculation of the rate of return on a project.

1 (3) “Commercial-scale solar project” means a solar distributed-generation project with the
2 nameplate capacity specified in § 39-26.6-7.

3 (4) “Commission” means the Rhode Island public utilities commission.

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

20 (6) “Core forest” refers to unfragmented forest blocks of single or multiple parcels totaling
21 two hundred fifty (250) acres or greater unbroken by development and at least twenty-five (25)
22 acres from mapped roads, with eligibility questions to be resolved by the director of the department
23 of environmental management. Such determination shall constitute a contested case as defined in
24 § 42-35-1. Notwithstanding any other provisions of this chapter, no renewable-distributed-
25 generation project that is located or planned to be located in or on a core forest, shall be considered
26 an eligible renewable-distributed-generation project or otherwise be eligible to participate in this
27 program, unless it is on a preferred site.

28 ~~(6)~~(7) “Distributed-generation facility” means an electrical-generation facility located in
29 the electric distribution company’s load zone with a nameplate capacity no greater than five
30 megawatts (5 MW), except for solar projects as described in § 39-26.6-7 that may exceed five
31 megawatts (5 MW) but shall not be greater than fifteen megawatts (15 MW), unless located on
32 preferred sites, in which case they may be sized up to thirty-nine megawatts (39 MW), using eligible
33 renewable energy resources as defined by § 39-26-5, including biogas created as a result of
34 anaerobic digestion, but, specifically excluding all other listed eligible biomass fuels, and

1 connected to an electrical power system owned, controlled, or operated by the electric distribution
2 company. For facilities developed in core forests on preferred sites, no more than one hundred
3 thousand square feet (100,000 sq. ft.) of core forest shall be removed, including for work required
4 for utility interconnection or development of a brownfield, in which case no more core forest than
5 necessary for interconnection or brownfield development shall be removed. For purposes of this
6 chapter, a distributed-generation facility must be a new resource that:

7 (i) Has not begun operation;

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

10 (iii) Except for small-scale solar projects, does not have in place investment or lending
11 agreements necessary to finance the construction of the facility prior to the submittal of an
12 application or bid for which the payment of performance-based incentives is sought under this
13 chapter except to the extent that such financing agreements are conditioned upon the project owner
14 being awarded performance-based incentives under the provisions of this chapter. For purposes of
15 this definition, preexisting hydro generation shall be exempt from the provisions of subsection
16 (6)(i) regarding operation, if the hydro-generation facility will need a material investment to restore
17 or maintain reliable and efficient operation and meet all regulatory, environmental, or operational
18 requirements. For purposes of this provision, “material investment” shall mean investment
19 necessary to allow the project to qualify as a new, renewable energy resource under § 39-26-2. To
20 be eligible for this exemption, the hydro-project developer at the time of submitting a bid in the
21 applicable procurement must provide reasonable evidence with its bid application showing the level
22 of investment needed, along with any other facts that support a finding that the investment is
23 material, the determination of which shall be a part of the bid review process set forth in § 39-26.6-
24 16 for the award of bids.

25 ~~(7)~~(8) “Distributed-generation project” means a distinct installation of a distributed-
26 generation facility. An installation will be considered distinct if it does not violate the segmentation
27 prohibition set forth in § 39-26.6-9.

28 ~~(8)~~(9) “Electric distribution company” means a company defined in § 39-1-2(a)(12),
29 supplying standard-offer service, last-resort service, or any successor service to end-use customers,
30 but not including the Block Island Power Company or the Pascoag Utility District.

31 ~~(9)~~(10) “ISO-NE” means Independent System Operator-New England, the Regional
32 Transmission Organization for New England designated by the Federal Energy Regulatory
33 Commission.

34 ~~(10)~~(11) “Large distributed-generation project” means a distributed-generation project that

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

3 ~~(11)~~(12) “Large-scale solar project” means a solar distributed-generation project with the
4 nameplate capacity specified in § 39-26.6-7.

5 ~~(12)~~(13) “Medium-scale solar project” means a solar distributed-generation project with
6 the nameplate capacity specified in § 39-26.6-7.

7 ~~(13)~~(14) “Office” means the Rhode Island office of energy resources.

8 (15) “Preferred sites” means a location for a renewable energy system that has had prior
9 development, including, but not limited to, landfills, gravel pits and quarries, highway and major
10 road median strips, brownfields, superfund sites, parking lots or sites that are designated
11 appropriate for carports, and all rooftops including, but not limited to, residential, commercial,
12 industrial and municipal buildings.

13 ~~(14)~~(16) “Program year” means a year beginning April 1 and ending March 31, except for
14 the first program year, that may commence after April 1, 2015, subject to commission approval.

15 ~~(15)~~(17) “Renewable energy certificate” means a New England Generation Information
16 System renewable energy certificate as defined in § 39-26-2(14).

17 ~~(16)~~(18) “Renewable energy classes” means categories for different renewable energy
18 technologies using eligible renewable energy resources as defined by § 39-26-5, including biogas
19 created as a result of anaerobic digestion, but, specifically excluding all other listed eligible biomass
20 fuels specified in § 39-26-2(6). For each program year, in addition to the classes of solar distributed
21 generation specified in § 39-26.6-7, the board shall determine the renewable energy classes as are
22 reasonably feasible for use in meeting distributed-generation objectives from renewable energy
23 resources and are consistent with the goal of meeting the annual target for the program year. The
24 board may make recommendations to the commission to add, eliminate, or adjust renewable energy
25 classes for each program year, provided that the solar classifications set forth in § 39-26.6-7 shall
26 remain in effect for at least the first two (2) program years and no distributed-generation project
27 may exceed five megawatts (5 MW) of nameplate capacity except for solar projects as described
28 in § 39-26.6-7.

29 ~~(17)~~(19) “Shared solar facility” means a single small-scale or medium-scale solar facility
30 that must allocate bill credits to at least two (2), and no more than fifty (50), accounts in the same
31 customer class and on the same or adjacent parcels of land. Public entities may allocate such bill
32 credits to at least two (2), and up to fifty (50), accounts without regard to physical location so long
33 as the facility and accounts are within the same municipality. In no case will the annual allocated
34 credits in KWh exceed the prior three-year (3) annual average usage, less any reductions for verified

1 energy-efficiency measures installed at the customer premises, of the customer account to which
2 the bill credits are transferred.

3 ~~(18)~~(20) “Small distributed-generation project” means a distributed-generation renewable
4 energy project that has a nameplate capacity within the following: Wind: fifty kilowatts (50 KW)
5 to one and one-half megawatts (1.5 MW); small-scale solar projects and medium-scale solar
6 projects with the capacity limits as specified in § 39-26.6-7. For technologies other than solar and
7 wind, the board shall set the nameplate capacity-size limits, but such limits may not exceed one
8 megawatt (1 MW).

9 ~~(19)~~(21) “Small-scale solar project” means a solar distributed-generation project with the
10 nameplate capacity specified in § 39-26.6-7.

11 **39-26.6-5. Tariffs proposed and approved.**

12 (a) Each year, ~~for a period of at least five (5) program years,~~ the electric distribution
13 company shall file tariffs with the commission that are designed to provide a multiyear stream of
14 performance-based incentives to eligible renewable-distributed-generation projects for a term of
15 years, under terms and conditions set forth in the tariffs and approved by the commission. The
16 tariffs shall set forth the rights and obligations of the owner of the distributed-generation project
17 and the conditions upon which payment of performance-based incentives by the electric
18 distribution company will be paid. The tariffs shall include the non-price conditions set forth in §§
19 39-26.2-7(2)(i) — (vii) for small distributed-generation projects (other than small- and medium-
20 scale solar) and large distributed-generation projects; provided, however, that the time periods for
21 the projects to reach ninety percent (90%) of output shall be extended to twenty-four (24) months
22 (other than eligible anaerobic-digestion projects, which shall be thirty-six (36) months, and eligible
23 small-scale hydro, [and large-scale solar projects](#) which shall be forty-eight (48) months). The non-
24 price conditions in the tariffs for small- and medium-scale solar shall take into account the different
25 circumstances for distributed-generation projects of the smaller sizes.

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

30 (c) In proposing the tariff(s) and solicitation rules applicable to each year, the tariff(s) and
31 rules shall be developed by the electric distribution company and will be reviewed by the office
32 and the board before being sent to the commission for its approval. The proposed tariffs shall
33 include the ceiling prices and term lengths for each tariff that are recommended by the board. The
34 term lengths shall be from fifteen (15) to twenty (20) years; provided, however, that the board may

1 recommend shorter terms for small-scale solar projects. Whatever term lengths between fifteen
2 (15) and twenty (20) years are chosen for any given tariff, the evaluation of the bids for that tariff
3 shall be done on a consistent basis such that the same term lengths for competing bids are used to
4 determine the winning bids.

5 ~~(d) The board shall use the same standards for setting ceiling prices as set forth in § 39-~~
6 ~~26.2-5.~~ In setting the ceiling prices, the board may specifically consider:

- 7 (1) Transactions for newly developed renewable energy resources, by technology and size,
8 in the ISO-NE control area and the northeast corridor;
- 9 (2) Pricing from bids received during the previous program year;
- 10 (3) Environmental benefits, including, but not limited to, reducing carbon emissions;
- 11 (4) For community remote distributed-generation systems, administrative costs and
12 financial benefits for participating customers;
- 13 (5) System benefits; ~~and~~
- 14 (6) Cost-effectiveness;
- 15 [\(7\) Location of projects, including climate resilience and conservation benefits; and](#)
- 16 [\(8\) Labor standards pursuant to chapter 26.9 of title 39.](#)

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

23 **39-26.6-7. Solar project size categories.**

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

- 26 (1) Small-scale solar projects;
- 27 (2) Medium-scale solar projects;
- 28 (3) Commercial-scale solar projects; and
- 29 (4) Large-scale solar projects.

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

- 32 (1) Large scale: solar projects ~~from one megawatt (1 MW), up to and including, five~~
33 ~~megawatts (5 MW) nameplate capacity;~~ [shall be comprised of four \(4\) classes as follows:](#)
 - 34 [\(i\) One megawatt \(1 MW\) but less than five megawatts \(5 MW\), nameplate capacity;](#)

- 1 [\(ii\) Five megawatts \(5 MW\), but less than ten megawatts \(10 MW\), nameplate capacity;](#)
2 [\(iii\) Ten megawatts \(10 MW\), but less than fifteen megawatts \(15 MW\), nameplate](#)
3 [capacity; and](#)
4 [\(iv\) Fifteen megawatts \(15 MW\), but less than thirty-nine megawatts \(39 MW\), nameplate](#)
5 [capacity for projects located on preferred sites.](#)

6 (2) Commercial scale: [shall be comprised of](#) solar projects greater than two hundred fifty
7 kilowatts (250 KW), but less than one megawatt (1 MW) nameplate capacity;

8 (3) Medium scale: [shall be comprised of](#) solar projects greater than twenty-five kilowatts
9 (25 KW), up to and including, two hundred fifty kilowatts (250 KW) nameplate capacity; and

10 (4) Small scale: [shall be comprised of](#) solar projects, up to and including, twenty-five
11 kilowatts (25 KW) nameplate capacity.

12 (c) Other classifications of solar projects may also be proposed by the board, subject to the
13 approval of the commission. After the second program year, the board may make recommendations
14 to the commission to adjust the size categories of the solar classes, provided that the medium-scale
15 solar projects may not exceed two hundred fifty kilowatts (250 KW); and/or allocated capacity to
16 community distributed-generation facilities, allowing them to compete or enroll under a distinct
17 ceiling price.

18 **39-26.6-10. Timing and schedule of tariff filings.**

19 (a) The electric distribution company shall file with the commission the first set of tariffs
20 and solicitation rules pursuant to this chapter no later than November 15, 2014. Thereafter, the
21 electric distribution company shall make ~~annual~~ tariff and solicitation rules filings with the
22 commission no later than November 15 prior to the beginning of the applicable program year [when](#)
23 [necessary](#), which tariffs and rules shall be applicable for the next program year(s).

24 (b) Upon receiving the filing from the electric distribution company, the commission shall
25 open a docket to consider the filing. The commission shall issue an order approving the proposed
26 tariffs and solicitation rules; provided, however, that the commission may make any modifications
27 that it deems appropriate consistent with the legislative purposes of this chapter as set forth herein.

28 ~~(c) For the first program year, the commission shall issue its order approving tariff(s) and~~
29 ~~solicitation rules by no later than March 31, 2015. Thereafter, the~~ [The](#) commission shall approve
30 ~~them by February 15~~ [tariff\(s\) and solicitation rules prior to the commencement](#) of ~~each succeeding~~
31 [the applicable](#) year(s).

32 (d) During the course of any program year, the electric distribution company may, at any
33 time, in consultation with the office and the board, propose tariff or solicitation rules modifications.
34 The commission shall consider the proposed modifications through an already open or new docket,

1 and shall issue its order within one hundred five (105) days of the filing of the proposed
2 modification. If approved, the proposed modification shall take effect for the next enrollment event
3 following the issuance of the commission's order.

4 **39-26.6-12. Annual bidding and enrollments.**

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

9 (b) During each program year, the tariff enrollments shall have both an annual targeted
10 amount of nameplate megawatts ("annual MW target") and a nameplate megawatt target for each
11 separate enrollment event ("enrollment MW target"). The enrollment MW target shall comprise the
12 specific portion of the annual MW target sought to be obtained in that enrollment. The annual MW
13 target(s) and enrollment MW targets shall be recommended by the board ~~each year~~ no less
14 frequently than every three (3) years, subject to commission approval. The board shall also
15 recommend a megawatt target for each class ("class MW target") that comprises a specified portion
16 of the enrollment MW target, subject to commission approval. If the electric distribution company,
17 the office, and the board mutually agree, they may reallocate megawatts during an enrollment from
18 one class to another without commission approval if there is an over-subscription in one class and
19 an under-subscription in another, provided that the annual MW target is not being exceeded, except
20 as provided in § ~~39-26.6-7~~ 39-26.6-17. No reallocation of megawatts from a competitive pricing
21 class to a non-competitive pricing class shall be made until after the completion of the three (3)
22 enrollment periods in the program year and in no case may the annual MW target be exceeded as a
23 result of a reallocation of megawatts.

24 (c) The annual MW targets shall be established from the year 2023 through the year 2033.
25 The annual target for each program year shall be up to three hundred megawatts (300 MW);
26 provided that, thirty megawatts (30 MW) shall be reserved for projects less than one megawatt (1
27 MW). The board may petition the commission for approval of multi-year annual targets and
28 associated-ceiling prices. ~~established as follows; provided, however, that at least three megawatts~~
29 ~~(3 MW) of nameplate capacity shall be carved out exclusively for small-scale solar projects in each~~
30 ~~of the first four (4) program years:~~

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

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

1 ~~(3) For the third and fourth program years, the annual target shall be forty nameplate~~
2 ~~megawatts (40 MW), subject to the conditions set forth in subsection (f) of this section having been~~
3 ~~met for the applicable prior program year as determined in the manner specified in subsection (g)~~
4 ~~of this section;~~

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

10 ~~(5) From the year 2020 through the year 2029, the annual target for each program year shall~~
11 ~~be an additional forty nameplate megawatts (40 MW) above the annual target for the preceding the~~
12 ~~program year.~~

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

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

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

27 ~~(1) That it is reasonable to conclude that the bid prices submitted in the procurements for the large-~~
28 ~~scale solar and commercial-scale solar classes were reasonably competitive in the immediately~~
29 ~~preceding program year; (2) That it is reasonable to conclude that the annual MW target specified~~
30 ~~for the next program year is reasonably achievable; and (3) That the electric distribution company~~
31 ~~was able to, or with reasonably prudent efforts should have been able to, perform the studies and~~
32 ~~system upgrades on a timely basis necessary to accommodate the number of applications associated~~
33 ~~with the targets without materially adversely affecting other electric distribution construction~~
34 ~~projects needed to provide reliable and safe electric distribution service. To the extent the board or~~

1 ~~the commission concludes that any of these conditions have not been met for the applicable~~
2 ~~program year, the board may recommend, and/or the commission may adopt, a new annual MW~~
3 ~~target, based on the factors set forth in subsection (h) of this section.~~

4 (g) ~~Before the third, fourth, and fifth program years, each year the board shall review the~~
5 ~~conditions specified in subsection (f) of this section and make a recommendation to the commission~~
6 ~~for findings as to whether they have been met for the applicable year. The recommendation shall~~
7 ~~be filed with the commission, with copies to the office and the electric distribution company, and~~
8 ~~any person who has made a written request to the commission to be included in such notification,~~
9 ~~such list which may be obtained from the commission clerk, and a notice of such filing shall be~~
10 ~~posted by the commission on its website. If no party files an objection to the recommended findings~~
11 ~~within ten (10) business days of the posting, the commission may accept them without hearings. If~~
12 ~~an objection is filed with a reasonable explanation for its basis, the commission shall hold hearings~~
13 ~~and make the factual determination of whether the conditions have been met.~~

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

29 (i) ~~The renewable energy growth program is intended to achieve at least an aggregate~~
30 ~~amount of one hundred sixty nameplate megawatts (160 MW) over five (5) years, plus any shortfall~~
31 ~~amount added in pursuant to subsection (e) of this section. However, after the second program year,~~
32 ~~the board may, based on market data and other information available to it, including pricing~~
33 ~~received during previous program years, recommend changes to the annual target for any program~~
34 ~~year above or below the specified targets in subsection (e) of this section if the board concludes~~

1 that market conditions are likely to produce favorably low or unfavorably high target pricing during
2 the upcoming program year, provided that the recommendation may not result in the five-year (5),
3 one hundred sixty megawatt nameplate (160 MW) target, plus any shortfall added pursuant to
4 subsection (e) of this section, being exceeded. Any megawatt reduction in an annual target shall be
5 added to the target in the fifth year of the program (and any subsequent years if necessary) such
6 that the overall program target of one hundred sixty megawatt nameplate (160 MW) capacity, plus
7 any shortfall added pursuant to subsection (e) of this section, is achieved. In considering these
8 issues, the board and the commission may take into account the reasonableness of current pricing
9 and its impact on all electric distribution customers and the legislative purpose of this chapter as
10 set forth herein, including the program purpose to facilitate the development of renewable
11 distributed generation in the load zone of the electric distribution company at reasonable cost.

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

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

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

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

27 **39-26.6-15. Bidding and incentive award processes for solar DG projects.**

28 (a) Large-scale and commercial-scale solar projects and distributed-generation projects for
29 other eligible technologies shall bid a price-per-kilowatt-hour for the entire output of the facility
30 (net of any station service) that shall not exceed the applicable ceiling price. Small-scale and
31 medium-scale solar projects will submit an enrollment application to receive a standard
32 performance-based incentive for the period of years in the applicable tariff, that shall be a price-
33 per-kilowatt-hour for the entire output of the facility. Except for megawatts that may be allocated
34 to the energy-efficiency program pursuant to § 39-26.6-19, small- and medium-scale projects shall

1 be selected on a first-come, first-served basis, or by means of a commission-approved lottery
2 system, or such other method as may be recommended by the board and approved by the
3 commission.

4 (b) Except for the first program year, the board shall determine, subject to commission
5 approval, the standard performance-based incentive for small- and medium-sized solar projects
6 from the average bid price from the last two (2) procurement enrollments conducted in the
7 commercial-scale and/or large-scale solar projects class. ~~For the first program year, the board may
8 derive the standard performance incentive for small- and medium-sized solar projects from the
9 bidding data obtained from the distributed generation program in effect in 2014 under the
10 provisions of chapter 26.2 of this title until there is bidding data from the first procurement under
11 the new program which shall then be used to set a new standard performance incentive.~~ The
12 standard performance incentive may be set at a higher rate than payments for commercial-scale and
13 large-scale solar projects in order to take into account the potentially higher per-unit cost of smaller
14 projects. The standard performance incentive also shall be adjusted upward or downward, as
15 needed, in order to take into account the term length over which the incentive shall be paid for the
16 small- and medium-scale solar projects if such terms are different than the terms applicable to the
17 classes from which the standard performance incentive was derived.

18 (c) For each program year, the board shall recommend to the commission a standard
19 performance incentive for each of the small-scale and medium-scale solar project classifications,
20 [which performance incentives may span up to three program years](#). Upon receiving the
21 recommendations from the board, the commission shall open a docket to consider the
22 recommendations or address the recommendations in its approval process for the [applicable](#)
23 program year(s) in a consolidated docket as provided in § 39-26.6-10. The commission shall issue
24 its order approving the recommendations no later than concurrently with approval of the entire
25 program and tariffs applicable to the program year; provided, however, that the commission may
26 make modifications or changes to the board's recommendations consistent with the legislative
27 purposes of this chapter.

28 (d) If after the first program year, the applications for the medium-scale solar projects are
29 significantly over-subscribed, then the board and the electric distribution company, in consultation
30 with the office, may propose to the commission a bidding process for medium-scale projects or a
31 subset of the medium-scale projects under which project selections would be made based on the
32 lowest bids, rather than first-come, first-served or such other method previously approved by the
33 commission. The commission shall approve the proposal from the board and electric company
34 within ninety (90) days; provided, however, that the commission may make changes to the proposal

1 consistent with the legislative purposes of this chapter.

2 (e) The commission shall approve the bidding process for medium-scale solar projects
3 recommended by the board only if the commission finds that such bidding process is in a
4 sufficiently simple form that is not administratively burdensome to bidders, and will not have the
5 effect of discouraging participation in the distributed-generation growth program by developers of
6 medium-scale solar projects that may be unrepresented by counsel.

7 **39-26.6-22. Zonal and other incentive payments.**

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

22 **39-26.6-25. Forecasted rate and reconciliation.**

23 (a) ~~Three (3) months prior to the beginning of the first program year~~ On or before
24 November 15 of each year, the electric distribution company shall file a forecast of the total amount
25 of payments that is likely to be paid out to distributed-generation projects in the coming program
26 year within the electric distribution company's load zone, along with any costs permitted for
27 recovery pursuant to §§ 39-26.6-4, 39-26.6-13 and 39-26.6-18. The total of all forecasted payments
28 and costs shall be aggregated, net of forecasted revenues from the sale of the energy, renewable
29 energy certificates, and any other market products from the distributed-generation projects
30 participating in the performance-based incentive program. The forecasted net-aggregate amount
31 shall be used to design a fixed monthly charge per customer to recover the net forecast in rates
32 charged to all distribution customers during the prospective calendar year, which fixed charge may
33 be different by rate class in order to reasonably and equitably spread the program costs across all
34 customer classes. The fixed rate shall stay in effect until changed after the first reconciliation filing

1 set forth below and the rate reconciliation process shall be repeated annually, as set forth below.
2 The commission, in its discretion, may move the reconciliation of costs and credits under § 39-
3 26.1-5(f) into this reconciliation in order to have one reconciliation of all program costs and credits
4 from the long-term contracting standard, distributed-generation standard contracting, and
5 renewable energy growth program.

6 (b) Within three (3) months after the end of each program year, the electric distribution
7 company shall file a report with the public utilities commission ~~reconcile~~ reconciles the total
8 amount recovered from distribution customers against the total of net payments and costs for the
9 prior program year for review and approval. ~~The electric distribution company shall file the~~
10 ~~reconciliation with a report, along with a new forecast of payments to be made for the next twelve-~~
11 ~~month (12) period, net of forecasted revenues for the resale of energy, renewable energy~~
12 ~~certificates, or any other market attributes sold by the electric distribution company. The forecast~~
13 ~~shall be used to set a new rate in the same manner as set forth above and the new rate shall remain~~
14 ~~in effect until rates are reset in the next annual reconciliation and the reconciliation balance shall~~
15 ~~be reflected in the new rate.~~

16 **SECTION 3. This act shall take effect upon passage.**

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LC002218/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIES -- NET METERING

- 1 This act defines core forest and preferred sites for the purposes of solar development, and
- 2 adds commercial and industrial customers, and expands the Renewable Energy Growth program.
- 3 This act would take effect upon passage.

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LC002218/SUB A
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