

2025 -- H 5687 SUBSTITUTE A

LC001794/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- ENERGY FACILITY SITING ACT

Introduced By: Representatives Dawson, Kazarian, Furtado, and Boylan

Date Introduced: February 26, 2025

Referred To: House Municipal Government & Housing

(Providence/East Providence)

It is enacted by the General Assembly as follows:

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- SECTION 1. Section 42-98-1.1 of the General Laws in Chapter 42-98 entitled "Energy Facility Siting Act" is hereby amended to read as follows:
- 42-98-1.1. Capital city underground utility initiative.**
- (a) Legislative Findings
- (1) In 2004, the cities of Providence and East Providence exercised their rights under this section as it was originally enacted in 2004, to forego receipt of a customer credit owed to the Narragansett Electric Company's ("company") electric customers residing in those communities, opting instead to use those communities' allocated share of the customer credit to fund a portion of the cost of constructing the "Underground Alignment" of a portion of the E-183 115 kilovolt electric transmission line as defined in the Settlement Agreement approved by the Board on May 28, 2004 in Docket No. SB-2003-01.
- (2) The Settlement Agreement approved by the Board in Docket No. SB-2003-01 provided, in part, that the parties to the Settlement Agreement would work to reach an agreement on a route for the Underground Alignment while the Rhode Island attorney general would work to secure funding for construction of the Underground Alignment. The Settlement Agreement provided further that if the Underground Alignment was found not to be feasible for reasons including cost or constructability, other identified alignments of the relevant portion of the E-183 electric transmission line would be considered in order of preference.

1 (3) On January 17, 2018, the Board issued an Order determining that the Underground
2 Alignment and the “Bridge Alignment North,” as defined in the Settlement Agreement, were not
3 feasible, and approving construction of the “Bridge Alignment South,” as defined in the Settlement
4 Agreement.

5 (4) Following appellate review pursuant to § 42-98-12, on June 17, 2022, in Case No. 2018-
6 40-M.P., the Supreme Court of Rhode Island upheld the Board’s January 17, 2018 Order.

7 (5) Due to the foregoing events and decisions, as of 2025, no portion of the E-183
8 transmission line has been constructed underground and no part of the customer credit referred to
9 in subsection (a)(1) of this section has been returned to electric customers in the cities of Providence
10 and East Providence.

11 (6) The customer credit that arose from the company’s base distribution rate case in 2004,
12 which the cities of Providence and East Providence did not accept on behalf of their ratepayers, has
13 been segregated and has accrued interest for the benefit of Providence and East Providence electric
14 distribution customers.

15 (7) The cities of Providence and East Providence desire to have portions of the E-183
16 electric transmission line located underground and require legislative authorization for funding
17 mechanisms to pay the incremental cost, over and above the estimated cost of the Bridge Alignment
18 South, of the burial of portions of the E-183 electric transmission line along the southern shore of
19 Fox and India Points that are south of Interstate 195 and in East Providence on the east side of the
20 Seekonk River (the “Bridge Alignment South – Hybrid”).

21 (b) The public utilities commission shall permit the city of Providence ~~or~~ and the city of
22 East Providence, upon petition by a duly authorized representative of such municipality, to ~~forego~~
23 ~~some or~~ apply all of the respective municipality’s pro rata share of the refund accruing to the
24 ratepayers of the respective municipality as computed under section 11(c) of the ~~3rd~~ Third
25 Amended Settlement Agreement in Docket No. 2930; ~~provided, however, that the city council of~~
26 ~~each petitioning ratifies such action by passage of a resolution.~~

27 ~~(b) The public utilities commission shall permit, upon petition by the attorney general, for~~
28 ~~the use of up to two million dollars (\$2,000,000) from Narragansett Electric Company’s Storm~~
29 ~~Contingency Fund for purposes of under grounding that portion of the E-183 transmission line~~
30 ~~under consideration in Energy Facility Siting Board Docket 2003-01.~~

31 ~~(c) Narragansett Electric Company shall be required to apply to the regional grid operator~~
32 ~~or its successor organization for approval to charge New England regional network service~~
33 ~~customers for the capital costs associated with the construction of Phase II overhead configuration~~
34 ~~labeled the “North Bridge Alignment” as defined by the Settlement Agreement that was approved~~

1 ~~by the Energy Facility Siting Board in Docket 2003-1.~~

2 ~~(d) The Narragansett Electric Company (“company”) shall be authorized to proceed with~~
3 ~~the construction of the underground alignment of the E-183 line referenced in the Settlement~~
4 ~~Agreement that was approved by the Energy Facility Siting Board in Docket 2003-01~~
5 ~~(“Underground alignment”), including the acquisition of any property rights needed to implement~~
6 ~~the underground alignment, plus accrued interest, toward the incremental cost of constructing the~~
7 ~~Bridge Alignment South - Hybrid.~~

8 (c) The Company shall apply to the regional grid operator or its successor organization for
9 approval to charge New England regional network service customers for the capital costs associated
10 with undergrounding portions of the E-183 transmission line as described herein and as verified for
11 feasibility by the Narragansett Electric Company. Any Portion of costs not categorized as eligible
12 for regional cost allocation shall be governed by subsections (d) through (f) of this section and
13 remain chargeable to the electric customers of Providence and East Providence.

14 (d) Notwithstanding the Supreme Court’s June 17, 2022 affirmation of the Board’s January
15 17, 2018 Order, the Board shall have jurisdiction to consider a modification to the license to include
16 burial of a portion of the E-183 electric transmission line without having to consider whether the
17 requirements of §§ 42-98-11(b)(1) and (b)(2) have been met. Following approval by the Board of
18 a modified license, the company shall be authorized to proceed with the construction of the
19 modification which will include consideration of the Bridge Alignment South-Hybrid, subject to
20 the passage of resolutions by both city councils of the cities of Providence and East Providence
21 agreeing that any incremental costs above existing funding made available pursuant to subsection
22 (b) of this section may be included in electric rates of electric customers in those cities. Such
23 resolutions must be delivered to the public utilities commission no later than July 1, 2009.
24 ~~Notwithstanding the terms of the Settlement, to 2026. To~~ the extent the actual costs for the
25 ~~underground alignment~~ Bridge Alignment South - Hybrid exceed the funding obtained for the
26 project pursuant to this section and from federal and any other sources, the company is authorized
27 to include the incremental costs above those funding levels in its distribution rate base and reflect
28 ~~the revenue requirement, including interest, any resulting tax adjustments, and billing system~~
29 modification costs in rates charged to the electric distribution customers within the cities of
30 Providence and East Providence in a manner approved by the public utilities commission, subject
31 to the timely passage and delivery of the resolution resolutions specified above. Such rate
32 adjustment shall be made within six (6) months from project completion, applying the same
33 ~~ratemaking principles as ordinarily applied to distribution capital projects when they are allowed~~
34 ~~in its distribution rate base by the public utilities commission. After completion of the underground~~

1 ~~alignment, the public utilities commission shall conduct a review of costs incurred to construct the~~
2 ~~underground alignment in order to verify that the company's calculation and implementation of~~
3 ~~rates are in compliance with this section; provided, further, the auditor general shall perform a~~
4 ~~performance audit of state costs.~~ billed as a per kilowatt hour charge designed to recover the full
5 incremental cost of the Bridge Alignment South – Hybrid, including interest, any resulting tax
6 adjustments, and billing system modification costs, over a period not less than three (3) years
7 subject to reconciliation of the final cost compared to billed revenues. The incremental costs of
8 undergrounding net of the customer credit referenced in subsection (b) of this section will be
9 allocated to each city based on the actual cost of the underground portions in each respective city.
10 The company shall book the revenues collected through the rate adjustment for such incremental
11 underground construction costs as contribution in aid of construction in the appropriate
12 transmission accounts.

13 (e) If the cities of Providence and East Providence obtain any other source of funding that
14 can be used to offset the cost of burial of the E-183 electric transmission line, that source of funding
15 shall offset the amount of the rate adjustment charged to the electric ratepayers in the cities of
16 Providence and/or East Providence under subsection (c) of this section as defined by the source of
17 funding.

18 ~~(e)(f) If the underground alignment goes forward, the company shall retain such portions~~
19 ~~of the properties acquired to implement the underground alignment as may be necessary and~~
20 ~~prudent, and shall transfer any remaining portions of said properties to the redevelopment authority~~
21 ~~of the city in which the property is located after the completion of the project, at the city's request~~
22 ~~and at no additional cost to the city~~ conditions precedent to the construction of the Bridge
23 Alignment South - Hybrid are satisfied, the cities of Providence and East Providence shall acquire
24 and convey to the company, all easements or property rights needed in the company's reasonable
25 judgment for the construction, operation, and maintenance of the relevant segment of E-183. Any
26 costs associated with the transfer of property rights will be included in the overall project costs and
27 allocated as described in subsection (d) of this section. Any property and easements no longer being
28 used by the company for utility purposes after the ~~underground alignment~~ Bridge Alignment South-
29 Hybrid is completed also shall be transferred to the city in which such property is located after the
30 completion of the project, at the city's request and at no additional cost to the city. If there is any
31 dispute about the extent to which property or easements are needed and therefore should not be
32 transferred, the public utilities commission shall decide the issue upon petition by the affected city.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT -- ENERGY FACILITY SITING
ACT

1 This act would allow for measures to advance the undergrounding of certain utility cables
2 and to have the same funded through utility rate increases to the cities of Providence and East
3 Providence.

4 This act would take effect upon passage.

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