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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- LONG-TERM CONTRACTING  
STANDARD FOR RENEWABLE ENERGY

Introduced By: Representative Blake Anthony Filippi

Date Introduced: February 05, 2021

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 39-26.1-7 of the General Laws in Chapter 39-26.1 entitled "Long-  
2   Term Contracting Standard for Renewable Energy" is hereby amended to read as follows:

3           **39-26.1-7. Town of New Shoreham project.**

4           (a) The general assembly finds it is in the public interest for the state to facilitate the  
5   construction of a small-scale offshore wind demonstration project off the coast of Block Island,  
6   including an undersea transmission cable that interconnects Block Island to the mainland in order  
7   to: position the state to take advantage of the economic development benefits of the emerging  
8   offshore wind industry; promote the development of renewable energy sources that increase the  
9   nation's energy independence from foreign sources of fossil fuels; reduce the adverse  
10   environmental and health impacts of traditional fossil fuel energy sources; and provide the town of  
11   New Shoreham with an electrical connection to the mainland. To effectuate these goals, and  
12   notwithstanding any other provisions of the general or public laws to the contrary, the town of New  
13   Shoreham project, its associated power purchase agreement, transmission arrangements, and  
14   related costs are authorized pursuant to the process and standards contained in this section. The  
15   Narragansett Electric Company is hereby authorized to enter into an amended power purchase  
16   agreement with the developer of offshore wind for the purchase of energy, capacity, and any other  
17   environmental and market attributes, on terms that are consistent with the power purchase  
18   agreement that was filed with the commission on December 9, 2009, in docket 4111, and

1 amendments changing dates and deadlines, provided that the pricing terms of such agreement are  
2 amended as more fully described in subsection (e) of this section, in addition to other amendments  
3 that are made to take into account the provisions of this section as amended since the filing of the  
4 agreement in docket 4111. Any amendments shall ensure that the pricing can only be lower, and  
5 never exceed, the original pricing included in the power purchase agreement that was reviewed in  
6 docket 4111. The demonstration project subject to the amended power purchase agreement shall  
7 include up to (but not exceeding) eight (8) wind turbines with aggregate nameplate capacity of no  
8 more than thirty megawatts (30 MW), even if the actual capacity factor of the project results in the  
9 project technically exceeding ten megawatts (10 MW).

10 (b) The amended power purchase agreement shall be filed with the public utilities  
11 commission. Upon the filing of the amended power purchase agreement, the commission shall open  
12 a new docket. The commission shall allow the parties to docket 4111 to become parties in the new  
13 docket who may file testimony within fifteen (15) days of the filing of the amended agreement.  
14 The commission shall allow other interventions on an expedited basis, provided they comply with  
15 the commission standards for intervention. The developer shall provide funding for the economic  
16 development corporation to hire an expert experienced in power markets, renewable energy project  
17 financing, and power contracts who shall provide testimony regarding the terms and conditions of  
18 the power purchase agreement to assist the commission in its review, provided that the developer  
19 shall be precluded from influencing the choice of expert, which shall be in the sole discretion of  
20 the economic development corporation. This testimony shall be filed within twenty (20) days after  
21 the filing of the amended power purchase agreement. The parties shall have the right to respond to  
22 the testimony of this expert through oral examination at the evidentiary hearings. The commission  
23 shall hold one public comment hearing within five (5) days after the filing of the expert testimony.  
24 Evidentiary hearings shall commence no later than thirty (30) days from the filing of the amended  
25 power purchase agreement.

26 (c) The commission shall review the amended power purchase agreement, taking into  
27 account the state's policy intention to facilitate the development of a small offshore wind project in  
28 Rhode Island waters, while, at the same time, interconnecting Block Island to the mainland. The  
29 commission shall review the amended power purchase agreement and shall approve it if:

30 (1) The amended agreement contains terms and conditions that are commercially  
31 reasonable;

32 (2) The amended agreement contains provisions that provide for a decrease in pricing if  
33 savings can be achieved in the actual cost of the project pursuant to subsection (e) of this section;

34 (3) The amended agreement is likely to provide economic development benefits, including:

1 facilitating new and existing business expansion and the creation of new renewable energy jobs;  
2 the further development of Quonset Business Park; and, increasing the training and preparedness  
3 of the Rhode Island workforce to support renewable energy projects; and

4 (4) The amended power purchase agreement is likely to provide environmental benefits,  
5 including the reduction of carbon emissions. An advisory opinion on the findings of economic  
6 benefit set forth in subsection (c)(3) shall be provided by the Rhode Island economic development  
7 corporation and an advisory opinion on the environmental benefits set forth in subsection (c)(4)  
8 shall be filed by the Rhode Island department of environmental management. The advisory  
9 opinions shall be filed with the commission within twenty (20) days of the filing of the amended  
10 power purchase agreement. The commission shall give substantial deference to the factual and  
11 policy conclusions set forth in the advisory opinions in making the required findings.  
12 Notwithstanding any other provisions of the general laws to the contrary, for the purposes of this  
13 section, "commercially reasonable" shall mean terms and pricing that are reasonably consistent  
14 with what an experienced power market analyst would expect to see for a project of a similar size,  
15 technology and location, and meeting the policy goals in subsection (a).

16 (d) The commission shall issue a written decision to accept or reject the amended power  
17 purchase agreement, without conditions, no later than forty-five (45) days from the filing of the  
18 amended power purchase agreement, without delay or extension of the timeframes contained in  
19 this section. Any review of the commission's decision shall be according to chapter 5 of this title,  
20 and the supreme court shall advance any proceeding under this section so that the matter is afforded  
21 precedence on the calendar and shall be heard and determined with as little delay as possible. The  
22 provisions of § 39-26.1-4 and the provisions of subsections (b), (c), (d), and (f) of § 39-26.1-5 shall  
23 apply, and all costs incurred in the negotiation, administration, enforcement, transmission  
24 engineering associated with the design of the cable, and implementation of the project and  
25 agreement shall be recovered annually by the electric distribution company in electric distribution  
26 rates. The pricing under the agreement shall not have any precedential effect for purposes of  
27 determining whether other long-term contracts entered into pursuant to this chapter are  
28 commercially reasonable.

29 (e) Cap and lower price. (i) The amended power purchase agreement subject to subsection  
30 (a) of this section shall provide for terms that shall decrease the pricing if savings can be achieved  
31 in the actual cost of the project, with all realized savings allocated to the benefit of ratepayers. (ii)  
32 The amended power purchase agreement shall also provide that the initial fixed price contained in  
33 the signed power purchase agreement submitted in docket 4111 shall be the maximum initial price,  
34 and any realized savings shall reduce such price. After making any such reduction to the initial

1 price based on realized savings, the price for each year of the amended power purchase agreement  
2 shall be fixed by the terms of said agreement. (iii) The amended power purchase agreement shall  
3 require that the costs of the project shall be certified by the developer. An independent third party  
4 acceptable to the division of public utilities and carriers shall, within thirty (30) days of this  
5 certification by the developer, verify the accuracy of such costs at the completion of the  
6 construction of the project. The reasonable costs of this verification shall be paid for by the  
7 developer. Upon receipt of third-party verification, the division shall notify the Narragansett  
8 Electric Company of the final costs. The public utilities commission shall reduce the expense to  
9 ratepayers consistent with a verified reduction in the project costs.

10 (f) The project shall include a transmission cable between the town of New Shoreham and  
11 the mainland of the state. The electric distribution company, at its option, may elect to own, operate,  
12 or otherwise participate in such transmission cable project. The electric distribution company,  
13 however, has the option to decline to own, operate, or otherwise participate in the transmission  
14 cable project. The electric distribution company may elect to purchase the transmission cable and  
15 related facilities from the developer or an affiliate of the developer, pursuant to the terms of a  
16 transmission facility's purchase agreement negotiated between the electric distribution company  
17 and the developer or its affiliate, an unexecuted copy of which shall be provided to the division of  
18 public utilities and carriers for the division's consent to execution. The division shall have twenty  
19 (20) days to review the agreement. If the division independently determines that the terms and  
20 pricing of the agreement are reasonable, taking into account the intention of the legislature to  
21 advance the project as a policy-making matter, the division shall provide its written consent to the  
22 execution of the transmission facilities purchase agreement. Once written consent is provided, the  
23 electric distribution company and its transmission affiliate are authorized to make a filing with the  
24 Federal Energy Regulatory Commission to put into effect transmission rates to recover all of the  
25 costs associated with the purchase of the transmission cable and related facilities and the annual  
26 operation and maintenance. The revenue requirement for the annual cable costs shall be calculated  
27 in the same manner that the revenue requirement is calculated for other transmission facilities in  
28 Rhode Island for local network service under the jurisdiction of the Federal Energy Regulatory  
29 Commission. The division shall be authorized to represent the state of Rhode Island in those  
30 proceedings before the Federal Energy Regulatory Commission, including the authority to enter  
31 into any settlement agreements on behalf of the state to implement the intention of this section. The  
32 division shall support transmission rates and conditions that allow for the costs related to the  
33 transmission cable and related facilities to be charged in transmission rates in a manner that  
34 socializes the costs throughout Rhode Island. [All interconnection and standby transformer costs](#)

1 which have been and may be incurred by National Grid or by the electric distribution company or  
2 by the Block Island Power Company or its successor shall also be charged in transmissions rates in  
3 a manner that socializes the costs throughout Rhode Island. National Grid or the electric distribution  
4 company shall reimburse the Block Island Power Company or its successor for any and all funds  
5 expended by the Block Island Power Company or its successor in connection with the  
6 interconnection and standby transformer costs and National Grid shall socialize all costs of this  
7 reimbursement throughout Rhode Island as set forth herein. The amendment to this section shall be  
8 retroactive to June 15, 2010. Should the electric distribution company own, operate, and maintain  
9 the cable, the annual costs incurred by the electric distribution company, directly or through  
10 transmission charges, shall be recovered annually through a fully reconciling rate adjustment from  
11 customers of the electric distribution company and/or from the Block Island Power Company or its  
12 successor, subject to any federal approvals that may be required by law. The allocation of the costs  
13 related to the transmission cable through transmission rates or otherwise shall be structured so that  
14 the estimated impact on the typical residential customer bill for transmission costs for customers in  
15 the town of New Shoreham shall be higher than the estimated impact on the typical residential  
16 customer bill for customers on the mainland of the electric distribution company. This higher  
17 charge for the customers in the town of New Shoreham shall be developed by allocating the actual  
18 cable costs based on the annual peak demands of the Block Island Power Company and the electric  
19 distribution company, and these resultant costs recovered in the per-KWh charges of each company.  
20 In any event, the difference in the individual charge per KWh or per customer/month shall not  
21 exceed the ratio of average demand to peak demand for Block Island Power Company, relative to  
22 the electric distribution company, currently at 1.8 to 1.0 respectively. To the extent that any state  
23 tariffs or rates must be put into effect in order to implement the intention of this section, the public  
24 utilities commission shall accept filings of the same and shall approve them.

25 (g) Any charges incurred by the Block Island Power Company, or its successor pursuant to  
26 this section, or other costs incurred by the Block Island Power Company in implementing this  
27 section, including the cost of participation in regulatory proceedings in the state or at the Federal  
28 Energy Regulatory Commission shall be recovered annually in rates through a fully reconciling  
29 rate adjustment, subject to approval by the commission. If the electric distribution company owns,  
30 operates, or otherwise participates in the transmission cable project, pursuant to subsection (f) of  
31 this section, the provisions of § 39-26.1-4 shall not apply to the cable cost portion of the town of  
32 New Shoreham project.

33 (h) Any contract entered into pursuant to this section shall count as part of the minimum  
34 long-term contract capacity.

1           (i) If the electric distribution company elects not to own the transmission cable, the  
2 developer may elect to do so directly, through an affiliate, or a third party and the power purchase  
3 agreement pricing shall be adjusted to allow the developer, an affiliate, or a third party, to recover  
4 the costs (including financing costs) of the transmission facilities, subject to complying with the  
5 terms as set forth in the power purchase agreement between the developer and the electric  
6 distribution company.

7           SECTION 2. This act shall take effect upon passage and shall be retroactive to June 15,  
8 2010.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- LONG-TERM CONTRACTING  
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1           This act would clarify that all interconnection and standby transformer costs are to be  
2 socialized by National Grid throughout the state of Rhode Island, retroactive to June 15, 2010. It  
3 would further provide that National Grid or the electric distribution company shall reimburse the  
4 Block Island Power Company or its successor for any and all funds expended by the Block Island  
5 Power Company or its successor in connection with all interconnection and standby transformer  
6 costs.

7           This act would take effect upon passage.

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