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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

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

Introduced By: Representatives Solomon, O'Brien, Lima, Kennedy, Santucci, Casey, Noret, and Read
Date Introduced: February 26, 2025

Referred To: House Corporations

It is enacted by the General Assembly as follows:

SECTION 1. Section 39-26.1-4 of the General Laws in Chapter 39-26.1 entitled "Long-Term Contracting Standard for Renewable Energy" is hereby amended to read as follows:

39-26.1-4. Financial remuneration and incentives.

In order to achieve the purposes of this chapter, electric distribution companies shall be entitled to financial remuneration and incentives for long-term contracts for newly developed renewable energy resources, which are over and above the base rate revenue requirement established in its cost of service for distribution ratemaking. Such remuneration and incentives shall compensate the electric distribution company for accepting the financial obligation of the long-term contracts. The financial remuneration and incentives described in this section shall apply only to long-term contracts for newly developed renewable energy resources. For long-term contracts approved pursuant to this chapter before January 1, 2022, the financial remuneration and incentives shall be in the form of annual compensation, equal to two and three quarters percent (2.75%) of the actual annual payments made under the contracts for those projects that are commercially operating, unless determined otherwise by the commission at the time of approval. For long-term contracts approved pursuant to this chapter on or after January 1, 2022, including contracts above the minimum long-term contract capacity, the financial remuneration and incentives shall be in the form of annual compensation up to one percent (1.0%) of the actual annual payments made under the contracts ~~through December 31, 2026,~~ for those projects that are commercially operating. For

all long-term contracts approved pursuant to this chapter on or after January 1, 2027, financial remuneration and incentives ~~shall not~~ may be applied~~, unless otherwise granted by the commission~~ subject to commission approval upon demonstrating evidence of the additional risk the electric distribution company accepts under the contracts. For any calendar year in which the electric distribution company's actual return on equity exceeds the return on equity allowed by the commission in the electric distribution company's last general rate case, the commission shall have the authority to adjust any or all remuneration paid to the electric distribution company pursuant to this section in order to assure that such remuneration does not result in or contribute toward the electric distribution company earning above its allowed return for such calendar year.

SECTION 2. Sections 39-31-4 39-31-5, 39-31-6, 39-31-7 and 39-31-11 of the General Laws in Chapter 39-31 entitled "Affordable Clean Energy Security Act" are hereby amended to read as follows:

39-31-4. Regional energy planning.

(a) Consistent with the purposes of this chapter, and utilizing regional stakeholder processes where appropriate, the office of energy resources, in consultation and coordination with the division of public utilities and carriers and the public utility company that provides electric distribution as defined in § 39-1-2(a)(12) as well as natural gas as defined in § 39-1-2(a)(17), is authorized to:

(1) Participate in the development and issuance of state, regional, or multistate competitive solicitation(s) for the development and construction of regional electric-transmission projects that would allow for the reliable transmission of nuclear power and/or large- or small-scale domestic or international hydroelectric power to New England load centers that will benefit the state of Rhode Island and its ratepayers, and such solicitations may be issued by the New England States Committee on Electricity or the electric or natural gas distribution company to further the purposes of this chapter;

(2) Participate in the development and issuance of state, regional, or multistate competitive solicitation(s) for the development and construction of regional electric-transmission projects that would allow for the reliable transmission of eligible renewable energy resources, including offshore wind, as defined by § 39-26-5(a), to New England load centers that will benefit the state of Rhode Island and its ratepayers, and the solicitations may be issued by the New England States Committee on Electricity or the electric or natural gas distribution company to further the purposes of this chapter; and

(3) Participate in the development and issuance of regional or multistate competitive solicitation(s) for the development and construction of regional natural-gas-pipeline infrastructure

and capacity that will benefit the state of Rhode Island and its ratepayers by strengthening energy system reliability and security and, in doing so, potentially mitigate energy price volatility that threatens the economic vitality and competitiveness of Rhode Island residents and businesses. The solicitations may be issued by the New England States Committee on Electricity or the electric or natural gas distribution company to further the purposes of this chapter; and the solicitations may request proposals that are priced in increments to allow for the evaluation of project costs and benefits associated with adding various levels of additional, natural gas pipeline capacity into New England and assist with the optimization of energy system reliability, economic, and other benefits consistent with the purposes of this chapter.

(4) As part of any such state, regional, or multistate competitive solicitation processes conducted pursuant to this chapter, the office of energy resources shall work jointly with the division of public utilities and carriers, and with the electric distribution company as appropriate, to identify incremental, natural-gas-pipeline infrastructure and capacity and/or electric-transmission projects that optimize energy reliability, economic, environmental, and ratepayer impacts for Rhode Island, consistent with the legislative findings and purpose of this chapter. The office of energy resources and division of public utilities and carriers shall be authorized to utilize expert consultants, as needed, to assist in any state, regional, multistate, or state-level determination related to the procurement activities identified in § 39-31-5.

(b) Prior to any binding commitments being made by any agencies of the state, the electric distribution company, or any other entity that would result in costs being incurred directly, or indirectly, by Rhode Island electric and/or gas consumers through distribution or commodity rates, the office of energy resources and division of public utilities and carriers shall jointly file any energy infrastructure project recommendation(s) with the public utilities commission and may make such filing jointly with the electric or natural gas distribution company as appropriate. The public utilities commission shall consider any such recommendation(s) as specified under § 39-31-7.

(c) A copy of the filing made under subsection (b) of this section shall be provided to the governor, the president of the senate, the speaker of the house, the department of environmental management, and the commerce corporation.

(d) The electric distribution company shall be provided with a copy of any filing made under this section at least ten (10) business days in advance of its filing with the public utilities commission and the electric or gas distribution utility may file separate comments when the filing is made.

(e) As part of any office of energy resources and division of public utilities and carriers

filing made pursuant to this chapter, the agencies shall identify the expected energy reliability, energy security, and ratepayer impacts that are expected to result from commitments being made in connection with the proposed project(s).

(f) The office of energy resources and division of public utilities and carriers reserve the right to determine that energy infrastructure projects submitted in any state, regional, or multistate competitive solicitation process are not in Rhode Island's energy reliability, energy security, and/or ratepayer interests, and shall make such findings available to the governor, the president of the senate, and the speaker of the house. The electric or gas distribution utility may attach a separate opinion to those findings, at its election.

39-31-5. State and regional energy procurement.

(a) Consistent with the purposes of this chapter, the public utility company that provides electric distribution as defined in § 39-1-2(a)(12), as well as natural gas as defined in § 39-1-2(a)(17), in consultation with the office of energy resources and the division of public utilities and carriers is authorized to voluntarily participate in state, multistate, or regional efforts to:

(1) Procure domestic or international large~~- or small~~-scale hydroelectric power, nuclear power, and eligible renewable energy resources, ~~including wind,~~ as defined by § 39-26-5(a), on behalf of electric ratepayers~~; provided, however, that large-scale hydroelectric power shall not be eligible under the renewable energy standard established by chapter 26 of this title~~;

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

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

(4) To the extent that the public utility company that provides electric distribution as defined in § 39-1-2(a)(12), as well as natural gas as defined in § 39-1-2(a)(17), pursues the objectives identified above, the public utility company shall utilize ~~all~~ appropriate, competitive processes, and maintain compliance with applicable federal and state siting laws.

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

39-31-6. Utility filings with the public utilities commission.

(a) Pursuant to the procurement activities in § 39-31-5 or § 39-31-10, the public utility company that provides electric distribution as defined in § 39-1-2(a)(12), as well the public utilities

that distribute natural gas as provided by § 39-1-2(a)(20), are authorized to voluntarily file proposals with the public utilities commission for approval to implement these policies and achieve the purposes of this chapter. The company's proposals may include, but are not limited to the, following authorizations:

(1) Subject to review and approval of the commission, to enter into long-term contracts through appropriate competitive processes for large- ~~or small~~ scale hydroelectric power, nuclear power, and/or renewable energy resources, as defined by § 39-26-5(a); ~~that are eligible under the renewable energy standard established by chapter 26 of this title; provided, however, that large-scale hydroelectric power shall not be eligible under the renewable energy standard established by chapter 26 of this title, and~~ provided that:

(i) The electric distribution company may, subject to review and approval of the commission, select a reasonable, open, and competitive method of soliciting proposals ~~from renewable energy developers, including domestic or international large or small scale hydroelectric power~~ for the purchase of these power resources, that may include public solicitations and individual negotiations.

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

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

(iv) The electric distribution company shall file the contract(s) or unsigned contract(s) pursuant to § 39-31-10(c), along with a justification for its decision, within a reasonable time after it has executed the contract following a solicitation or negotiation.

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

(vi) The commission shall accept public comment on any contracts filed by the distribution utility, as authorized under this section, for a period no less than thirty (30) days.

(A) During this public comment period, the contracts shall be reviewed by the following state agencies, which shall provide advisory opinions to the public utilities commission on the topics specified, and the public utilities commission shall give due consideration to the advisory opinions filed:

(I) The department of environmental management (DEM) shall provide an advisory

opinion on the expected greenhouse gas emissions and statewide environmental impacts resulting from the proposed contract(s), including a determination as to whether the proposed project(s) advance the goals of chapter 6.2 of title 42 (the "2021 Act on Climate").

(II) The commerce corporation shall provide an advisory opinion on the expected statewide economic impacts resulting from the proposed contract(s).

(III) The office of energy resources shall provide an advisory opinion on the expected energy security, reliability, environmental, and economic impacts resulting from the contract(s).

(B) The commission shall notify the aforementioned agencies upon the filing of any contract filed by the distribution utility pursuant to this chapter, and notify them of any related hearings and/or proceedings.

(C) Advisory opinions issued by agencies designated under subsection (a)(1)(vi)(A) of this section shall not be considered as final decisions of the agencies making the opinions, and shall not be subject to judicial review under § 42-35-15, or any other provision of the general laws.

(vii) The commission shall approve the contract(s) if it determines that:

(A) The contract is commercially reasonable;

(B) The requirements for the solicitation have been met;

(C) The contract is consistent with achievement of the state's greenhouse gas reduction targets as specified in chapter 6.2 of title 42 (the "2021 Act on Climate"); and

(D) The contract is consistent with the purposes of this chapter.

(viii) Participate in a multistate or regional sharing of costs through the Federal Energy Regulatory Commission-approved tariffs for the costs of electric transmission and natural-gas-pipeline infrastructure projects pursued under this chapter.

(b) The commission shall hold evidentiary hearings and public hearings to review any contract filing that may be made pursuant to this section and issue a written order approving or rejecting the contract within one hundred twenty (120) days of the filing; in rejecting a contract, the commission may advise the parties of the reason for the contract being rejected and provide an option for the parties to attempt to address the reasons for rejection in a revised contract within a specified period not to exceed ninety (90) days.

39-31-7. Duties of the commission.

(a) The commission shall approve any proposals made by the electric or ~~and~~ gas distribution company that are commercially reasonable and advance the purposes of this chapter. The commission's authority shall include, without limitation, the authority to:

(1) Approve long-term contracts entered into pursuant to the goals and provisions of this chapter for large- ~~or small~~ scale hydroelectric power, nuclear power and renewable energy

resources, as defined by § 39-26-5(a) ~~that are eligible under the renewable energy standard established by chapter 26 of this title; provided, however, that large-scale hydroelectric power shall not be eligible under the renewable energy standard established by chapter 26 of this title~~;

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

(3) Approve rate-recovery mechanisms proposed by the electric and gas distribution companies relating to costs incurred under this chapter by the electric and gas distribution company that facilitate the multistate or regional sharing of costs necessary to implement electric transmission and natural-gas-pipeline infrastructure projects pursued under this chapter, including any costs incurred through the Federal Energy Regulatory Commission approved tariffs related to such multistate or regional energy infrastructure procurements;

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

(5) Provide for the recovery of reasonable net costs from all distribution customers incurred by the electric and gas distribution company in furtherance of the purposes of this chapter that may include, but are not limited to, costs to solicit, evaluate, and seek approval of such contracts as well as net costs incurred under any contracts approved by the commission under this section and costs associated with the management of incremental capacity resulting from interstate gas-pipeline-expansion projects pursued pursuant to this chapter and costs associated with investments in local gas-distribution-network assets necessary to implement such interstate gas-pipeline-expansion projects;

(6) Nothing herein is intended to prohibit the commission from allowing the electric distribution company to use the energy, capacity, and other attributes purchased for resale to customers and approve tariffs that charge those customers for the energy, capacity, and other attributes from the resale to those customers; and/or to use the NE-GIS certificates for purposes of meeting the obligations set forth in chapter 26 of this title ("renewable energy standard");

(7) Approve cost allocation proposals filed by the gas distribution company and/or the electric distribution company that appropriately allocate offshore wind costs incurred under § 39-31-10, natural gas infrastructure and capacity costs incurred under § 39-31-6 between electric and gas distribution customers of the electric and gas distribution company in a manner proportional to the energy benefits accrued by Rhode Island's gas and electric customers from making such investments. In making its determination, the commission shall consider projected reductions in regional, wholesale electric prices as a benefit that accrues to electric ratepayers. The allocation of costs shall include all distribution customers, regardless from whom they are purchasing their

commodity service; and

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

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

(c) The public utilities commission shall docket any proposals made by the office of energy resources and division of public utilities and carriers pursuant to § 39-31-4. Docket materials shall be posted and maintained on the commission's website. The commission shall conduct proceedings, as provided below, solely for the purpose of determining whether the proposed infrastructure projects, if implemented, are in the public interest and no commitments shall be valid or authorized without such finding being made by the commission. The validity and approval of any commitments made by the electric or gas distribution company in furtherance of the purposes of this chapter shall be separate and subject to § 39-31-5. The docket opened pursuant to this subsection shall proceed as follows:

(1) The following state agencies shall provide advisory opinions to the commission on the topics specified below within sixty (60) days from the docketing date:

(i) The department of environmental management (DEM) shall provide an advisory opinion on the expected greenhouse gas emissions and statewide environmental impacts resulting from the proposed project(s), including a determination as to whether the proposed project(s) advance the goals of chapter 6.2 of title 42 (the "2021 Act on Climate").

(ii) The commerce corporation shall provide an advisory opinion on the expected statewide economic impacts resulting from the proposed project(s).

(2) The commission shall notify the aforementioned agencies upon the filing of any proposal made under this section, and notify them of any related hearings and/or proceedings.

(3) Advisory opinions issued by agencies designated under subsection (c)(1) of this section shall not be considered as final decisions of the agencies making the opinions and shall not be subject to judicial review under § 42-35-15 or any other provision of the general laws.

(4) Upon completion of the sixty-day (60) advisory-opinion period, the commission shall provide for a thirty-day (30) public comment period on any energy infrastructure project(s) selected pursuant to this chapter and hold evidentiary hearings. In addition to evidentiary hearings, the commission shall also hold at least one public hearing to accept public comment on the proposal(s) prior to an open meeting held pursuant to this section.

(5) The commission shall hold an open meeting no later than one hundred twenty (120)

days from the date of filing by the office of energy resources and division of public utilities and carriers and shall certify that the proposed project(s) are in the public interest if, in the commission's determination, and in consideration of filed advisory opinions and the opinion of the electric or gas distribution utility, the proposed infrastructure project(s):

(i) Are consistent with the findings and purposes of this chapter;

(ii) Will benefit Rhode Island by improving local and regional energy system reliability and security;

(iii) Will benefit Rhode Island ratepayers by offering the potential for reduced energy price volatility and reduction of energy supply costs in the context of an integrated regional energy system;

(iv) Will not cause unacceptable harm to the environment and are consistent with the greenhouse gas reduction goals established in chapter 6.2 of title 42 (the "2021 Act on Climate"); and

(v) Will enhance the economic fabric of the state.

(6) The commission shall issue a written determination of its findings within ten (10) business days of its open-meeting decision and provide copies of that determination, along with copies of all advisory opinions, public comment, and any other materials deemed relevant to the commission determination, to the governor, the president of the senate, the speaker of the house, the commissioner of the office of energy resources, and the administrator of the division of public utilities and carriers.

(d) A determination issued by the commission shall constitute the sole, final, binding, and determinative regulatory decision within the state for the purpose of authorizing the state to support a proposed, regional energy-infrastructure project(s) that is funded through the Federal Energy Regulatory Commission approved tariffs on a regional and/or multistate basis pursuant to this chapter. Appeals shall be governed by § 39-5-1.

(e) Upon issuance of a written determination by the commission finding that the proposed project(s) is in the public interest, the office of energy resources and division of public utilities and carriers shall, on behalf of the state, be authorized to support any state, regional, and/or multistate process necessary to implement the project(s), including, without limitation, supporting any necessary and related Federal Energy Regulatory Commission filings; provided, however, that any commitments made by the electric or gas distribution company to implement the proposals remain voluntary and subject to § 39-31-5.

(f) Nothing in this section shall be construed to preclude the electric or gas distribution company from making a filing under § 39-31-6, simultaneous with a filing under this section by

the office of energy resources and the division of public utilities and carriers, in which case the filings made under §§ 39-31-6 and 39-31-7 shall be consolidated.

39-31-11. Financial remuneration and incentives.

In order to achieve the purposes of this chapter, electric distribution companies shall be entitled to financial remuneration and incentives for long-term contracts ~~for newly developed renewable energy resources, which~~ that are over and above the base rate revenue requirement established in its cost of service for distribution ratemaking. ~~Such remuneration and incentives shall compensate the electric distribution company for accepting the financial obligation of the long-term contracts.~~ For long-term contracts approved pursuant to this chapter on or after January 1, 2022, the financial remuneration and incentives shall be in the form of annual compensation up to one percent (1.0%) of the actual annual payments made under the contracts ~~through December 31, 2026,~~ for those projects that are commercially operating. For long-term contracts approved pursuant to this chapter on or after January 1, 2027, financial remuneration and incentives ~~shall not~~ may be applied subject to commission approval upon demonstrating evidence of the additional risk the electric distribution company accepts under the contacts~~, unless otherwise granted by the commission~~. Any remuneration and incentives approved pursuant to this subsection shall be in addition to the electric distribution company's right to obtain recovery of costs incurred under this chapter, as provided under §§ 39-31-7(a)(3) and 39-31-7(a)(5). For any calendar year in which the electric distribution company's actual return on equity exceeds the return on equity allowed by the commission in the electric distribution company's last general rate case, the commission shall have the authority to adjust any or all remuneration paid to the electric distribution company pursuant to this section in order to assure that such remuneration does not result in or contribute toward the electric distribution company earning above its allowed return for such calendar year.

SECTION 3. Chapter 39-31 of the General Laws entitled "Affordable Clean Energy Security Act" is hereby amended by adding thereto the following section:

39-31-13. Severability.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

SECTION 4. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

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

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This act would allow a public utility company that provides electric and gas distribution to participate in projects that would allow for the reliable transmission of nuclear power. It would allow the utility to procure nuclear power and enter into long-term contracts for nuclear power.

This act would take effect upon passage.

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