

LC00909

# STATE OF RHODE ISLAND

## IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2002

### A N A C T

#### RELATING TO PUBLIC UTILITIES AND CARRIERS

Introduced By: Representatives Kennedy, Lewiss, Barr, Palangio, and D Caprio

Date Introduced: February 27, 2002

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 39-1-4, 39-1-8, 39-1-12, 39-1-17, 39-1-18, 39-1-27.3, 39-1-27.4  
2   and 39-1-27.5 of the General Laws in Chapter 39-1 entitled "Public Utilities Commission" are  
3   hereby amended to read as follows:

4           **39-1-4. Composition of commission -- Terms -- Vacancies.** -- (a) The public utilities  
5   commission shall consist of ~~three (3)~~ five (5) electors selected with regard to their qualifications  
6   and experience in law and government, energy matters, economics and finance, engineering and  
7   accounting, and appointed by the governor with the advice and consent of the senate. The term of  
8   each commissioner shall be six (6) years. The director of administration, with the approval of the  
9   governor, shall allocate the position of each commissioner to one of the grades established by the  
10   pay plan for unclassified employees.

11           (b) Within thirty (30) days after May 16, 1968, the governor, with the advice and consent  
12   of the senate, shall appoint one commissioner and designate him or her as chairperson to serve  
13   until the first day of March, 1975, and until his or her successor is appointed and qualified, one  
14   commissioner to serve until the first day of March, 1973, and until his or her successor is  
15   appointed and qualified, and one commissioner to serve until the first day of March, 1971, and  
16   until his or her successor is appointed and qualified. Within thirty (30) days after May 16, 2003,  
17   the governor, with the advice and consent of the senate, shall appoint one commissioner to serve  
18   until the first day of March, 2010, and until his or her successor is appointed and qualified, and  
19   one commissioner to serve until the first day of March, 2008, and until his or her successor is

1 ~~appointed and qualified. During the month of February, 1971, and during the month of February~~  
2 ~~biennially, thereafter, During the month prior to the expiration of the term of a commissioner, the~~  
3 governor, with the advice and consent of the senate shall appoint a commissioner to succeed the  
4 commissioner whose term will then next expire, to serve for a term of six (6) years commencing  
5 on the first day of March then next following, and until his or her successor is appointed and  
6 qualified. A commissioner shall be eligible to succeed him or herself. Upon the expiration of the  
7 term of the chairperson, the governor may designate any commissioner as chairperson.

8 (c) A vacancy in the office of a commissioner, other than by expiration, shall be filled in  
9 like manner as an original appointment, but only for the unexpired portion of the term. If a  
10 vacancy occurs when the senate is not in session, the governor shall appoint a person to fill the  
11 vacancy, but only until the senate shall next convene and give its advice and consent to a new  
12 appointment.

13 **39-1-8. Quorum -- Meetings. --** ~~Two (2)~~ Three (3) commissioners shall constitute a  
14 quorum for the transaction of any business, except as provided in section 39-1-11. Meetings of  
15 the commission may be held at any time or place upon the call of any member, after a reasonable  
16 notice by mail or telegraph to the other members, and shall be held at such times and places as in  
17 the judgment of the commission will best serve the convenience of all parties in interest.

18 **39-1-12. Prehearing procedure -- Formulating issues -- Copies of exhibits. --** Prior to  
19 the commencement of any formal hearing, the commission may in its discretion direct the parties  
20 or their attorneys to appear before it for a conference. At or before the conference, the  
21 commission may order any party to file a number of copies, as it may specify, of all exhibits it  
22 intends to use in the hearing, and the names and addresses of witnesses it intends to produce in its  
23 direct case, together with a short statement of the purposes of each exhibit and of the testimony of  
24 each witness. All such filings shall also be made electronically in a manner established by the  
25 commission. After entry of an order, a party shall not be permitted, except in the discretion of the  
26 commission, to introduce into evidence, in its direct case, exhibits which are not filed in  
27 accordance with the order. At the conference the commission may designate a date before which  
28 it requires any party in interest to specify what items shown by the filed exhibits are conceded,  
29 and further proof of conceded items shall not be required. The commission may also require the  
30 parties to simplify the issues, to consider admissions of fact and of documents which will avoid  
31 unnecessary proof, and to limit the number of expert witnesses. The commission shall enter an  
32 order reciting the concessions and agreements made by the parties, and unless modified at the  
33 hearing to prevent manifest injustice, the hearing shall be controlled by the order.

34 **39-1-17. Consumers' council participation. -- Office of ratepayer advocate. --** ~~In any~~

1 ~~inquiry into or examination of any matter wherein tariffs, rates, or charges for or the cost of or the~~  
2 ~~quality, standard, or extent of any service or commodities are requested by the division, and in~~  
3 ~~every formal hearing conducted by the division, the consumers' council shall be deemed to be an~~  
4 ~~interested party for all purposes, and as such, shall receive all notices and may file complaints,~~  
5 ~~institute proceedings, participate as a party in administrative hearings, and institute or participate~~  
6 ~~in any appeal to the supreme court as an aggrieved party.~~

7 (a) There is hereby established within the department of attorney general an office to be  
8 known as the "office of ratepayer advocate." The office shall be a party, as of right, in any  
9 investigation, valuation, revaluation, or proceeding of any nature by the commission that may  
10 affect, directly or indirectly, the charges paid by consumers for products or service furnished by,  
11 or delivered through, facilities owned by public utilities operating in this state. The ratepayer  
12 advocate shall be served with notices of all proposed utility filings, and shall be served with  
13 copies of all orders of the commission affecting the rates and terms of utility consumers for  
14 products and services furnished by or delivered through facilities owned by public utilities in this  
15 state.

16 (b) No person shall be appointed to the position of ratepayer advocate unless that person  
17 is admitted to practice before the courts of this state. Before entering upon the duties of such  
18 office, the ratepayer advocate shall take and subscribe the same oaths as that required by the  
19 commissioners of the commission, including an oath or affirmation that he or she is not directly  
20 pecuniarily interested, voluntarily or involuntarily, in any business whose activities are subject to  
21 regulation by the commission.

22 (c) The ratepayer advocate is authorized to retain employees necessary to perform the  
23 functions vested in the ratepayer advocate by this section, and to provide their authority and  
24 duties. The ratepayer advocate is authorized to employ expert witnesses and such other  
25 professional expertise as the ratepayer advocate may from time to time deem necessary to assist  
26 its staff in its participation in proceedings before the commission and courts. The compensation  
27 of these experts shall be paid by the utility participating in said proceeding.

28 (d) The ratepayer advocate:

29 (1) May represent and appear for the people of the state of Rhode Island at hearings  
30 before the commission, in judicial proceedings in the state and federal courts, and at proceedings  
31 before federal regulatory agencies and commissions when those proceedings involve the interests  
32 of users of the products of, and services furnished by or delivered through, facilities owned by  
33 public utilities under the jurisdiction of the commission.

34 (2) May represent and appear for petitioners appearing before the commission for the

1 purpose of complaining in matters of rates or services.

2 (3) Shall be granted by the commission leave to intervene in all cases where such request  
3 is made in conformance with the rules of the commission.

4 (4) May exercise discretion in whether or not to appear in a proceeding or hearing. In  
5 exercising discretion, the ratepayer advocate shall consider the importance and extent of the  
6 public interest involved. In evaluating the public interest, the ratepayer advocate shall give due  
7 consideration to the short and long-term impact of the proceedings upon various classes of  
8 consumers so as not to jeopardize the interest of one class in an action by another. If the ratepayer  
9 advocate determines that there may be inconsistent interests among the various classes of the  
10 consumers represented, the ratepayer advocate may choose to represent one of the interests or to  
11 represent no interest. Nothing in this section shall be construed to limit the right of any person,  
12 firm, or corporation to petition or make complaint to the commission or otherwise intervene in  
13 proceedings or other matters before the commission.

14 **39-1-18. Hearings and records -- Certified copies.** – (a) All hearings and orders of the  
15 commission and of the division, and the records thereof, shall be public and as such, any person  
16 shall be permitted to record all or any portion of a hearing by way of camera, video or tape  
17 recorder of any kind, unless a party to the hearing requests, and the chairperson or administrator  
18 grants the request, that such recording be prohibited for the protection of attorney-client privilege,  
19 confidentiality or other interest of the parties. All reports, records, files, books, and accounts in  
20 the possession of the commission or the division shall be open to inspection by the public at all  
21 reasonable times. The division may charge and collect reasonable fees for copies of official  
22 documents, orders, papers, and records, and for authenticating or certifying the same; provided  
23 that no fee shall be charged for single copies of official documents, orders, papers, and records,  
24 furnished to public officers of the state for use in their official capacity, nor for the annual reports  
25 in the ordinary course of distribution.

26 (b) In order to support the ability of the public and interested parties to stay informed of  
27 the activities of the commission and the division, and to promote awareness of utility  
28 restructuring, the division shall maintain a site on the internet through which the public may  
29 access:

30 (1) notices of and agendas of hearings;

31 (2) all electronic filings made pursuant to sections 39-1-12 and 39-3-11 that are not  
32 subject to protective orders;

33 (3) all orders, rules and regulations of the commission or administrator;

34 (4) announcements of, agendas for, and minutes of open meetings;

- 1           (5) a calendar of all forthcoming public meetings and hearings;  
2           (6) current tariffs of all public utilities;  
3           (7) a listing of all public utilities and nonregulated power producers, together with  
4           consumer contact information for each;  
5           (8) consumer information on billing dispute resolution, retail access, conservation, and  
6           consumer assistance programs;  
7           (9) demand sided management programs available to residential, commercial and  
8           industrial customers;  
9           (10) other information as the division deems relevant and useful to the public.

10           **39-1-27.3. Electric distribution companies required to provide retail access and**

11           **standard offer.** -- (a) To promote economic development and the creation and preservation of  
12           employment opportunities within the state, on July 1, 1997, each electric distribution company  
13           shall offer retail access from nonregulated power producers to:

14                 (1) All new commercial and industrial customers, including new manufacturing  
15                 customers, commencing service on or after July 1, 1997, with an anticipated average annual  
16                 demand of two hundred (200) kilowatts or greater;

17                 (2) All existing manufacturing customer with an average annual demand of fifteen  
18                 hundred (1500) kilowatts or greater; and

19                 (3) All accounts in the name of the state, provided, however, no electric distribution  
20                 company shall be required to release more than ten percent (10%) of its total kilowatt-hour sales  
21                 to retail access pursuant to this subsection.

22                 (b) On January 1, 1998, all electric distribution companies shall expand their offer of  
23                 retail access to include existing manufacturing customers with an average annual demand of two  
24                 hundred (200) kilowatts or greater and all accounts in the name of the cities and towns in Rhode  
25                 Island, provided, however, no electric distribution company shall be required to release a total of  
26                 more than twenty percent (20%) of its total kilowatt-hour sales to retail access pursuant to  
27                 subsections (a) and (b).

28                 (c) Retail access shall be implemented for all customers in Rhode Island within three (3)  
29                 months after retail access is available to forty percent (40%) or more of the kilowatt-hour sales in  
30                 New England including the total kilowatt-hour sales in Rhode Island; provided however, that if  
31                 such retail access in New England has not occurred by July 1, 1998, then each electric  
32                 distribution company shall expand its offer of retail access to all of the electric distribution  
33                 company's remaining customers. The commission may extend this deadline for up to six (6)  
34                 months for some or all customers if it determines that additional time is necessary to ensure that

1 retail access can be extended to all customers on reasonable terms. Each electric distribution  
2 company shall notify all customers in its service territory of the options available to them to  
3 procure electric service at least ninety (90) days before such customers become eligible for retail  
4 access. Upon request from any nonregulated power producer, an electric distribution company  
5 shall make available a list of the names and addresses of its customers that are, or within sixty  
6 (60) days are expected to become, eligible for retail access; provided, however, such lists shall  
7 not include customers that have submitted written requests to the electric distribution company  
8 that they be excluded from such lists.

9 (d) Within three (3) months after retail access is available to forty percent (40%) or more  
10 of the kilowatt-hour sales in New England and extending through year 2009, each electric  
11 distribution company shall arrange for a standard power supply offer ("standard offer") to  
12 customers that have not elected to enter into power supply arrangements with other nonregulated  
13 power suppliers. The power supply contract required for the standard offer shall be awarded by  
14 public competitive bidding to the lowest priced power supplier. The standard offer shall be priced  
15 such that the average revenue per kilowatt-hour received from the customer for such power  
16 together with approved distribution, transmission and transition charges shall equal the price that  
17 would have been paid under rates in effect during the twelve (12) month period ending September  
18 30, 1996 adjusted annually for eighty percent (80%) of the change in the consumer price index  
19 for the immediately preceding twelve (12) month period, and also for other factors reasonably  
20 beyond the control of the electric distribution company and its former wholesale power supplier  
21 including but not limited to changes in federal, state or local taxes or extraordinary fuel costs;  
22 provided, however, that adjustments to the standard offer for factors other than inflation must be  
23 approved by the commission. The standard offer is to be a price cap and may, after notice to the  
24 commission, be less than the maximum allowed at anytime for the generation component of the  
25 standard offer. Once a customer has elected to enter into a power supply arrangement with a  
26 nonregulated power producer, the electric distribution company shall not be required to arrange  
27 for the standard offer to such customer. No customer who initially elects the standard offer and  
28 then chooses an alternative supplier shall be required to pay any withdrawal fee or penalty to the  
29 provider of the standard offer unless such a penalty or withdrawal fee was agreed to as part of a  
30 contract; however, no residential customer shall be required to pay a penalty or withdrawal fee for  
31 choosing an alternative supplier. Nothing in this subsection shall be construed to restrict the right  
32 of any nonregulated power producer to offer to sell power to customers at a price comparable to  
33 that of the standard offer specified pursuant to this subsection.

34 (e) On or before January 1, ~~1997~~ 2003, each retail distribution company shall file with

1 the commission unbundled rates which separately identify charges for use of transmission  
2 facilities and use of distribution facilities, customer service, and energy costs and provide for  
3 retail access in accordance with the schedule set forth in this section. Such rates shall become  
4 effective not later than July 1, 2003.

5 (1) Unbundled rates shall separate those costs directly associated with the ownership,  
6 operation, and maintenance of the transmission and distribution facilities of the retail distribution  
7 company from those costs associated with the functions and responsibilities of a nonregulated  
8 energy supplier, including, but not limited to, costs of customer service functions, energy  
9 procurement, load-related charges from NEPOOL and ISO New England or their successors,  
10 ancillary services and installed capacity payments not already included in the energy cost, and pro  
11 rata shares of the company's general, legal and administrative expenses. The customer service  
12 charge shall not be set at less than ten percent (10%) of the company's distribution tariffs in effect  
13 as of January 1, 2002, and distribution charges shall be lowered by the amount of the customer  
14 service charge. Billing costs of the retail distribution company shall continue as part of the  
15 distribution charge, subject to the provisions set forth in section 39-3-37.3(b).

16 (2) Customers electing to purchase energy from a nonregulated power producer shall not  
17 be charged the customer service or energy costs of the retail distribution company.

18 (3) Such unbundled rates shall also include transition charges calculated in accordance  
19 with section 39-1-27.4, and shall become effective on July 1, 1997.

20 (4) Such unbundled rates shall also include just and reasonable terms, conditions, and  
21 procedures for interconnection with small scale generating units located on the distribution  
22 system.

23 (5) If the federal energy regulatory commission (FERC) also requires such filings, then  
24 the retail distribution or transmission company may submit to the commission the same filing as  
25 provided to FERC to meet the intent of this subsection.

26 (f) In recognition that electricity is an essential service, each electric distribution  
27 company shall, within three (3) months after retail access is available to forty percent (40%) or  
28 more of the kilowatt-hour sales in New England, arrange for a last resort power supply for  
29 customers who are no longer eligible to receive service under the standard offer and not  
30 adequately supplied by the market because they are unable to obtain or retain electric service  
31 from nonregulated power producers. The electric distribution company shall periodically solicit  
32 bids from nonregulated power producers for such service at market prices plus a fixed  
33 contribution from the electric distribution company. Acceptance of bids by the electric  
34 distribution company and the terms and conditions for such last resort service shall be subject to

1 approval by the commission. The bids requiring the lowest fixed contribution from the electric  
2 distribution company shall be accepted. In no month, however, shall the resulting energy rate for  
3 last resort customers be set below the rate charged to customers taking service under the fixed-  
4 price standard offer of the company offered pursuant to section 39-3-37.5(a)(3). In the event that  
5 the cost to the company of supplying last resort service is less than the standard offer tariff in any  
6 month, receipts in excess of costs shall be used to reduce the transition costs of the company or  
7 the distribution costs, should transition costs be zero. Nothing in this section shall be construed to  
8 prohibit an electric distribution company or nonregulated power producer from terminating  
9 service provided hereunder in accordance with commission rules and regulations in the event of  
10 nonpayment of such service. All fixed contributions and any reasonable costs incurred by the  
11 electric distribution company in arranging this service shall be included in the ~~distribution rates~~  
12 ~~charged to all other customers.~~ customer service charges charged to last resort service customers.  
13 The commission may promulgate regulations to implement this section.

14 **39-1-27.4. Transition charges authorized.** -- (a) An electric distribution company that  
15 purchases power at wholesale from a wholesale power supplier under an all requirements contract  
16 shall be authorized to execute an agreement terminating, in whole or in part, such all  
17 requirements contracts on terms that require payment of a contract termination fee complying  
18 with the requirements in subsection (b) and notwithstanding any other provisions of this title,  
19 shall be allowed to recover such payment through a nonbypassable transition charge paid by all  
20 customers of the electric distribution company. Any nonregulated power producer may pay all or  
21 a part of its customers' transition charges.

22 (b) The contract termination fee paid by the electric distribution company to its  
23 wholesale power supplier shall include the electric distribution company's share of its wholesale  
24 supplier's costs associated with the following:

25 (1) Regulatory assets related to the generation business which include costs for which  
26 recovery has been deferred to the future in accordance with prior rate cases or settlements  
27 approved by regulators, or consistent with regulatory precedent; regulatory assets of affiliated  
28 fuel suppliers; and transition obligations for post-retirement health care costs of the wholesale  
29 supplier; and

30 (2) Nuclear obligations including decommissioning costs and nuclear costs independent  
31 of operation. Transition costs attributable to nuclear decommissioning must be deposited in unit  
32 specific decommissioning trust funds or returned to customers if not needed. Nuclear costs  
33 independent of operation shall mean estimated nuclear operation and maintenance expenses that  
34 would be incurred assuming the nuclear units were to permanently cease operating on December



1 31, 1997; and

2 (3) Above market payments to power suppliers for purchased power contracts of the  
3 wholesale power supplier in place as of December 31, 1995 together with reasonable payments of  
4 the wholesale power supplier to buy out of these contracts or to reduce payments pursuant to  
5 them; and

6 (4) The net unrecovered commitments and capital costs of all generating plants owned  
7 directly or indirectly by the electric distribution company and its wholesale power supplier as of  
8 December 31, 1995, whether or not such generating plants are operating, including natural gas  
9 conversion costs and above market pipeline demand charges. Except as provided above, no  
10 operation or maintenance expenses associated with existing fossil fired or hydroelectric  
11 generating facilities may be included in contract termination fees to be recovered by electric  
12 distribution companies from customers through transition charges.

13 (c) Because of the uncertainty associated with the timing and amounts to be paid  
14 pursuant to subsections (b)(2) (with the exception of nuclear costs independent of operation) and  
15 (3) above, the termination fee to the wholesale supplier and the related transition charge to the  
16 electric distribution company's customers shall continue until these liabilities have been satisfied  
17 with an annual reconciliation of estimated to actual expenses. Because the items specified in  
18 (b)(1) and (4) can be determined with certainty or reasonably estimated and the nuclear costs  
19 independent of operation can be reasonably estimated, no annual reconciliation is necessary for  
20 these items. However, to moderate the rate impact of these items, recovery through the transition  
21 charge will be spread over the period from July 1, 1997 through December 31, 2009, with a return  
22 on the unamortized balance as specified in subsection (d) below; effective January 1, 2010, there  
23 shall be no allowance for these items in the transition charges billed by electric distribution  
24 companies.

25 (d) In recognition of the potential for a positive residual value of existing generating  
26 facilities at the conclusion of the amortization period in the year 2010, the return on equity  
27 allowed on the unamortized balance of items (b)(1) and (4) paid to the wholesale supplier and  
28 recoverable from customers of the electric distribution company shall be limited to one  
29 percentage point plus the average rate of return on BBB rated long term utility bonds issued  
30 during the six (6) month period July through December, 1996.

31 (e) Notwithstanding any other provisions of this section, other than subsection (g), for  
32 the period July 1, 1997 to December 31, 2000 the nonbypassable transition charge implemented  
33 by such electric distribution company shall recover an amount equal to two and eight-tenths of a  
34 cent (2.8/c) per kilowatt-hour transmitted or distributed. After the year 2000, the transition charge

1 recoverable from customers shall be established by the commission in an amount sufficient to  
2 recover the costs authorized in this section with an adjustment for any over or under recoveries of  
3 the contract termination fees occurring during the period July 1, 1997 to December 31, 2000. The  
4 adjustment under this subsection shall be made in a manner the commission determines  
5 appropriate.

6 (f) Any wholesale power supplier receiving contract termination fees with respect to  
7 power purchase contracts pursuant to subsection (b)(3) shall offer to sell, buy down, or assign to  
8 others, through either public bid or private negotiation, at least the portion of such contracts  
9 attributable to its affiliated electric distribution company. To the extent that bids received or terms  
10 negotiated would, on an expected value basis, lower the transition charges paid by ultimate  
11 customers in Rhode Island, the wholesaler power supplier shall use all reasonable means to  
12 consummate such sale, buydown, or assignment and upon completion shall promptly file  
13 appropriate adjustments to the contract termination fees in place at that time. To provide an  
14 incentive for wholesale power suppliers to obtain the best possible terms for any such sale,  
15 buydown, or assignment, they shall be allowed to retain ten percent (10%) of the savings  
16 expected to be realized by customers as a result of such sale, buydown, or assignment. The  
17 amount of any incentive payment shall be fixed at the time of the sale, buydown, or assignment  
18 based on estimated data and recovered in equal payments over the remaining term of the related  
19 power purchase contract with appropriate adjustments for the time value of money.

20 (g) Every wholesale power supplier receiving contract termination fees pursuant to this  
21 section shall, subject to receipt of all necessary regulatory approvals, subject its electric  
22 generating facilities, other than nuclear units or entitlements, as of January 1, 1996, to a form of  
23 market valuation through lease, sale, spin-off or other method. The wholesale power supplier  
24 shall select the valuation methodology utilized which may be for all the generating facilities as a  
25 group, groups of generating facilities, or individual generating facilities. The wholesale power  
26 supplier shall meet its obligations under this section by leasing, selling, spinning off or otherwise  
27 disposing of at least a fifteen percent (15%) interest in its electrical generating facilities, other  
28 than nuclear units or entitlements provided, however, if, pursuant to a requirement in connection  
29 with electric industry restructuring in another state prior to completion of the valuation pursuant  
30 to this subsection, a wholesale power supplier subject to this subsection is required to sell, spin-  
31 off, or otherwise dispose of more than a fifteen percent (15%) ownership interest in its electric  
32 generating facilities, other than nuclear units or entitlements, then the same requirement,  
33 including related timing requirements, shall apply in the state and the market valuation resulting  
34 from fulfilling that requirement shall be used in determining the adjustment to the contract

1 termination fee required by this subsection. Once the wholesale power supplier determines the  
2 percentage interest in its electrical generating facilities that it will lease, sell, spin-off or otherwise  
3 submit to market valuation to meet its obligation under this subsection, the company shall  
4 develop an implementation methodology to accomplish the lease, sale, spin-off or other  
5 disposition of interest that is reasonably likely to approximate the market value of the generation  
6 assets. The implementation methodology shall be filed with the commission on or before July 1,  
7 1997 for the commission to review and approve or reject no later than ninety (90) days after  
8 submittal. The commission shall approve such implementation methodology unless the  
9 commission finds, after public hearing, the methodology is not reasonably likely to approximate  
10 the market value of the company's generating assets taking into consideration the restrictions  
11 included in mortgage indentures and the need to satisfy the requirements of regulatory authorities  
12 outside the state. Promptly after commission approval of the implementation methodology  
13 companies subject to this section must submit for regulatory review, applications for the  
14 approvals necessary to commence such valuation. In addition, companies subject to this section  
15 shall also provide the commission with quarterly status reports on the progress of proceedings  
16 before other regulatory agencies associated with the implementation of this section. The valuation  
17 required by this section shall be completed within six (6) months after: (1) retail access is  
18 available to forty percent (40%) or more of the kilowatt-hour sales in New England or (2) the  
19 receipt of all necessary regulatory approval for such valuation, whichever occurs later, provided,  
20 however, the commission may extend the deadline for completing such valuation by no more than  
21 six (6) months if it determines that such an extension is in the public interest. Upon completion of  
22 such valuation, the wholesale power supplier, together with its affiliated electric distribution  
23 company shall file to adjust the contract termination fees in place at the time such valuation is  
24 complete as necessary to reflect the electric distribution company's share of such market valuation  
25 in the transition charge paid by ultimate customers in Rhode Island. Any such adjustment shall be  
26 net of the estimated revenue lost by the wholesale power supplier as a result of retail access  
27 during the period prior to completion of such valuation, the electric distribution company's share  
28 of prudently incurred capital investments made after December 31, 1995, which were reasonably  
29 necessary to (i) enable the electrical generating facilities to operate safely and in compliance with  
30 applicable laws and regulations, (ii) improve environmental performance or to increase fuel  
31 diversity or flexibility, with regulatory authorization, reasonable transaction costs, (including the  
32 cost of refinancing), and revenue lost as a result of the reduced return on equity specified in  
33 subsection (d). For purposes of this section, the unreduced return on equity that will be used  
34 prospectively and to value the revenue lost prior to the adjustment shall be the return on equity

1 allowed to the wholesale power supplier's affiliated electric distribution company as of December  
2 31, 1995, and shall be included in the wholesale power supplier's overall capital structure  
3 following the valuation. Any adjustment to the contract termination fee pursuant to this  
4 subsection shall be reflected in the termination fee otherwise calculated in accordance with  
5 subsection (b) as a uniform adjustment spread equally over the period beginning with the date the  
6 adjustment is made and ending December 31, 2009.

7 (h) Whereas the customer service charge established in section 39-1-27.3 reflects the  
8 average cost to serve customers, and in order to equitable allocate long-term costs prudently and  
9 reasonably incurred on behalf of consumers, a retail distribution company shall be entitled to  
10 recover stranded costs in billing systems or other customer service facilities through the  
11 nonbypassable transition charge. Stranded costs, for this purpose, shall be the excess, if any,  
12 allocable to Rhode Island retail customers of the book value for ratemaking purposes of all of an  
13 electric distribution company's billing systems and other customer service assets and agreements  
14 that have been found by the commission to be prudently incurred, verifiable and nonmitigable  
15 and that would have been eligible for recovery in rates under continued rate regulation over the  
16 market value of all of those assets and agreements. Such recovery shall be set by the commission  
17 based on the number of customers who take service from a nonregulated power producer, taking  
18 into account revenues received by the distribution company pursuant to section 39-3-37.3(b).

19 **39-1-27.5. Performance based rates (PBR) for electric distribution companies. --** (a)  
20 ~~To prevent residential customers from paying higher rates as a result of the phased introduction of~~  
21 ~~competition to commercial and industrial customers pursuant to section 39-1-27.3, and to hold~~  
22 ~~overall rate increases to the level of inflation, for the period beginning January 1, 1997 and~~  
23 ~~ending on December 31, 1998, electric distribution companies shall implement a performance~~  
24 ~~based rate plan. Electric distribution companies shall be precluded from filing to increase their~~  
25 ~~rates pursuant to section 39-3-11 or from seeking increases in their purchased power adjustment~~  
26 ~~clause for non fuel increases in purchased power expense under contracts with wholesale power~~  
27 ~~suppliers when those increases would become effective after a full suspension during the period~~  
28 ~~defined above ("the PBR period"), and during the PBR period only performance based rate~~  
29 ~~increases as provided in this section shall be implemented. Performance based increases~~  
30 ~~calculated in accordance with this section shall take effect for usage on and after January 1 of~~  
31 ~~each year during the PBR period and shall be determined in accordance with the following~~  
32 ~~procedure. On or before November 15 of 1996 and 1997, each electric distribution company shall~~  
33 ~~file a report with the commission detailing the earned return on common equity from intrastate~~  
34 ~~operations for the twelve (12) months ended as of the preceding September 30. Electric~~

1 ~~distribution companies shall be authorized to increase their base rates by a per kilowatt hour~~  
2 ~~factor equal to the average revenue per kilowatt hour received by the electric distribution~~  
3 ~~company during the prior twelve (12) month period ending September 30, excluding the costs of~~  
4 ~~fuel and demand side management programs multiplied by the rate of inflation as measured by~~  
5 ~~the change in the consumer price index over the most recent twelve (12) months for which data is~~  
6 ~~available. Electric distribution companies having earned returns on equity greater than the return~~  
7 ~~allowed as of July 1, 1996 by the commission (currently allowed rate) shall be required to credit~~  
8 ~~to or for the benefit of customers one hundred percent (100%) of all earnings in excess of one and~~  
9 ~~one half percent (1.5%) above the currently allowed rate and fifty percent (50%) of all earnings~~  
10 ~~between the currently allowed rate and one and one half percent (1.5%) above the currently~~  
11 ~~allowed rate of return on common equity by refunding revenues associated with such earnings~~  
12 ~~through a refund factor implemented over a twelve (12) month period. Electric distribution~~  
13 ~~companies that earned less than six percent (6%) return on common equity shall be authorized to~~  
14 ~~increase their base rates by inflation as measured above and to implement a surcharge to collect~~  
15 ~~over twelve (12) months the revenue necessary to make up the difference between the return on~~  
16 ~~common equity earned during the historic period and six percent (6%). During the PBR period,~~  
17 ~~electric distribution companies shall also be authorized, with commission approval, to change~~  
18 ~~their base rates to reflect factors reasonably beyond their control including, but not limited to,~~  
19 ~~changes in federal, state and local taxes and environmental remediation costs. On or before July~~  
20 ~~1, 1997, the commission shall establish performance standards to ensure that historic levels of~~  
21 ~~safety, reliability and customer service do not deteriorate during the PBR period. Specifically,~~  
22       The commission is hereby authorized and directed to promulgate rules and regulations to  
23 establish and require performance based rates for each distribution, transmission, and gas  
24 company doing business in this state. In promulgating performance based rate plans, the  
25 commission shall consider the costs and benefits of such plans and establish service quality  
26 standards, including, but not limited to, standards for customer service and satisfaction, service  
27 outages, facility upgrades, repairs and maintenance, billing service and public safety. Each  
28 distribution, transmission and gas company shall file a report with the commission by February  
29 first (1<sup>st</sup>) of each year comparing its performance during the previous calendar year to the  
30 commission's service quality standards and any applicable national standards adopted by the  
31 commission. †The commission shall establish symmetric performance standards in these areas  
32 that provide the company the opportunity to incur in aggregate an annual penalty or reward equal  
33 to one percentage point return on common equity that shall not be considered in determining any  
34 other returns on common equity within this section. Notwithstanding the foregoing, rates

1 applicable to low income customers shall not be increased for any rate increases authorized  
2 pursuant to this subsection. Nothing in this paragraph shall be deemed to preclude an electric  
3 distribution company from seeking approval from the commission for:

4 (1) Changes in the fully reconciling adjustment clauses in place to reflect changes in the  
5 cost of fuel and demand side management programs;

6 (2) Reconciling adjustments pursuant to purchase power clauses that do not reflect  
7 increases in level of wholesale rates;

8 (3) Revenue neutral rate design changes; and

9 (4) Accounting changes.

10 (b) Nothing in this subsection shall preclude the commission from considering the  
11 interests of ratepayers in the interpretation of this subsection. This section shall not apply to a  
12 quasi-municipal corporation.

13 Not later than April first (1<sup>st</sup>) of each year, the commission shall conduct hearings and  
14 report to the joint committee on energy on the performance of each utility regarding its service  
15 quality as measured against standards adopted by the commission pursuant to this section, its  
16 historical performance and the service quality provided by other New England utilities. The  
17 commission shall further provide to the joint committee on energy any legislative  
18 recommendations relative to this section as it deems appropriate.

19 SECTION 2. Section 39-2-1.2 of the General Laws in Chapter 39-2 entitled "Duties of  
20 Utilities and Carriers" is hereby amended to read as follows:

21 **39-2-1.2. Utility base rate -- Prohibition of inclusion of advertising in base rate. --** (a)

22 In addition to costs prohibited in section 39-1-27.4(b), no public utility distributing or providing  
23 heat, electricity, or water to or for the public shall include as part of its base rate any expenses for  
24 advertising, either direct or indirect, which promotes the use of its product or service, or is  
25 designed to promote the public image of the industry. No public utility may furnish support of  
26 any kind, direct, or indirect, to any subsidiary, group, association, or individual for advertising  
27 and include the expense as part of its base rate. Notwithstanding the foregoing, nothing contained  
28 in this section shall be deemed as prohibiting the inclusion in the base rate of expenses incurred  
29 for advertising, informational or educational in nature, which is designed to promote public safety  
30 conservation of the public utility's product or service. The public utilities commission shall  
31 promulgate such rules and regulations as are necessary to require public disclosure of all  
32 advertising expenses of any kind, direct or indirect, and to otherwise effectuate the provisions of  
33 this section.

34 (b) Effective as of January 1, 1997, and for a period of ten (10) years thereafter, each

1 electric distribution company shall include a charge of 2.3 mills per kilowatt-hour delivered to  
2 fund demand side management programs and renewable energy resources. The allocation of this  
3 revenue between demand side management programs and renewable energy resources shall be  
4 determined by the commission. During the ten (10) year period the commission may, in its  
5 discretion, after notice and public hearing, increase the sums for demand side management and  
6 renewable resources; thereafter, the commission shall, after notice and public hearing, determine  
7 the appropriate charge for these programs. As used in this section, renewable energy resources  
8 shall mean power generation technologies that produce electricity from wind energy, small scale  
9 (less than 100 megawatts) hydropower plants that do not require the construction of new dams,  
10 solar energy, and sustainably managed biomass. Fuel cells may be considered an energy  
11 efficiency technology to be included in demand sided management programs. Special rates for  
12 low income customers in effect as of August 7, 1996 shall be continued, and the costs of all such  
13 discounts shall be included in the distribution rates charged to all other customers. Nothing in this  
14 section shall be construed as prohibiting an electric distribution company from offering any  
15 special rates or programs for low income customers which are not in effect as of August 7, 1996,  
16 subject to the approval by the commission.

17 (c) The commission shall keep itself informed as to the manner and method in which all  
18 demand sided management and renewable energy projects and programs are being administered  
19 and in furtherance thereof, the commission shall conduct an annual study on the use and  
20 availability of demand sided management and renewable energy projects and programs in this  
21 state and shall report to the joint committee on energy. This report shall include suggestions for  
22 legislation that will encourage the additional development and implementation of demand side  
23 management and renewable energy projects and programs, provided that any legislation should  
24 mandate that no class of customer shall unduly subsidize projects or programs benefiting other  
25 classes of customers.

26 (d) The commission shall be required to keep a full and accurate record of all demand  
27 side management and renewable energy projects and programs, and the administration of revenue  
28 funding all demand side management and renewable energy projects and programs shall be  
29 subject to both Chapter 46 of Title 42 and Title 38 required for public bodies, the purpose of  
30 which shall be to allow the public to express their views about the programs and projects being  
31 discussed and the allocation and administration of revenue being proposed. Failure to comply  
32 with the provisions of Chapter 46 of Title 42 or Title 38 shall invalidate any actions, hearings or  
33 proceedings held in connection with such programs and projects.

34 (e) In furtherance of the provisions hereof, the commission shall annually cause an audit,

1 prepared in accordance with generally accepted accounting principles, to be made of all demand  
2 side management and renewable energy projects and programs administered in this state, the  
3 result of which shall be reported to the joint committee on energy, within three (3) months after  
4 the audit. The audit shall be made either by the auditor general or by an independent certified  
5 public accountant approved by the auditor general. The audit shall contain any information which  
6 is relevant in order to make a full, fair and accurate disclosure of the assets, operations and  
7 administration of all demand sided management and renewable energy projects and programs  
8 administered in this state. The commission shall report to the joint committee on energy on the  
9 status of the implementation of the recommendations contained in the audit and shall file  
10 subsequent reports at times the joint committee deems appropriate.

11 SECTION 3. Chapter 39-2 of the General Laws entitled "Duties of Utilities and  
12 Carriers" is hereby amended by adding thereto the following section:

13 **39-2-1.4. Reasonable backup or supplemental rates.** – (a) Electricity produced by  
14 cogeneration and small power production is of benefit to the public when included as part of the  
15 total energy supply of the entire electric grid of the state or consumed by a cogenerator or small  
16 power producer. Public utilities shall provide transmission or distribution service to enable a retail  
17 customer to transmit electrical power generated by the customer at one location to the customer's  
18 facilities at another location, if the commission finds that the provision of this service, and the  
19 charges, terms, and other conditions associated with the provision of this service, are not likely to  
20 result in higher cost electric service to the utility's general body of retail and wholesale customers  
21 or adversely affect the adequacy or reliability of electric service to all customers.

22 (b) Each electric distribution company shall offer backup and supplemental rates to any  
23 customer who is a "qualifying cogenerator" or "qualifying small power producer" as defined by  
24 16 U.S.C. Sections 796(18)(C) and 796(17)(D). The commission shall ensure that such backup  
25 and supplemental rates made, exacted, demanded or collected by any public utility from a  
26 customer with such a "qualifying facility" shall be just and reasonable and may not be  
27 unreasonably prejudicial or discriminatory. The backup or supplemental rate:

28 (1) Shall not be based upon the assumption (unless supported by factual data) that forced  
29 outages or other reductions in electric output by all on-site generation facilities on an electric  
30 utility's system will occur simultaneously, or during the system peak, or both;

31 (2) Shall not include any charge on energy volumes generated at on-site generation;

32 (3) Shall be designed to recover the capital and maintenance costs of local facilities, or  
33 identifiable portions of local facilities, that are required to serve the customer through a demand  
34 charge on the contract service volume, which volume shall reasonably reflect the usage



1 characteristics of the customer, including the customer's ability to curtail demand in the event of  
2 the outage of its on-site generation;

3 (4) Shall be designed to recover a reasonable allocation of other distribution facilities'  
4 capital costs and expenses through a daily metered peak demand charge, exclusive of volumes  
5 generated on-site, where such charges shall reflect the long-run savings to the utility from  
6 decreased reliance on shared distribution facilities by cogenerating customers;

7 (5) Shall include any FERC-approved transmission charges only for power actually  
8 delivered from the utility's facilities;

9 (6) Shall recover the cost of any and all additional interconnection facilities and  
10 equipment unique to the provision or back-up service, and beyond those facilities normally  
11 required to provide firm retail delivery service to customers of comparable size, through an up-  
12 front interconnect charge;

13 (7) Shall include a fixed monthly customer charge to recover fully all customer-related  
14 costs (to the extent not recovered through interconnection charges);

15 (8) Shall not result in charges greater than those would apply under the standard offer  
16 tariff.

17 (c) A public utility must affirmatively demonstrate that its charges for backup or  
18 supplemental service do not place typical customers engaged in cogeneration or small power  
19 production at substantive financial disadvantage relative to comparable customers served by other  
20 New England utilities.

21 (d) If the commission determines that a public utility has set rates pursuant to this section  
22 that exceed the limits set forth in this section, the commission shall order the utility to refund any  
23 existing surplus and may otherwise penalize the public utility pursuant to section 39-2-8.

24 SECTION 4. Sections 39-3-11 and 39-3-37.3 of the General Laws in Chapter 39-3  
25 entitled "Regulatory Powers of Administration" are hereby amended to read as follows:

26 **39-3-11. Notice of change in rates -- Suspension of change -- Hearings. --** (a) No  
27 change shall be made in the rates, tolls, and charges which have been filed and published by any  
28 public utility in compliance with the requirements of section 39-3-10, except after thirty (30) days  
29 notice to the commission and to the public published as provided in section 39-3-10, which shall  
30 plainly state the changes proposed to be made in the schedule then in force, and the time when the  
31 changed rates, tolls, or charges will go into effect. Whenever the commission receives notice of  
32 any change or changes proposed to be made in any schedule filed under the provisions of section  
33 39-3-10, the commission shall hold a public hearing and make investigation as to the propriety of  
34 the proposed change or changes. After notice of any investigation, the commission shall have

1 power, by any order served upon the public utility affected, to suspend the taking effect of the  
2 change or changes pending the decision thereof, but not for a longer period than six (6) months  
3 beyond the time when the change or changes would otherwise take effect. Each hearing and  
4 investigation shall be conducted as expeditiously as may be practicable, and with a minimum of  
5 delay. The commission shall publish, in conspicuous form and place, notice to the public of the  
6 proposed change, once each week for four (4) consecutive weeks before the hearing date, in a  
7 newspaper having general circulation in each city or town affected by the proposed change.  
8 Within ninety (90) days after the completion of any hearing, the commission shall make such  
9 order in reference to any proposed rate, toll, or charge as may be proper. Notwithstanding the  
10 provisions of this section, the commission shall periodically hold a public hearing and make  
11 investigation as to the propriety of rates when charged by any public utility and shall make such  
12 order in reference to the rate, toll, or charge as may be just. The hearing prescribed by this section  
13 may be held simultaneously with the hearing prescribed by section 39-3-7. In the event of an  
14 appeal from an order of the commission in any hearing under this section, the order shall remain  
15 in full force and effect during the pendency of said appeal.

16 (b) Upon receipt from a common carrier of persons and/or property upon water of a  
17 notice of any change proposed to be made in any schedule filed pursuant to section 39-3-10, the  
18 commission shall give notice as it may prescribe of the pendency of the proposal and of the time  
19 and place of hearing thereon to the mayor and also any city manager of each city, and to the  
20 president of the town council and also any town manager of each town in which the carrier picks  
21 up or discharges passengers. The commission shall also publish a notice of the hearing at least ten  
22 (10) days prior to the date thereof in a newspaper of general circulation in each city or town in  
23 which the carrier picks up or discharges passengers. In all other respects, hearings and  
24 investigations with respect to the proposals by the carriers shall be governed by the provisions of  
25 subsection (a) of this section.

26 (c) The Kent County water authority shall provide notice by certified mail of rate  
27 increase requests to the several fire districts which purchase water from the authority.

28 (d) Costs incurred by electric distribution companies for filing rates, tolls and charges,  
29 for participating in hearings and investigations prior to December 31, 2000 or for appealing  
30 commission decisions rendered prior to December 31, 2000 pursuant to this section shall not be  
31 included in the rates, tolls or charges established by the commission pursuant to this section.

32 (e) All filings made by a public utility with the commission shall be made electronically  
33 in a manner established by the commission.

34 **39-3-37.3. Informational notice on electric bills – Electrical distribution company. --**

1 (a) Every electric distribution company which shall charge for the distribution of electricity to any  
2 house, building, tenement or estate shall conspicuously display upon the bill or statement for any  
3 customer the following information:

- 4 (1) The total number of kilowatt hours consumed;
- 5 (2) The total cost of distributing the consumer power to the customer;
- 6 (3) Transition charges;
- 7 (4) Conservation costs;
- 8 (5) The total cost of transmitting the consumed power to the appropriate distribution site;
- 9 (6) All applicable credits;
- 10 (7) Applicable street light rental costs;
- 11 (8) Applicable taxes;
- 12 (9) The cost of power delivered; and
- 13 (10) All other costs, charges or fees added to the bill or statement.

14 (b) ~~The electric distribution company shall issue a single bill for electric service to all~~  
15 ~~customers in its service territory; provided however, that customers of nonregulated power~~  
16 ~~producers may request the nonregulated power producers to provide separate bills for electricity~~  
17 ~~supply.~~ Not later than January 1, 2003, in order to promote customer choice and convenience in a  
18 restructured electricity market, retail customers shall receive bills pursuant to any of the following  
19 billing options, at the option of the customers' energy supplier:

- 20 (1) single bill from the distribution company that shows charges from both the  
21 distribution company and the energy supplier; (2) two bills, one from the nonutility supplier that  
22 shows energy-related charges, and one from the distribution company that shows distribution-  
23 related charges; or (3) a single bill from the nonutility supplier that shows charges from both the  
24 distribution company and the energy supplier; provided, however, that all bills shall contain  
25 information concerning the quantity of electricity consumed by said customer during the same  
26 billing period for the previous year. Nonutility suppliers that elect to send a consolidated bill must  
27 meet standards of creditworthiness as shall be established by the commission. The commission is  
28 hereby authorized and directed to: (1) establish for each electric distribution company a single  
29 charge that the entity sending a consolidated bill pursuant to this subsection shall receive from the  
30 nonbilling party; (2) promulgate rules and regulations concerning partial, late or missing  
31 customer payments and termination of service that (i) protect customers from erroneous  
32 termination of service, and (ii) treat the claims of the distribution company and the energy  
33 supplier symmetrically; (3) determine whether any additional information shall be required to be  
34 disclosed on the bills and to promulgate rules and regulations to implement the provisions of this

1 subsection. Rules and regulations relative to the appeals process for billing disputes or damage  
2 claims made by customers shall be published and distributed to customers as part of an education  
3 and outreach program.

4         SECTION 5. Chapter 39-3 of the General Laws entitled "Regulatory Powers of  
5 Administration" is hereby amended by adding thereto the following sections:

6         **39-3-1.2. Aggregation of electrical load by municipality or group of municipalities. –**

7 The legislative authority of a municipality may adopt an ordinance or resolution, under which it  
8 may aggregate in accordance with this section the retail electrical loads located, respectively,  
9 within the municipality or town and, for that purpose, may enter into service agreements to  
10 facilitate for those loads the sale and purchase of electricity. The legislative authority also may  
11 exercise such authority jointly with any other such legislative authority. An ordinance or  
12 resolution under this section shall specify whether the aggregation will occur only with the prior  
13 consent of each person owning, occupying, controlling, or using an electric load center proposed  
14 to be aggregated or will occur automatically for all such persons pursuant to the opt-out  
15 requirements of this section. Nothing in this section, however, authorizes the aggregation of  
16 retail electric loads of an electric load center that is located in the certified territory of a nonprofit  
17 electric supplier or an electric load center served by transmission or distribution facilities of a  
18 municipal electric utility. If an ordinance or resolution adopted under this section specifies that  
19 aggregation will occur automatically as described in this section, the ordinance or resolution shall  
20 direct the board of canvassers to submit the question of the authority to aggregate to the electors  
21 of the respective municipality or town at a special election on the day of the next primary or  
22 general election in the municipality or town. The legislative authority shall certify a copy of the  
23 ordinance or resolution to the board of canvassers not less than seventy-five (75) days before the  
24 day of the special election. No ordinance or resolution adopted under this section that provides for  
25 an election under this section shall take effect unless approved by a majority of the electors voting  
26 upon the ordinance or resolution at the election held pursuant to this section.

27         No legislative authority pursuant to an ordinance or resolution under this section that  
28 provides for automatic aggregation as described in this section, shall aggregate the electrical load  
29 of any electric load center located within its jurisdiction unless it in advance clearly discloses to  
30 the person owning, occupying, controlling, or using the load center that the person will be  
31 enrolled automatically in the aggregation program and will remain so enrolled unless the person  
32 affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state  
33 prominently the rates, charges, and other terms and conditions of enrollment. The stated  
34 procedure shall allow any person enrolled in the aggregation program the opportunity to opt-out

1 of the program every two (2) years, without paying a switching fee. Any such person that opts out  
2 of the aggregation program pursuant to the stated procedure shall default to the standard service  
3 offer until the person chooses an alternative supplier.

4 A governmental aggregator under this section is not a public utility engaging in the  
5 wholesale purchase and resale of electricity, and the aggregated service is not a wholesale utility  
6 transaction. A governmental aggregator shall be subject to supervision and regulation by the  
7 commission only to the extent of any competitive retail electric service it provides and  
8 commission authority.

9 A town may initiate a process to authorize aggregation by a majority vote of town  
10 meeting or town council. A city may initiate a process to authorize aggregation by a majority  
11 vote of the city council, with the approval of the mayor, or the city manager. Two (2) or more  
12 municipalities may as a group initiate a process jointly to authorize aggregation by a majority  
13 vote of each particular municipality as herein required.

14 Upon the applicable requisite authority under this section, the legislative authority shall  
15 develop a plan of operation and governance for the aggregation program so authorized. Before  
16 adopting a plan under this section, the legislative authority shall hold at least two (2) public  
17 hearings on the plan. Before the first hearing, the legislative authority shall publish notice of the  
18 hearings once a week for two (2) consecutive weeks in a newspaper of general circulation in the  
19 jurisdiction. The notice shall summarize the plan and state the date, time, and location of each  
20 hearing. A municipality or group of municipalities establishing load aggregation pursuant to this  
21 section shall, in consultation with the commission, develop a plan, for review by its citizens,  
22 detailing the process and consequences of aggregation. Any municipal load aggregation plan  
23 established pursuant to this section shall provide for universal access, reliability, and equitable  
24 treatment of all classes of customers and shall meet any requirements established by law or the  
25 commission concerning aggregated service. Said plan shall be filed with the commission, for its  
26 final review and approval, and shall include, without limitation, an organizational structure of the  
27 program, its operations, and its funding; rate setting and other costs to participants; the methods  
28 for entering and terminating agreements with other entities; the rights and responsibilities of  
29 program participants; and termination of the program. The plan must also include the terms and  
30 conditions under which retail customers who have chosen to opt-out of the aggregated service  
31 may take service from the aggregated entity. Prior to its decision, the commission shall conduct a  
32 public hearing. The commission shall not approve any such plan if the cost for energy would in  
33 the first year exceed the cost of that energy on the standard offer, as established pursuant to this  
34 chapter, for citizens in the municipality or group of municipalities, unless the applicant can

1 demonstrate that the cost for energy under the aggregation plan will be lower than the standard  
2 offer in the subsequent years or the applicant can demonstrate that such excess cost is due to the  
3 purchase of renewable energy as described by the commission.

4 Any retail customer in a municipality with an approved aggregation plan may elect  
5 instead to receive retail supply from another licensed retail supplier or from the local distribution  
6 company. Within thirty (30) days of the date the aggregated entity is fully operational,  
7 ratepayers who have not affirmatively elected an alternative authorized supplier shall be  
8 transferred to the aggregated entity subject to the opt-out provision herein. Following adoption of  
9 aggregation as specified above, the program shall allow any retail customer to opt-out and choose  
10 any supplier or provider such retail customer wishes. Once enrolled in the aggregated entity, any  
11 ratepayer who prior to being transferred to the aggregated entity, had been supplied under  
12 standard offer service and who elects to opt-out within ninety (90) days shall do so without  
13 penalty and shall be entitled to receive standard offer service as if he had not left standard offer  
14 service. Nothing in this section shall be construed as authorizing any city or town or any  
15 municipal retail load aggregator to restrict the ability of retail electric customers to obtain or  
16 receive service from any authorized provider thereof.

17 It shall be the duty of the aggregated entity to fully inform participating ratepayers in  
18 advance of automatic enrollment that they are to be automatically enrolled and that they have the  
19 right to opt-out of the aggregated entity without penalty. In addition, such disclosure shall  
20 prominently state all charges to be made and shall include full disclosure of the standard offer  
21 rate, how to access it, and the fact that it is available to them without penalty, if they are currently  
22 on standard offer service. The commission shall furnish, without charge, to any citizen a list of all  
23 other supply options available to them in a meaningful format that shall enable comparison of  
24 price and product.

25 **39-3-37.4. Labeling requirements.** – The commission in consultation with the public  
26 utilities commissions of the other New England states, shall promulgate uniform labeling  
27 regulations which shall be applicable to all suppliers of energy products in this state. Such  
28 information to be required by regulation in said labeling shall include price data, information on  
29 price variability, customer service information, fuel sources, and air emissions from the  
30 generation of electricity. The commission shall require that the electricity information label  
31 provide prospective and existing customers with adequate information by which to readily  
32 evaluate power supply options available in the market. Energy service providers shall be required  
33 to present such labeling information in conformance with commission requirements as to form  
34 and substance, and shall comply with federal and state laws governing unfair advertising and

1 labeling.

2 **39-3-37.5. Electricity utility required to provide portfolio of options -- Pilot real-**  
3 **time pricing program.** – (a) Not later than October 1, 2002, each public utility serving more than  
4 one hundred thousand (100,000) electricity customers shall provide residential electricity  
5 customers and small commercial electricity customers that are connected to its distribution  
6 system a portfolio of rate options. The portfolio shall include at least the following options and  
7 shall constitute the standard offer provided by the utilities:

8 (1) A rate that reflects two (2) new renewable energy resources, as follows:

9 (i) one with a lower amount of renewable or clean generation and a relatively lower price;

10 and

11 (ii) one with a higher amount of renewable or clean generation and a relatively higher  
12 price but to be offered at a guaranteed, stable rate not related to natural gas prices.

13 (2) A market-based time-of-use or real time pricing option.

14 (3) The fixed price service currently offered for the public utilities' customers.

15 (b) The commission shall regulate the portfolio of rate options under subsection (a) of  
16 this section and shall reasonably ensure that the costs and risks of serving each option are  
17 reflected in the rates for each option. The commission may limit switching among portfolio  
18 options by customers.

19 (c) The foregoing portfolio of rate options shall be terminated as of December 31, 2005,  
20 unless otherwise extended by the general assembly after which the utility shall continue to  
21 provide standard offer service through a single, fixed price service.

22 (d) The commission shall develop a pilot time-of-use or real time pricing program for  
23 residential customers to commence on or before October 1, 2002 and to be administered by the  
24 public utilities. The commission shall review the pilot program as circumstances change and shall  
25 file a report with the joint committee on energy, on an annual basis, on or before November first  
26 (1<sup>st</sup>) of each year, beginning in 2003 to permit the joint committee to monitor the participation  
27 and results of the pilot program. The commission shall require that the percentage of participation  
28 in the pilot program shall be at a sufficient level based on market conditions, in order to permit  
29 the joint committee to effectively review the effectiveness of the program.

30 (e) Any offering of services or tariff options by a public utility under this section shall be  
31 equal to the utility's reasonably projected cost in that year of providing that service or tariff  
32 option, or as may have been established by the commission prior to February 1, 2002. Such rates  
33 may not be unreasonably preferential, prejudicial, discriminatory, predatory, or anticompetitive.  
34 The renewal energy options of subsection (a)(1) of this section shall not be priced below the fixed

1 price service of subsection (a)(3). The tariffed rates for service under subsections (a)(2) and (d) of  
2 this section shall be fixed at levels so as to lower energy charges relative to the fixed price service  
3 of subsection (a)(3) only to customers that use a greater proportion of their electricity during off-  
4 peak periods than the average customer in the applicable class of service.

5 (f) Nothing in this section shall limit the right of an electric distribution company to  
6 establish an affiliated nonregulated power producer for the purpose of providing competitive  
7 energy service at nonregulated rates, provided that:

8 (1) the standards of conduct set forth in section 39-1-27.6 are observed and adequate  
9 records maintained of conformance as to allow commission audit;

10 (2) any services obtained by the affiliate from the electric distribution company or other  
11 regulated affiliates be offered to nonaffiliated nonregulated power producers on terms and  
12 conditions that are not preferential, prejudicial, discriminatory, predatory, or anticompetitive.

13 **39-3-43. Consumer education.** – (a) The restructuring of the electricity industry has  
14 created a new electricity market with new marketers and sellers offering new goods and services,  
15 many of which the average consumer will not be able to readily evaluate. It is the intent of the  
16 general assembly that: (1) electricity consumers be provided with sufficient and reliable  
17 information so that they are able to compare and make informed selections of products and  
18 services provided in the electricity market; and (2) mechanisms be provided to enable consumers  
19 to protect themselves from marketing practices that are unfair or abusive.

20 (b) On or before September 1, 2004, the commission shall develop and implement an  
21 educational program to inform customers, including low-income and non-English speaking  
22 customers, about changes in the provision of electric service resulting from the opening of the  
23 retail electric market. The educational program shall be neutral and nonpromotional with respect  
24 to any specific provider of energy services and shall provide customers with the information  
25 necessary to make informed decisions relating to the source and type of electric service available  
26 for purchase and other information the commission considers necessary. The educational program  
27 should attempt to avoid duplicating customer information efforts undertaken by retail electric  
28 providers or other private entities. The educational program may not be targeted to areas served  
29 by municipally owned utilities or electric cooperatives that have not adopted customer choice. In  
30 planning and implementing this educational program, the commission shall consult with the  
31 division of public utilities and carriers, the joint committee on energy, the office of the ratepayer  
32 advocate, and with customers and providers of retail electric service. The commission may enter  
33 into contracts for professional services to carry out the customer education program. As part of  
34 ongoing education, the commission shall provide customers information concerning specific



1 retail electric providers, including instances of complaints against them and records relating to  
2 quality of customer service. The commission may delay implementation of such education  
3 program by up to eighteen (18) months with the approval of the joint committee on energy.

4 (c) The commission, on an annual basis, on or before March first (1<sup>st</sup>) of each year after  
5 commencement of the program, shall report to the joint committee on energy on the status and  
6 effectiveness of the educational program developed and implemented as provided by this section.

7 SECTION 6. The Title of Chapter 22-7.3 of the General Laws entitled "Permanent Joint  
8 Committee on Environment and Energy" is hereby amended to read as follows:

9 CHAPTER 7.3

10 ~~PERMANENT JOINT COMMITTEE ON ENVIRONMENT AND ENERGY~~

11 PERMANENT JOINT COMMITTEE ON ENVIRONMENT

12 SECTION 7. Sections 22-7.3-1, 22-7.3-3, 22-7.3-4, 22-7.3-5, 22-7.3-7 and 22-7.3-8 of  
13 the General Laws in Chapter 22-7.3 entitled "Permanent Joint Committee on Environment and  
14 Energy" are hereby amended to read as follows:

15 **22-7.3-1. Permanent committee -- Composition. [Effective until January 7, 2003.] --**

16 There is hereby created a permanent joint committee of the general assembly on environment ~~and~~  
17 ~~energy~~ to consist of eleven (11) members of the general assembly, six (6) of whom shall be from  
18 the house of representatives to be appointed by the speaker, not more than four (4) of whom shall  
19 be from the same political party; five (5) of whom shall be from the senate to be appointed by the  
20 majority leader of the senate, not more than three (3) of whom shall be from the same political  
21 party. Vacancies shall be filled in like manner as the original appointments. The members of the  
22 joint committee on environment ~~and energy~~ shall serve so long as they shall remain members of  
23 the house from which they were appointed and until their successors are duly appointed and  
24 qualified.

25 **22-7.3-1. Permanent committee -- Composition. [Effective January 7, 2003.] --** There

26 is hereby created a permanent joint committee of the general assembly on environment ~~and~~  
27 ~~energy~~ to consist of eleven (11) members of the general assembly, six (6) of whom shall be from  
28 the house of representatives to be appointed by the speaker, not more than four (4) of whom shall  
29 be from the same political party; five (5) of whom shall be from the senate to be appointed by the  
30 president of the senate, not more than three (3) of whom shall be from the same political party.  
31 Vacancies shall be filled in like manner as the original appointments. The members of the joint  
32 committee on environment ~~and energy~~ shall serve so long as they shall remain members of the  
33 house from which they were appointed and until their successors are duly appointed and  
34 qualified.



1 a periodic basis, the state's energy industry and shall report to the general assembly pursuant to  
2 section 22-7.10-4, concerning, but not limited to, the following issues:

3 (1) Financial and market issues such as the competitive and fair pricing of energy  
4 services for all customers, reliability and stability of energy supply, the availability of competitive  
5 energy choices, the financial integrity of energy service providers and consumer education;

6 (2) Legal and statutory issues such as issues of jurisdiction, regulatory constraints, and  
7 review of existing laws;

8 (3) The progress and results from programs designed to encourage energy efficiency and  
9 renewable energy and to address the needs of low-income customers;

10 (4) Planning, operational, and reliability issues including service quality for the state's  
11 energy infrastructure;

12 (5) Review of energy market structures including market power, relationships between  
13 utilities and competitive sectors, and state regulation thereof;

14 (6) Regional coordination of energy policy and market design; and

15 (7) Any and all other issues related to the generation, transmission, and distribution of  
16 energy, including, but not limited to, the siting of generation and transmission facilities.

17 **22-7.10-2. Selection of officers.** -- Upon organization of the joint committee, by  
18 majority vote, one of their members shall be chosen as chairperson, another of their members  
19 shall be chosen vice-chairperson, and another of their members shall be chosen as secretary.

20 **22-7.10-3. Duties.** – Together with the duties listed in section 22-7.10-1 it shall be the  
21 duty of the joint committee on energy to promote the development of a coordinated energy policy  
22 and to consult with all federal, state, municipal, and quasi-municipal agencies dealing with  
23 energy issues regarding the state of Rhode Island.

24 **22-7.10-4. Reports and recommendations.** – (a) The joint committee on energy shall,  
25 from time to time, and at least annually, report to the general assembly on its findings and the  
26 result of its studies and make such recommendations to the general assembly and propose such  
27 legislation or initiate such studies as it shall deem advisable.

28 (b) In conducting its review and analysis of energy issues, the joint committee energy  
29 shall solicit information from and consult with all affected and interested parties, including, but  
30 not limited to: providers of retail energy services, representatives of residential energy  
31 consumers, low-income energy consumers, commercial energy consumers, industrial energy  
32 consumers, small business energy consumers, investor-owned utilities, cooperative electric  
33 associations, municipal utilities, organized labor, local units of government, environmentalists,  
34 renewable energy developers and providers, natural gas distribution utilities, nonutility and

1 independent generators, community action agencies, the division of public utilities and carriers,  
2 the public utilities commission, the office of ratepayer advocate, and the department of the  
3 attorney general.

4 **22-7.10-5. References to committee.** -- Each branch of the legislature shall refer to the  
5 joint committee, all bills and resolutions dealing directly with energy.

6 **22-7.10-6. Place of meeting – Quorum.** – The joint committee on legislative services  
7 may provide adequate space in the state house for the use of the joint committee on energy;  
8 provided, however, that the joint committee on energy may conduct hearings and hold meetings  
9 elsewhere when doing so will better serve its purposes. A majority in number of the joint  
10 committee on energy shall be necessary to constitute a quorum for the transaction of business.

11 SECTION 9. This act shall take effect upon passage.  
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LC00909  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO PUBLIC UTILITIES AND CARRIERS

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- 1           This act would amend the public utilities law.
- 2           This act would take effect upon passage.

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