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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - DISTRIBUTED GENERATION
STANDARD CONTRACTS

Introduced By: Senator V. Susan Sosnowski

Date Introduced: May 16, 2013

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-26.2-3, 39-26.2-4 and 39-26.2-7 of the General Laws in
2 Chapter 39-26.2 entitled "Distributed Generation Standard Contracts" are hereby amended to read
3 as follows:

4 **39-26.2-3. Definitions.** -- When used in this chapter, the following terms shall have the
5 following meanings:

6 (1) "Annual target" means the target for total renewable energy nameplate capacity of
7 new distributed generation standard contracts set out in section 39-26.2-3.

8 (2) "Commission" means the Rhode Island public utilities commission.

9 (3) "Board" shall mean the distributed generation standard contract board established
10 pursuant to the provisions of chapter 39-26.2-9, or the office of energy resources. Until such time
11 as the board is duly constituted, the office of energy resources shall serve as the board with the
12 same powers and duties pursuant to this chapter.

13 (4) "Distributed generation contract capacity" means ~~ten percent (10%) of an electric~~
14 ~~distribution company's minimum long term contract capacity under the long term contracting~~
15 ~~standard for renewable energy in section 39-26.1-2, inclusive of solar capacity. The distributed~~
16 ~~generation contract capacity shall be reserved for acquisition by the electric distribution company~~
17 ~~through standard contracts pursuant to the provisions of this chapter~~ a minimum of forty (40)
18 megawatts of distributed generation projects each calendar year commencing the year 2013

1 [through the year 2016.](#)

2 (5) "Distributed generation facility" means an electrical generation facility that is a
3 newly developed renewable energy resource as defined in section 39-26.1-2, located in the
4 electric distribution company's load zone with a nameplate capacity no greater than five
5 megawatts (5 MW), using eligible renewable energy resources as defined by section 39-26-5,
6 including biogas created as a result of anaerobic digestion, but, specifically excluding all other
7 listed eligible biomass fuels, and connected to an electrical power system owned, controlled, or
8 operated by the electric distribution company.

9 (6) "Distributed generation project" means a distinct installation of a distributed
10 generation facility. An installation will be considered distinct if it is installed in a different
11 geographical location and at a different time, or if it involves a different type of renewable energy
12 class.

13 (7) "Electric distribution company" means a company defined in subdivision 39-1-2(12),
14 supplying standard offer service, last resort service, or any successor service to end-use
15 customers, but not including the Block Island Power Company or the Pascoag Utility District.

16 (8) "Large distributed generation project" means a distributed generation project that has
17 a nameplate capacity that exceeds the size of a small distributed generation project in a given
18 year, but is no greater than five megawatts (5 MW) nameplate capacity.

19 (9) "Program year" means a calendar year beginning January 1 and ending December 31.

20 (10) "Renewable energy classes" means categories for different renewable energy
21 technologies using eligible renewable energy resources as defined by section 39-26-5. For each
22 program year, the board shall determine the renewable energy classes as are reasonably feasible
23 for use in meeting distributed generation objectives from renewable energy resources and are
24 consistent with the goal of meeting the annual target for the program year. For the program year
25 ending December 31, 2012, there shall be at least four (4) technology classes and at least two (2)
26 shall be for solar generation technology, and at least one shall be for wind. The board may add,
27 eliminate, or adjust renewable energy classes for each program year with public notice given at
28 least sixty (60) days previous to any renewable energy class change becoming effective. For each
29 program year, the board shall set renewable energy class targets for each class established. Class
30 targets are the total program-year target amounts of nameplate capacity reserved for standard
31 contracts for each renewable energy class. The sum of all the class targets shall equal the annual
32 target.

33 (11) "Renewable energy credit" means a New England Generation Information System
34 renewable energy certificate as defined in subdivision 39-26-2(15);

1 (12) "Small distributed generation project" means a distributed generation project that
2 has a nameplate capacity no larger than the following: Solar: five hundred kilowatts (500 KW);
3 Wind: one and one-half megawatts (1.5 MW). For technologies other than solar and wind, the
4 board shall set the nameplate capacity size limits, but such limits may not exceed one megawatt.
5 The board may lower the nameplate capacity from year to year for any of these categories, but
6 may not increase the capacity beyond what is specified in this definition. In no case may a project
7 developer be allowed to segment a distributed generation project into smaller sized projects in
8 order to fall under this definition.

9 (13) "Standard contract" means a contract with a term of ~~fifteen (15)~~ twenty (20) years
10 at a fixed rate for the purchase of all capacity, energy, and attributes generated by a distributed
11 generation facility. A contract may have a different term if it is mutually agreed to by the seller
12 and the electric distribution company and it is approved by the commission. The terms of the
13 standard contract for each program year and for each renewable energy class shall be set pursuant
14 to the provisions of this chapter.

15 (14) "Standard contract ceiling price" means the standard contract price for the output of
16 a distributed generation facility which price is approved annually for each renewable energy class
17 pursuant to the procedure established in this chapter, for the purchase of energy, capacity,
18 renewable energy certificates, and all other environmental attributes and market products that are
19 available or may become available from the distributed generation facility.

20 **39-26.2-4. Standard contracts -- Annual targets.** -- (a) To the extent eligible projects
21 are available and submit conforming applications, an electric distribution company shall enter
22 into standard contracts for an aggregate nameplate capacity of at least forty megawatts (40 MW)
23 of distributed generation projects by the end of 2014, unless such schedule is extended by the
24 board. The contracting shall be spread over four (4) years, based on the annual targets, aggregated
25 to reflect annual targets from prior program years, contained in the following four (4) year phased
26 schedule, unless such schedule is adjusted by the board in any given year:

27 (1) By December 30, 2011: a minimum of five megawatts (5 MW) nameplate;

28 (2) By December 30, 2012: a minimum aggregate of twenty megawatts (20 MW)
29 nameplate;

30 (3) By December 30, 2013: a minimum aggregate of thirty megawatts (30 MW)
31 nameplate;

32 (4) By December 30, 2014: a minimum aggregate of forty megawatts (40 MW)
33 nameplate.

34 (b) By October 15, 2011 and each calendar year following until ~~October 15, 2013~~

1 [October 15, 2015](#), the board may recommend to the commission that the annual target for the
2 following program year be adjusted upward to reflect any shortfalls in meeting the previous
3 program year's annual target or to reflect any standard contracts entered into during prior program
4 years that are voided. The board may also recommend to the commission that the annual target
5 for the following program year be adjusted downward by any amounts that the previous program
6 year's annual targets were exceeded by the standard contracts entered into during that program
7 year.

8 (c) The board may, based on market data and other information available to it including
9 pricing for standard contracts received during previous program years, recommend a reduction of
10 the annual target for the upcoming program year where the board determines that market
11 conditions would be likely to produce unfavorably high target pricing for standard contracts
12 during that upcoming program year. In considering such issues, the board may take into account
13 the reasonableness of current pricing and its impact on all electric distribution customers who will
14 be paying for the output for up to twenty (20) years at such prices. The board may also
15 recommend an extension of time to achieve the forty megawatt (40 MW) target, to allow for
16 contracting to occur after ~~2014~~ [2016](#), if necessary.

17 (d) The electric distribution company must contract for at least forty megawatts (40
18 MW) of nameplate capacity distributed generation projects ~~by the end of 2014~~ [each calendar year](#)
19 [commencing the year 2013 through the year 2016](#), unless such schedule is extended by the board.
20 The electric distribution company may not be required to contract for more than forty megawatts
21 (40 MW) or the distributed generation contract capacity, but may do so voluntarily, subject to
22 commission approval.

23 (e) Each year, the board shall file its recommendations relating to the schedule, along
24 with its report and recommendations regarding ceiling prices, for the commission's review and
25 approval as specified in subsection 39-26.2-5(b).

26 (f) Nothing in this chapter shall derogate from the statutory authority of the commission
27 or the division, including, but not limited to, the authority to protect ratepayers from unreasonable
28 rates.

29 **39-26.2-7. Standard contract -- Form and provisions.** -- The following process shall be
30 implemented to establish the non-price terms and conditions of the standard contract:

31 (1) A working group ("contract working group") shall be established and supervised by
32 the board, consisting of the following members: (i) The director of the office of energy resources;
33 (ii) A designee from the division of public utilities and carriers; (iii) Two (2) designees of the
34 electric distribution company; (iv) Two (2) individuals designated by the office of energy

1 resources who are experienced developers of renewable generation projects; (v) One individual
2 designated by the office of energy resources who represents a customer of the electric distribution
3 company; and (vi) A lawyer designated by the office of energy resources who has at least three
4 (3) years of experience in negotiating and/or developing power purchase agreements. With
5 respect to the lawyer designated in (vi) above, the electric distribution company shall enter into a
6 cost reimbursement agreement with such lawyer, to compensate the lawyer for the time spent
7 serving in the contract working group at the reasonable hourly rate negotiated by the office of
8 energy resources. The costs incurred by the electric distribution company under the
9 reimbursement agreement shall be recovered in rates by the electric distribution company in the
10 year incurred or the year following incurrence through an appropriate filing with the commission.
11 The contract working group shall be an advisory group that is not to be considered to be an
12 agency for purposes of the administrative procedures act or any other laws pertaining to public
13 bodies.

14 (2) The contract working group shall work in good faith to develop standard contracts
15 that would be applicable for various technologies for both small and large distributed generation
16 projects. The standard contracts should balance the need for the project to obtain financing
17 against the need for the distribution company to protect itself and its distribution customers
18 against unreasonable risks. The standard contract should be developed from contracting terms
19 typically utilized in the wholesale power industry, taking into account the size of each project and
20 the technology. The standard contracts shall provide for the purchase of energy, capacity,
21 renewable energy certificates, and all other environmental attributes and market products that are
22 available or may become available from the distributed generation facility. However, the electric
23 distribution company shall retain the right to separate out pricing for each market product under
24 the contracts for administrative and accounting purposes to avoid any detrimental accounting
25 effects or for administrative convenience, provided that such accounting as specified in the
26 contract does not affect the price and financial benefits to the seller as a seller of a bundled
27 product. The standard contract also shall:

28 (i) Hold the distributed generation facility owner liable for the cost of interconnection
29 from the distributed generation facility to the interconnect point with the distribution system, and
30 for any upgrades to the existing distributed generation system that may be required by the electric
31 distribution company. However, a distributed generation facility owner may appeal to the
32 commission to reduce any required system upgrade costs to the extent such upgrades can be
33 shown to benefit other customers of the electric distribution company and the balance of such
34 costs shall be included in rates by the electric distribution company for recovery in the year

1 incurred or the year following incurrence;

2 (ii) Require the distributed generation facility owner to make a performance guarantee
3 deposit to the electric distribution company of fifteen dollars (\$15.00) for small distributed
4 generation projects or twenty-five dollars (\$25.00) for large distributed generation projects for
5 every renewable energy certificate estimated to be generated per year under the contract, but at
6 least five hundred dollars (\$500) and not more than seventy-five thousand dollars (\$75,000), paid
7 at the time of contract execution;

8 (iii) Require the electric distribution company to refund the performance guarantee
9 deposit on a pro-rated basis of renewable energy credits actually delivered by the distributed
10 generation facility over the course of the first year of the project's operation, paid quarterly;

11 (iv) Provide that if the distributed generation facility has not generated ninety percent
12 (90%) of the output proposed in its enrollment application within eighteen (18) months after
13 execution of the contract, the contract ~~is automatically voided~~ shall be terminated and the
14 performance guarantee ~~is~~ shall be forfeited. An eligible small-scale hydropower distributed
15 generation facility that has not generated ninety percent (90%) of the output proposed in its
16 enrollment application within forty-eight (48) months after execution of the contract shall result
17 in the contract being terminated and the performance guarantee being forfeited. Any forfeited
18 performance guarantee deposits shall be credited to all distribution customers in rates and not
19 retained by the electric distribution company;

20 (v) Provide for flexible payment schedules that may be negotiated between the buyer and
21 seller, but shall be no longer than quarterly if an agreement cannot be reached;

22 (vi) Require that an electric meter which conforms with standard industry norms be
23 installed to measure the electrical energy output of the distributed generation facility, and require
24 a system or procedure by which the distributed generation facility owner shall demonstrate
25 creation of renewable energy credits, in a manner recognized and accounted for by the GIS; such
26 demonstration of renewable energy credit creation to be at the distributed generation facility
27 owner's expense. The electric distribution company may, at its discretion, offer to provide such a
28 renewable energy credit measurement and accounting system or procedure to the distributed
29 generation facility owner, and the distributed generation facility owner may, at its discretion, use
30 the electric distribution company's program, or use that of an independent third party, approved
31 by the commission, and the costs of such measurement and accounting are paid for by the
32 distributed generation facility owner.

33 (3) If the contract working group reaches agreement on the terms of standard contracts,
34 the board shall file the contracts with the commission for approval. If there are any

1 disagreements, they shall be identified to the commission. The commission shall review the
2 standard contracts for conformance with the standards set forth in subsection (2). Should there be
3 any disputes, the commission shall issue an order resolving them. To the extent the commission
4 needs expert assistance to resolve any disagreements noted in the filing, the commission is
5 authorized to hire a consultant to assist it in the proceedings, the costs of which shall be recovered
6 from electric distribution customers pursuant to a uniform factor established by the commission
7 in rates for recovery by the electric distribution company in the year incurred or the year
8 following incurrence, as requested through a filing by the electric distribution company. The
9 commission shall issue an order approving standard forms of contract within sixty (60) days of
10 the filing.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - DISTRIBUTED GENERATION
STANDARD CONTRACTS

- 1 This act would amend various sections relative to distributed generation standard
- 2 contracts including changing certain definitions and the annual target date for the program year.
- 3 This act would take effect upon passage.

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