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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

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

Introduced By: Senator V. Susan Sosnowski

Date Introduced: March 21, 2019

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

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

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

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

1 amendments changing dates and deadlines, provided that the pricing terms of such agreement are  
2 amended as more fully described in subsection 39-26.1-7(e), in addition to other amendments that  
3 are made to take into account the provisions of this section as amended since the filing of the  
4 agreement in docket 4111. Any amendments shall ensure that the pricing can only be lower, and  
5 never exceed, the original pricing included in the power purchase agreement that was reviewed in  
6 docket 4111. The demonstration project subject to the amended power purchase agreement shall  
7 include up to (but not exceeding) eight (8) wind turbines with aggregate nameplate capacity of no  
8 more than thirty (30) megawatts, even if the actual capacity factor of the project results in the  
9 project technically exceeding ten (10) megawatts.

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

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

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

32 (ii) The amended agreement contains provisions that provide for a decrease in pricing if  
33 savings can be achieved in the actual cost of the project pursuant to subsection 39-26.1-7(e);

34 (iii) The amended agreement is likely to provide economic development benefits,

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

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

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

29 (e) Cap and lower price. (i) The amended power purchase agreement subject to  
30 subsection 39-26.1-7(a) shall provide for terms that shall decrease the pricing if savings can be  
31 achieved in the actual cost of the project, with all realized savings allocated to the benefit of  
32 ratepayers. (ii) The amended power purchase agreement shall also provide that the initial fixed  
33 price contained in the signed power purchase agreement submitted in docket 4111 shall be the  
34 maximum initial price, and any realized savings shall reduce such price. After making any such

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

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

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

26 (g) Any charges incurred by the Block Island Power Company or its successor pursuant  
27 to this section or other costs incurred by the Block Island Power Company in implementing this  
28 section, including the cost of participation in regulatory proceedings in the state or at the federal  
29 energy regulatory commission shall be recovered annually in rates through a fully reconciling rate  
30 adjustment, subject to approval by the commission. If the electric distribution company owns,  
31 operates, or otherwise participates in the transmission cable project, pursuant to subsection 39-  
32 26.1-7(b) the provisions of § 39-26.1-4 shall not apply to the cable cost portion of the Town of  
33 New Shoreham Project.

34 (h) Any contract entered into pursuant to this section shall count as part of the minimum

1 long-term contract capacity.

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

8 SECTION 2. This act shall take effect upon passage, and shall be retroactive to June 15,  
9 2010.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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

7           This act would take effect upon passage.

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