

2021 -- H 5327 SUBSTITUTE A

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LC000938/SUB A/4
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- NET METERING

Introduced By: Representatives Potter, Baginski, Felix, Batista, Ruggiero, Speakman,
Knight, Kislak, Shallcross Smith, and Fogarty

Date Introduced: February 02, 2021

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-26.4-2 and 39-26.4-3 of the General Laws in Chapter 39-26.4
2 entitled "Net Metering" are hereby amended to read as follows:

3 **39-26.4-2. Definitions.**

4 Terms not defined in this section herein shall have the same meaning as contained in
5 chapter 26 of this title. When used in this chapter:

6 (1) "Community remote net-metering system" means a facility generating electricity using
7 an eligible net-metering resource that allocates net-metering credits to a minimum of one account
8 for a system associated with low- or moderate-income housing eligible credit recipients, or three
9 (3) eligible credit-recipient customer accounts, provided that no more than fifty percent (50%) of
10 the credits produced by the system are allocated to one eligible credit recipient, and provided further
11 at least fifty percent (50%) of the credits produced by the system are allocated to the remaining
12 eligible credit recipients in an amount not to exceed that which is produced annually by twenty-
13 five kilowatt (25 KW) AC capacity. The community remote net-metering system may transfer
14 credits to eligible credit recipients in an amount that is equal to or less than the sum of the usage of
15 the eligible credit recipient accounts measured by the three-year (3) average annual consumption
16 of energy over the previous three (3) years. A projected annual consumption of energy may be used
17 until the actual three-year (3) average annual consumption of energy over the previous three (3)
18 years at the eligible credit recipient accounts becomes available for use in determining eligibility
19 of the generating system. The community remote net-metering system may be owned by the same

1 entity that is the customer of record on the net-metered account or may be owned by a third party.

2 (2) "Electric distribution company" shall have the same meaning as § 39-1-2, but shall not
3 include Block Island Power Company or Pascoag Utility District, each of whom shall be required
4 to offer net metering to customers through a tariff approved by the public utilities commission after
5 a public hearing. Any tariff or policy on file with the public utilities commission on the date of
6 passage of this chapter shall remain in effect until the commission approves a new tariff.

7 (3) "Eligible credit recipient" means one of the following eligible recipients in the electric
8 distribution company's service territory whose electric service account or accounts may receive net-
9 metering credits from a community remote net-metering system. Eligible credit recipients include
10 the following definitions:

11 (i) Residential accounts in good standing.

12 (ii) "Low- or moderate-income housing eligible credit recipient" means an electric service
13 account or accounts in good standing associated with any housing development or developments
14 owned or operated by a public agency, nonprofit organization, limited-equity housing cooperative,
15 or private developer that receives assistance under any federal, state, or municipal government
16 program to assist the construction or rehabilitation of housing affordable to low- or moderate-
17 income households, as defined in the applicable federal or state statute, or local ordinance,
18 encumbered by a deed restriction or other covenant recorded in the land records of the municipality
19 in which the housing is located, that:

20 (A) Restricts occupancy of no less than fifty percent (50%) of the housing to households
21 with a gross, annual income that does not exceed eighty percent (80%) of the area median income
22 as defined annually by the United States Department of Housing and Urban Development (HUD);

23 (B) Restricts the monthly rent, including a utility allowance, that may be charged to
24 residents, to an amount that does not exceed thirty percent (30%) of the gross, monthly income of
25 a household earning eighty percent (80%) of the area median income as defined annually by HUD;

26 (C) Has an original term of not less than thirty (30) years from initial occupancy.

27 Electric service account or accounts in good standing associated with housing
28 developments that are under common ownership or control may be considered a single low- or
29 moderate-income housing eligible credit recipient for purposes of this section. The value of the
30 credits shall be used to provide benefits to tenants.

31 (iii) "Educational institutions" means public and private schools at the primary, secondary,
32 and postsecondary levels.

33 (4) "Eligible net-metering resource" means eligible renewable energy resource, as defined
34 in § 39-26-5 including biogas created as a result of anaerobic digestion, but, specifically excluding

1 all other listed eligible biomass fuels.

2 (5) "Eligible net-metering system" means a facility generating electricity using an eligible
3 net-metering resource that is reasonably designed and sized to annually produce electricity in an
4 amount that is equal to, or less than, the renewable self-generator's usage at the eligible net-metering
5 system site measured by the three-year (3) average annual consumption of energy over the previous
6 three (3) years at the electric distribution account(s) located at the eligible net-metering system site.
7 A projected annual consumption of energy may be used until the actual three-year (3) average
8 annual consumption of energy over the previous three (3) years at the electric distribution
9 account(s) located at the eligible net-metering system site becomes available for use in determining
10 eligibility of the generating system. The eligible net-metering system may be owned by the same
11 entity that is the customer of record on the net-metered accounts or may be owned by a third party
12 that is not the customer of record at the eligible net-metering system site and which may offer a
13 third-party, net-metering financing arrangement or net-metering financing arrangement, as
14 applicable. Notwithstanding any other provisions of this chapter, any eligible net-metering
15 resource: (i) Owned by a public entity, educational institution, hospital, nonprofit, or multi-
16 municipal collaborative or (ii) Owned and operated by a renewable-generation developer on behalf
17 of a public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative
18 through a net-metering financing arrangement shall be treated as an eligible net-metering system
19 and all accounts designated by the public entity, educational institution, hospital, nonprofit, or
20 multi-municipal collaborative for net metering shall be treated as accounts eligible for net metering
21 within an eligible net-metering system site.

22 (6) "Eligible net-metering system site" means the site where the eligible net-metering
23 system or community remote net-metering system is located or is part of the same campus or
24 complex of sites contiguous to one another and the site where the eligible net-metering system or
25 community remote net-metering system is located or a farm in which the eligible net-metering
26 system or community remote net-metering system is located. Except for an eligible net-metering
27 system owned by or operated on behalf of a public entity, educational institution, hospital,
28 nonprofit, or multi-municipal collaborative through a net-metering financing arrangement, the
29 purpose of this definition is to reasonably assure that energy generated by the eligible net-metering
30 system is consumed by net-metered electric service account(s) that are actually located in the same
31 geographical location as the eligible net-metering system. All energy generated from any eligible
32 net-metering system is, and will be considered, consumed at the meter where the renewable energy
33 resource is interconnected for valuation purposes. Except for an eligible net-metering system
34 owned by, or operated on behalf of, a public entity, educational institution, hospital, nonprofit, or

1 multi-municipal collaborative through a net-metering financing arrangement, or except for a
2 community remote net-metering system, all of the net-metered accounts at the eligible net-metering
3 system site must be the accounts of the same customer of record and customers are not permitted
4 to enter into agreements or arrangements to change the name on accounts for the purpose of
5 artificially expanding the eligible net-metering system site to contiguous sites in an attempt to avoid
6 this restriction. However, a property owner may change the nature of the metered service at the
7 accounts at the site to be master metered in the owner's name, or become the customer of record
8 for each of the accounts, provided that the owner becoming the customer of record actually owns
9 the property at which the account is located. As long as the net-metered accounts meet the
10 requirements set forth in this definition, there is no limit on the number of accounts that may be net
11 metered within the eligible net-metering system site.

12 (7) "Excess renewable net-metering credit" means a credit that applies to an eligible net-
13 metering system or community remote net-metering system for that portion of the production of
14 electrical energy beyond one hundred percent (100%) and no greater than one hundred twenty-five
15 percent (125%) of the renewable self-generator's own consumption at the eligible net-metering
16 system site or the sum of the usage of the eligible credit recipient accounts associated with the
17 community remote net-metering system during the applicable billing period. Such excess
18 renewable net-metering credit shall be equal to the electric distribution company's avoided cost
19 rate, which is hereby declared to be the electric distribution company's standard-offer service
20 kilowatt hour (KWh) charge for the rate class and time-of-use billing period (if applicable)
21 applicable to the customer of record for the eligible net-metering system or applicable to the
22 customer of record for the community remote net-metering system. The commission shall have the
23 authority to make determinations as to the applicability of this credit to specific generation facilities
24 to the extent there is any uncertainty or disagreement.

25 (8) "Farm" shall be defined in accordance with § 44-27-2, except that all buildings
26 associated with the farm shall be eligible for net-metering credits as long as: (i) The buildings are
27 owned by the same entity operating the farm or persons associated with operating the farm; and (ii)
28 The buildings are on the same farmland as the project on either a tract of land contiguous with, or
29 reasonably proximate to, such farmland or across a public way from such farmland.

30 (9) "Hospital" means and shall be defined and established as set forth in chapter 17 of title
31 23.

32 (10) "Multi-municipal collaborative" means a group of towns and/or cities that enter into
33 an agreement for the purpose of co-owning a renewable-generation facility or entering into a
34 financing arrangement pursuant to subsection (14).

1 (11) "Municipality" means any Rhode Island town or city, including any agency or
2 instrumentality thereof, with the powers set forth in title 45.

3 (12) "Net metering" means using electrical energy generated by an eligible net-metering
4 system for the purpose of self-supplying electrical energy and power at the eligible net-metering
5 system site, or with respect to a community remote net-metering system, for the purpose of
6 generating net-metering credits to be applied to the electric bills of the eligible credit recipients
7 associated with the community net-metering system. The amount so generated will thereby offset
8 consumption at the eligible net-metering system site through the netting process established in this
9 chapter, or with respect to a community remote net-metering system, the amounts generated in
10 excess of that amount will result in credits being applied to the eligible credit-recipient accounts
11 associated with the community remote net-metering system.

12 (13) "Net-metering customer" means a customer of the electric distribution company
13 receiving and being billed for distribution service whose distribution account(s) are being net
14 metered.

15 (14) "Net-metering financing arrangement" means arrangements entered into by a public
16 entity, educational institution, hospital, nonprofit, or multi-municipal collaborative with a private
17 entity to facilitate the financing and operation of a net-metering resource, in which the private entity
18 owns and operates an eligible net-metering resource on behalf of a public entity, educational
19 institution, hospital, nonprofit, or multi-municipal collaborative, where: (i) The eligible net-
20 metering resource is located on property owned or controlled by the public entity, educational
21 institution, hospital, or one of the municipalities, as applicable; and (ii) The production from the
22 eligible net-metering resource and primary compensation paid by the public entity, educational
23 institution, hospital, nonprofit, or multi-municipal collaborative to the private entity for such
24 production is directly tied to the consumption of electricity occurring at the designated net-metered
25 accounts.

26 (15) "Nonprofit" means a nonprofit corporation as defined and established through chapter
27 6 of title 7, and shall include religious organizations that are tax exempt pursuant to 26 U.S.C. §
28 501(d).

29 (16) "Person" means an individual, firm, corporation, association, partnership, farm, town
30 or city of the state of Rhode Island, multi-municipal collaborative, or the state of Rhode Island or
31 any department of the state government, governmental agency, or public instrumentality of the
32 state.

33 [\(17\) "Previously disturbed sites" means landfills, gravel pits, golf courses, brownfields,](#)
34 [carports, parking lots, and rooftops including, commercial, industrial and municipal buildings.](#)

1 ~~(17)~~(18) "Project" means a distinct installation of an eligible net-metering system or a
2 community remote net-metering system. An installation will be considered distinct if it is installed
3 in a different location, or at a different time, or involves a different type of renewable energy.

4 ~~(18)~~(19) "Public entity" means the federal government, the state of Rhode Island,
5 municipalities, wastewater treatment facilities, public transit agencies, or any water distributing
6 plant or system employed for the distribution of water to the consuming public within this state
7 including the water supply board of the city of Providence.

8 ~~(19)~~(20) "Renewable net-metering credit" means a credit that applies to an eligible net-
9 metering system or a community remote net-metering system up to one hundred percent (100%) of
10 either the renewable self-generator's usage at the eligible net-metering system site or the sum of the
11 usage of the eligible credit-recipient accounts associated with the community remote net-metering
12 system over the applicable billing period. This credit shall be equal to the total kilowatt hours of
13 electrical energy generated up to the amount consumed on-site, and/or generated up to the sum of
14 the eligible credit-recipient account usage during the billing period multiplied by the sum of the
15 distribution company's:

16 (i) Standard-offer service kilowatt-hour charge for the rate class applicable to the net-
17 metering customer, except that for remote public entity and multi-municipality collaborative net-
18 metering systems that submit an application for an interconnection study on or after July 1, 2017,
19 and community remote net-metering systems, the standard-offer service kilowatt-hour charge shall
20 be net of the renewable energy standard charge or credit;

21 (ii) Distribution kilowatt-hour charge;

22 (iii) Transmission kilowatt-hour charge; and

23 (iv) Transition kilowatt-hour charge.

24 Notwithstanding the foregoing, except for systems that have requested an interconnection
25 study for which payment has been received by the distribution company, or if an interconnection
26 study is not required, a completed and paid interconnection application, by December 31, 2018, the
27 renewable net-metering credit for all remote public entity and multi-municipal collaborative net-
28 metering systems shall not include the distribution kilowatt-hour charge commencing on January
29 1, 2050.

30 ~~(20)~~(21) "Renewable self-generator" means an electric distribution service customer of
31 record for the eligible net-metering system or community remote net-metering system at the eligible
32 net-metering system site which system is primarily designed to produce electrical energy for
33 consumption by that same customer at its distribution service account(s), and/or, with respect to
34 community remote net-metering systems, electrical energy which generates net-metering credits to

1 be applied to offset the eligible credit-recipient account usage.

2 ~~(21)~~(22) "Third party" means and includes any person or entity, other than the renewable
3 self-generator, who or that owns or operates the eligible net-metering system or community remote
4 net-metering system on the eligible net-metering system site for the benefit of the renewable self-
5 generator.

6 ~~(22)~~(23) "Third-party, net-metering financing arrangement" means the financing of eligible
7 net-metering systems or community remote net-metering systems through lease arrangements or
8 power/credit purchase agreements between a third party and renewable self-generator, except for
9 those entities under a public entity net-metering financing arrangement. A third party engaged in
10 providing financing arrangements related to such net-metering systems with a public or private
11 entity is not a public utility as defined in § 39-1-2.

12 **39-26.4-3. Net metering.**

13 (a) The following policies regarding net metering of electricity from eligible net-metering
14 systems and community remote net-metering systems and regarding any person that is a renewable
15 self-generator shall apply:

16 (1)(i) The maximum allowable capacity for eligible net-metering systems, based on
17 nameplate capacity, shall be ten megawatts (10 MW), effective sixty (60) days after passage. The
18 aggregate amount of net metering in the Block Island Power Company and the Pascoag Utility
19 District shall not exceed three percent (3%) of peak load for each utility district; and

20 (ii) Through December 31, 2018, the maximum aggregate amount of community remote
21 net-metering systems built shall be thirty megawatts (30 MW). Any of the unused MW amount
22 after December 31, 2018, shall remain available to community remote net-metering systems until
23 the MW aggregate amount is interconnected. ~~After December 31, 2018, the commission may
24 expand or modify the aggregate amount after a public hearing upon petition by the office of energy
25 resources. The commission shall determine within six (6) months of such petition being docketed
26 by the commission whether the benefits of the proposed expansion exceed the cost. This aggregate
27 amount shall not apply to any net-metering financing arrangement involving public entity facilities,
28 multi-municipal collaborative facilities, educational institutions, the federal government,
29 hospitals, or nonprofits. By June 30, 2018, the commission shall conduct a study examining the
30 cost and benefit to all customers of the inclusion of the distribution charge as a part of the net-
31 metering calculation.; and~~

32 (iii) Effective immediately, an additional thirty megawatts (30 MW) shall be added to the
33 existing community remote net-metering program. "community remote net-metering expansion,"
34 bringing the maximum aggregate amount of community remote net-metering system to sixty

1 megawatts (60 MW). Projects shall be allocated program capacity on a first-come, first-served basis
2 based on the community net-metering waiting list. Neither the commission, the electric distribution
3 company nor any other entity shall require more than one-half (½) of the expansion to be located
4 on previously disturbed sites. Each community remote net-metering system that receives an
5 allocation in the expansion shall be subject to the following requirements:

6 (A) Provide bill credits of a minimum of thirty-five percent (35%) of project capacity or
7 thirty-five percent (35%) of project savings to low- or moderate-income households defined as:
8 being on the A-60 rate class; or participating in a low-income discount program, including, but not
9 limited to, the Low Income Home Energy Assistance Program, Medicaid, Supplemental Nutrition
10 Assistance Program, Rhode Island Works, Child Care Assistance Program, general public
11 assistance, Good Neighbor Energy Fund, or the Universal Service Fund; or living in a zip code
12 where the median household income is at or below two hundred percent (200%) of the federal
13 poverty level or that is at the top fifteen percent (15%) of the region for low-income residents; or
14 living in a low-income master-metered building; or living in qualifying low-income housing
15 pursuant to § 44-5-13.11; or by self-attestation; or any combination of the above. The commission
16 shall promulgate rules and regulations that establish requirements associated with the manner of
17 obtaining and the terms for retaining such customers and the commission may establish penalties
18 for failure to meet the requirements of this subsection;

19 (B) The community remote net-metering system must provide proof of project maturity
20 by providing a copy of a completed distribution level impact study or a fully executed
21 interconnection services agreement and evidence that applicable municipal planning and zoning
22 approvals, and department of environmental management wetland permits, are complete;

23 (C) Notwithstanding the foregoing, in no case may multiple distributed generation projects
24 be located on one or more contiguous parcels, unless the total capacity of the co-located projects is
25 less than or equal to ten megawatts (10 MW) in aggregate for projects that have submitted a
26 community remote net-metering application to the electric distribution company by December 31,
27 2021, and less than or equal to five megawatts (5 MW) in aggregate for projects that have submitted
28 a community remote net-metering application to the electric distribution company by December
29 31, 2022, and thereafter.

30 (D) The community remote net-metering system must transfer to the electric distribution
31 company rights to the capacity that are created or produced by the project. The electric distribution
32 company shall:

33 (I) Sell any products acquired and credit them against the surcharge in § 39-26.4-3(c);

34 (II) Use the products to serve customers and establish a price to be credited by customers

1 [using the products based on recent and near-term projections of market prices; or](#)

2 [\(III\) Use them in a manner specified by the commission; and](#)

3 [\(E\) Community remote net-metering systems enrolled on and after January 1, 2022, shall](#)
4 [be eligible to receive renewable net-metering credits for a term of twenty-five \(25\) years.](#)

5 [Thereafter, the system shall receive the avoided cost rate for the output of the system as defined in](#)
6 [§ 39-26.4-2\(7\).](#)

7 (2) For ease of administering net-metered accounts and stabilizing net-metered account
8 bills, the electric distribution company may elect (but is not required) to estimate for any twelve-
9 month (12) period:

10 (i) The production from the eligible net-metering system or community remote net-
11 metering system; and

12 (ii) Aggregate consumption of the net-metered accounts at the eligible net-metering system
13 site or the sum of the consumption of the eligible credit-recipient accounts associated with the
14 community remote net-metering system, and establish a monthly billing plan that reflects the
15 expected credits that would be applied to the net-metered accounts over twelve (12) months. The
16 billing plan would be designed to even out monthly billings over twelve (12) months, regardless of
17 actual production and usage. If such election is made by the electric distribution company, the
18 electric distribution company would reconcile payments and credits under the billing plan to actual
19 production and consumption at the end of the twelve-month (12) period and apply any credits or
20 charges to the net-metered accounts for any positive or negative difference, as applicable. Should
21 there be a material change in circumstances at the eligible net-metering system site or associated
22 accounts during the twelve-month (12) period, the estimates and credits may be adjusted by the
23 electric distribution company during the reconciliation period. The electric distribution company
24 also may elect (but is not required) to issue checks to any net-metering customer in lieu of billing
25 credits or carry-forward credits or charges to the next billing period. For residential-eligible net-
26 metering systems and community remote net-metering systems twenty-five kilowatts (25 KW) or
27 smaller, the electric distribution company, at its option, may administer renewable net-metering
28 credits month to month allowing unused credits to carry forward into the following billing period.

29 (3) If the electricity generated by an eligible net-metering system or community remote
30 net-metering system during a billing period is equal to, or less than, the net-metering customer's
31 usage at the eligible net-metering system site or the sum of the usage of the eligible credit-recipient
32 accounts associated with the community remote net-metering system during the billing period, the
33 customer shall receive renewable net-metering credits, that shall be applied to offset the net-
34 metering customer's usage on accounts at the eligible net-metering system site, or shall be used to

1 credit the eligible credit-recipient's electric account.

2 (4) If the electricity generated by an eligible net-metering system or community remote
3 net-metering system during a billing period is greater than the net-metering customer's usage on
4 accounts at the eligible net-metering system site or the sum of the usage of the eligible credit-
5 recipient accounts associated with the community remote net-metering system during the billing
6 period, the customer shall be paid by excess renewable net-metering credits for the excess
7 electricity generated up to an additional twenty-five percent (25%) beyond the net-metering
8 customer's usage at the eligible net-metering system site, or the sum of the usage of the eligible
9 credit-recipient accounts associated with the community remote net-metering system during the
10 billing period; unless the electric distribution company and net-metering customer have agreed to
11 a billing plan pursuant to subsection (a)(2).

12 (5) The rates applicable to any net-metered account shall be the same as those that apply
13 to the rate classification that would be applicable to such account in the absence of net metering,
14 including customer and demand charges, and no other charges may be imposed to offset net-
15 metering credits.

16 (b) The commission shall exempt electric distribution company customer accounts
17 associated with an eligible net-metering system from back-up or standby rates commensurate with
18 the size of the eligible net-metering system, provided that any revenue shortfall caused by any such
19 exemption shall be fully recovered by the electric distribution company through rates.

20 (c) Any prudent and reasonable costs incurred by the electric distribution company
21 pursuant to achieving compliance with subsection (a) and the annual amount of any renewable net-
22 metering credits or excess renewable net-metering credits provided to accounts associated with
23 eligible net-metering systems or community remote net-metering systems, shall be aggregated by
24 the distribution company and billed to all distribution customers on an annual basis through a
25 uniform, per-kilowatt-hour (KWh) surcharge embedded in the distribution component of the rates
26 reflected on customer bills.

27 (d) The billing process set out in this section shall be applicable to electric distribution
28 companies thirty (30) days after the enactment of this chapter.

29 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 -- NET METERING

1 This act would increase the maximum aggregate amount of community remote net-
2 metering systems from thirty megawatts (30 MW) to sixty megawatts (60 MW), and would require
3 the bill credits of a minimum of thirty-five percent (35%) of the generated power to utility
4 customers under applicable low-income discount programs. Projects would be allocated to the
5 programs on a first-come, first-served basis.

6 This act would take effect upon passage.

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