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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- PUBLIC UTILITIES COMMISSION

Introduced By: Representatives Ruggiero, Handy, Cortvriend, Carson, Shanley, and
Ajello

Date Introduced: February 24, 2021

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-1-27.7 of the General Laws in Chapter 39-1 entitled "Public
2 Utilities Commission" is hereby amended to read as follows:

3 **39-1-27.7. System reliability and least-cost procurement.**

4 (a) Least-cost procurement shall comprise system reliability and energy efficiency and
5 conservation procurement, as provided for in this section, and supply procurement, as provided for
6 in § 39-1-27.8, as complementary but distinct activities that have as common purpose meeting
7 ~~electrical and natural gas~~ energy needs in Rhode Island, including demand for electric, natural gas,
8 and delivered fuels, in a manner that is optimally cost-effective, reliable, prudent, especially for
9 historically marginalized groups that have had low program participation and outcomes, and
10 environmentally responsible and that aligns with the state's greenhouse gas emissions reductions
11 targets as set in § 42-6.2-2.

12 (b) The commission shall establish not later than June 1, 2008, standards for system
13 reliability and energy efficiency and conservation procurement that shall include standards and
14 guidelines for:

15 (1) System reliability procurement, including but not limited to:

16 (i) Procurement of energy supply from diverse sources, including, but not limited to,
17 renewable energy resources as defined in chapter 26 of this title;

18 (ii) Distributed generation, including, but not limited to, renewable energy resources,
19 energy storage and thermally leading combined heat and power systems, that is reliable and is cost-

1 effective, with measurable, net system benefits;

2 (iii) Demand response, including, but not limited to, distributed generation, back-up
3 generation, [energy storage](#) and on-demand usage reduction, that shall be designed to facilitate
4 electric customer participation in regional demand response programs, including those
5 administered by the independent service operator of New England ("ISO-NE"), and/or are designed
6 to provide local system reliability benefits through load control or using on-site generating
7 capability;

8 (iv) To effectuate the purposes of this division, the commission may establish standards
9 and/or rates (A) For qualifying distributed generation, demand response, [energy storage](#) and
10 renewable energy resources; (B) For net metering; (C) For back-up power and/or standby rates that
11 reasonably facilitate the development of distributed generation; and (D) For such other matters as
12 the commission may find necessary or appropriate.

13 (2) Least-cost procurement, which shall include procurement of energy efficiency and
14 energy conservation measures that are prudent and reliable and when such measures are lower cost
15 than acquisition of additional supply, including supply for periods of high demand [and supply of](#)
16 [delivered fuels](#).

17 (c) The standards and guidelines provided for by subsection (b) shall be subject to periodic
18 review and as appropriate amendment by the commission, which review will be conducted not less
19 frequently than every three (3) years after the adoption of the standards and guidelines.

20 (d) To implement the provisions of this section:

21 (1) The commissioner of the office of energy resources and the energy efficiency and
22 resources management council, either jointly or separately, shall provide the commission findings
23 and recommendations with regard to system reliability and energy efficiency and conservation
24 procurement on or before March 1, 2008, and triennially on or before March 1, thereafter through
25 ~~March 1, 2024~~ [March 1, 2036](#). The report shall be made public and be posted electronically on the
26 website of the office of energy resources.

27 (2) The commission shall issue standards not later than June 1, 2008, with regard to plans
28 for system reliability and energy efficiency and conservation procurement, which standards may
29 be amended or revised by the commission as necessary and/or appropriate.

30 (3) The energy efficiency and resources management council shall prepare by July 15,
31 2008, a reliability and efficiency procurement opportunity report that shall identify opportunities
32 to procure efficiency, distributed generation, demand response, and renewables and that shall be
33 submitted to the electrical distribution company, the commission, the office of energy resources,
34 and the joint committee on energy.

1 (4) Each electrical and natural gas distribution company shall submit to the commission on
2 or before September 1, 2008, and triennially on or before September 1 thereafter through ~~September~~
3 ~~1, 2024~~ September 1, 2036, a plan for system reliability and energy efficiency and conservation
4 procurement. Beginning in 2022, the energy efficiency and resources management council shall
5 run a triennial competitive bid process to select an entity to propose and administer system
6 reliability and energy efficiency and conservation procurement, which entity may be one or more
7 electrical and natural gas distribution companies. The selected entity shall submit to the
8 commission on or before September 1, 2023, and triennially on or before September 1 thereafter
9 through September 1, 2032, a plan for system reliability and energy efficiency and conservation.
10 In developing the plan, the distribution company or selected entity may seek the advice of the
11 commissioner and the council. The plan shall include measurable goals and target percentages for
12 each energy resource, pursuant to standards established by the commission, including efficiency,
13 distributed generation, demand response, energy storage, high efficiency electric heat, combined
14 heat and power, and renewables. The plan shall be made public and be posted electronically on the
15 website of the office of energy resources, and shall also be submitted to the general assembly.

16 (5) The commission shall issue an order approving all energy-efficiency measures that are
17 cost-effective and lower cost than acquisition of additional supply, with regard to the plan from the
18 electrical and natural gas distribution company or selected entity, and reviewed and approved by
19 the energy efficiency and resources management council, and any related annual plans, and shall
20 approve a fully reconciling funding mechanism to fund investments in all efficiency measures that
21 are cost-effective and lower cost than acquisition of additional supply, not greater than sixty (60)
22 days after it is filed with the commission.

23 (6) Cost-effectiveness shall be determined, to the extent possible, based on an evaluation
24 of all costs and benefits, including a calculation of the value of public health benefits, greenhouse
25 gas emissions reductions, and other societal benefits. Cost-effectiveness shall consider equally the
26 costs and benefits to all Rhode Island energy consumers, including delivered fuel customers.

27 ~~(6)(i)~~(7)(i) Each electrical and natural gas distribution company shall provide a status
28 report, which shall be public, on the implementation of least-cost procurement on or before
29 December 15, 2008, and on or before February 1, 2009, to the commission, the division, the
30 commissioner of the office of energy resources, and the energy efficiency and resources
31 management council which may provide the distribution company recommendations with regard
32 to effective implementation of least-cost procurement. The report shall include the targets for each
33 energy resource included in the order approving the plan and the achieved percentage for energy
34 resource, including the achieved percentages for efficiency, distributed generation, demand

1 response, combined heat and power, and renewables, as well as the current funding allocations for
2 each eligible energy resource and the businesses and vendors in Rhode Island participating in the
3 programs. The report shall be posted electronically on the website of the office of energy resources.

4 (ii) Beginning on November 1, 2012, or before, and annually until November 1, 2025 each
5 electric distribution company or selected entity shall support the installation and investment in clean
6 and efficient combined heat and power installations at commercial, institutional, municipal, and
7 industrial facilities. This support shall be documented annually in the electric distribution
8 company's energy-efficiency program plans. In order to effectuate this provision, the energy
9 efficiency and resource management council shall seek input from the public, the gas and electric
10 distribution company, the commerce corporation, and commercial and industrial users, and make
11 recommendations regarding services to support the development of combined heat and power
12 installations in the electric distribution company's or selected entity's annual and triennial energy-
13 efficiency program plans.

14 (iii) Beginning on November 1, 2021 or before, each natural gas and electric distribution
15 company or selected entity shall support the cost-effective installation and investment in high
16 efficiency electric heating systems in a manner consistent with the state's long-term climate goals
17 as set forth in § 42-6.2-2. The natural gas and electric distribution company or selected entity shall
18 include proposals for electrification of heating systems in each annual and triennial energy
19 efficiency program plan.

20 (iv) Beginning on November 1, 2021 or before, each natural gas and electric distribution
21 company or selected entity shall provide an assessment of investment equity and direct, indirect,
22 short-term, and long-term outcomes for all people alongside each annual energy efficiency plan.
23 Such assessments shall, at minimum:

24 (A) Identify groups that have historically had low program participation and outcomes;

25 (B) Present quantifiable metrics to describe how an investment effects people especially
26 historically marginalized groups that have had low program participation and outcomes;

27 (C) Identify instances where these metrics and investments are not applicable;

28 (D) Describe how an investment effects people especially historically marginalized groups
29 that have had low program participation and outcomes; and describe strategies and programs to
30 eliminate barriers to participation and benefit for those groups; and

31 (E) Describe how an investment will help to reduce and/or eliminate barriers that hinder
32 participation and outcomes especially for historically marginalized groups that have had low
33 program participation and outcomes.

34 ~~(iii)~~(v) The energy-efficiency annual plan shall include, but not be limited to, a plan for

1 identifying and recruiting qualified combined heat and power projects, incentive levels, contract
2 terms and guidelines, and achievable megawatt targets for investments in combined heat and power
3 systems. In the development of the plan, the energy efficiency and resource management council
4 and the electric distribution company [or selected entity](#) shall factor into the combined heat and
5 power plan and program, the following criteria: (A) Economic development benefits in Rhode
6 Island, including direct and indirect job creation and retention from investments in combined heat
7 and power systems; (B) Energy and cost savings for customers; (C) Energy supply costs; (D)
8 Greenhouse gas emissions standards and air quality benefits; and (E) System reliability benefits.

9 ~~(iv)~~(vi) The energy efficiency and resource management council shall conduct at least one
10 public review meeting annually, to discuss and review the combined heat and power program, with
11 at least seven (7) business days' notice, prior to the electric and gas distribution utility submitting
12 the plan to the commission. The commission shall evaluate the submitted combined heat and power
13 program as part of the annual energy-efficiency plan. The commission shall issue an order
14 approving the energy-efficiency plan and programs within sixty (60) days of the filing.

15 (e) If the commission shall determine that the implementation of system reliability and
16 energy efficiency and conservation procurement has caused, or is likely to cause, under or over-
17 recovery of overhead and fixed costs of the company [or selected entity](#) implementing the
18 procurement, the commission may establish a mandatory rate-adjustment clause for the company
19 [or selected entity](#) so affected in order to provide for full recovery of reasonable and prudent
20 overhead and fixed costs.

21 (f) The commission shall conduct a contested case proceeding to establish a performance-
22 based incentive plan that allows for additional compensation for each electric distribution company
23 and each company providing gas to end-users and/or retail customers based on the level of its
24 success in mitigating the cost and variability of electric and gas services through procurement
25 portfolios.

26 (g)(1) The office of energy resources shall conduct a study and analysis of the electric and
27 gas distribution company's state energy efficiency programs that will examine implemented
28 program and planned conservation measures and review and confirm the claimed energy savings.
29 In carrying out this study, the office shall utilize a representative sample of different customer
30 classes and measures that have and/or will be participating in the state energy efficiency programs.
31 At a minimum, the study performed by the office of energy resources shall include the following
32 in its scope of work:

33 (i) Independently review and summarize the electric and gas distribution company process
34 for incorporating results from completed evaluation studies into ongoing energy efficiency program

1 reporting and implementation.

2 (ii) Conduct an independent review of gas and electricity efficiency programs, which may
3 include billing analysis techniques. The scope and subjects of this analysis will be decided by the
4 working group with input and advice from an independent consultant. The analysis will be
5 conducted by a qualified independent consultant using industry accepted methods.

6 (iii) Review the data-collection practices, including metering equipment used; sampling
7 frequency; sample sizes; and data validation procedures, and the methods for data analysis
8 employed, as deemed appropriate by the independent evaluator.

9 (iv) Study results and recommendations will be presented to the public utilities commission
10 and the energy efficiency and resource management council.

11 (2) The office of energy resources shall consult with the working group in development of
12 the request for proposals (RFP), and during the course of the study, including the preliminary study
13 results. The working group shall be comprised of one representative from each of the following
14 groups chosen by the office of energy resources:

15 (i) Large commercial and industrial energy users;

16 (ii) Small business energy users;

17 (iii) Residential energy users;

18 (iv) Municipal and state energy users;

19 (v) Low-income energy users;

20 (vi) Electric and gas distribution company; and

21 (vii) Energy efficiency and resource management council.

22 (3) The office of energy resources, in consultation with the electric and gas distribution
23 company and representatives referenced in subsection (g)(2), shall be authorized to hire an energy
24 consulting company or firm to carry out the energy efficiency verification study. The costs
25 associated with this study, including, but not limited to, those associated with the consultant or firm
26 contract and reasonable administrative costs incurred by the office in the execution of subsection
27 (g) of this section, shall be recoverable through the system benefit charge subject to commission
28 approval. Funding shall be transferred from the electric and gas distribution utility to the office of
29 energy resources upon request by the office.

30 (4) The office of energy resources shall submit this report on or before October 30, 2019,
31 to the governor, the president of the senate, and the speaker of the house. The office and its selected
32 energy consulting company or firm shall host two (2) public presentations on the preliminary and
33 final results of the study.

34 SECTION 2. Section 39-2-1.2 of the General Laws in Chapter 39-2 entitled "Duties of

1 Utilities and Carriers" is hereby amended to read as follows:

2 **39-2-1.2. Utility base rate -- Advertising, demand-side management, and renewables.**

3 (a) In addition to costs prohibited in § 39-1-27.4(b), no public utility distributing or
4 providing heat, electricity, or water to or for the public shall include as part of its base rate any
5 expenses for advertising, either direct or indirect, that promotes the use of its product or service, or
6 is designed to promote the public image of the industry. No public utility may furnish support of
7 any kind, direct or indirect, to any subsidiary, group, association, or individual for advertising and
8 include the expense as part of its base rate. Nothing contained in this section shall be deemed as
9 prohibiting the inclusion in the base rate of expenses incurred for advertising, informational or
10 educational in nature, that is designed to promote public safety conservation of the public utility's
11 product or service. The public utilities commission shall promulgate such rules and regulations as
12 are necessary to require public disclosure of all advertising expenses of any kind, direct or indirect,
13 and to otherwise effectuate the provisions of this section.

14 (b) Effective as of January 1, 2008, and for a period of ~~fifteen (15)~~ twenty-seven (27) years
15 thereafter, each electric distribution company shall include a charge per kilowatt-hour delivered to
16 fund demand-side management programs, including, but not limited to, programs for cost effective
17 energy efficiency, energy conservation, and electrification of gas and delivered fuel heating
18 systems. The 0.3 mills per kilowatt-hour delivered to fund renewable energy programs shall remain
19 in effect until December 31, ~~2022~~ 2035. The electric distribution company shall establish and, after
20 July 1, 2007, maintain, two (2) separate accounts, one for demand-side management programs (the
21 "demand-side account"), which shall be funded by the electric demand-side charge and
22 administered and implemented by the distribution company or selected entity, subject to the
23 regulatory reviewing authority of the commission, and one for renewable energy programs, which
24 shall be administered by the Rhode Island commerce corporation pursuant to § 42-64-13.2 and shall
25 be held and disbursed by the distribution company as directed by the Rhode Island commerce
26 corporation for the purposes of developing, promoting, and supporting renewable energy programs.
27 If an entity other than the distribution company is selected to administer the demand side
28 management programs, the distribution company shall hold and disburse the demand side account
29 as directed by the selected entity. During the time periods established in this subsection, the
30 commission may, in its discretion, after notice and public hearing, increase the sums for demand-
31 side management and renewable resources. In addition, the commission shall, after notice and
32 public hearing, determine the appropriate charge for these programs. The office of energy
33 resources, and/or the administrator of the renewable energy programs, may seek to secure for the
34 state an equitable and reasonable portion of renewable energy credits or certificates created by

1 private projects funded through those programs. As used in this section, "renewable energy
2 resources" shall mean: (1) Power generation technologies, as defined in § 39-26-5, "eligible
3 renewable energy resources," including off-grid and on-grid generating technologies located in
4 Rhode Island, as a priority; (2) Research and development activities in Rhode Island pertaining to
5 eligible renewable energy resources and to other renewable energy technologies for electrical
6 generation; or (3) Projects and activities directly related to implementing eligible renewable energy
7 resources projects in Rhode Island. Technologies for converting solar energy for space heating or
8 generating domestic hot water may also be funded through the renewable energy programs. Fuel
9 cells [and energy storage, including battery energy storage](#), may be considered an energy efficiency
10 technology to be included in demand-side management programs. Special rates for low-income
11 customers in effect as of August 7, 1996, shall be continued, and the costs of all of these discounts
12 shall be included in the distribution rates charged to all other customers. Nothing in this section
13 shall be construed as prohibiting an electric distribution company from offering any special rates
14 or programs for low-income customers which are not in effect as of August 7, 1996, subject to the
15 approval by the commission.

16 (1) The renewable energy investment programs shall be administered pursuant to rules
17 established by the Rhode Island commerce corporation. Said rules shall provide transparent criteria
18 to rank qualified renewable energy projects, giving consideration to:

- 19 (i) The feasibility of project completion;
20 (ii) The anticipated amount of renewable energy the project will produce;
21 (iii) The potential of the project to mitigate energy costs over the life of the project; and
22 (iv) The estimated cost per kilowatt-hour (KWh) of the energy produced from the project.
23 (c) [Deleted by P.L. 2012, ch. 241, art. 4, § 14.]

24 (d) The chief executive officer of the commerce corporation is authorized and may enter
25 into a contract with a contractor for the cost-effective administration of the renewable energy
26 programs funded by this section. A competitive bid and contract award for administration of the
27 renewable energy programs may occur every three (3) years and shall include, as a condition, that
28 after July 1, 2008, the account for the renewable energy programs shall be maintained and
29 administered by the commerce corporation as provided for in subsection (b) of this section.

30 (e) Effective January 1, 2007, and for a period of ~~sixteen (16)~~ [twenty-seven \(27\)](#) years
31 thereafter, each gas distribution company shall include, with the approval of the commission, a
32 charge per deca therm delivered to fund demand-side management programs (the "gas demand-
33 side charge"), including, but not limited to, programs for cost-effective energy efficiency, energy
34 conservation, combined heat and power systems, [electrification of gas and delivered fuel heating](#)

1 [systems](#) and weatherization services for low-income households.

2 (f) Each gas company [or selected entity](#) shall establish a separate account for demand-side
3 management programs (the "gas demand-side account") that shall be funded by the gas demand-
4 side charge and administered and implemented by the distribution company [or selected entity](#),
5 subject to the regulatory reviewing authority of the commission. [The distribution company shall](#)
6 [transfer funds from the gas demand side charge to this account, whether the account is established](#)
7 [by the distribution company or a different selected entity.](#) The commission may establish
8 administrative mechanisms and procedures that are similar to those for electric demand-side
9 management programs administered under the jurisdiction of the commission and that are designed
10 to achieve cost-effectiveness ~~and high, life-time savings of efficiency measures~~ [greenhouse gas](#)
11 [emissions reductions](#) supported by the program.

12 (g) The commission may, if reasonable and feasible, except from this demand-side
13 management charge:

14 (1) Gas used for distribution generation; and

15 (2) Gas used for the manufacturing processes, where the customer has established a self-
16 directed program to invest in and achieve best-effective energy efficiency in accordance with a plan
17 approved by the commission and subject to periodic review and approval by the commission, which
18 plan shall require annual reporting of the amount invested and the return on investments in terms
19 of gas savings.

20 (h) The commission may provide for the coordinated and/or integrated administration of
21 electric and gas demand-side management programs in order to enhance the effectiveness of the
22 programs. Such coordinated and/or integrated administration may after March 1, 2009, upon the
23 recommendation of the office of energy resources, be through one or more third-party entities
24 designated by the commission pursuant to a competitive selection process.

25 (i) Effective January 1, 2007, the commission shall allocate from demand-side management
26 gas and electric funds authorized pursuant to this section, an amount not to exceed two percent
27 (2%) of such funds on an annual basis for the retention of expert consultants, and reasonable
28 administration costs of the energy efficiency and resources management council associated with
29 planning, management, and evaluation of energy-efficiency programs, renewable energy programs,
30 system reliability least-cost procurement, and with regulatory proceedings, contested cases, and
31 other actions pertaining to the purposes, powers, and duties of the council, which allocation may
32 by mutual agreement, be used in coordination with the office of energy resources to support such
33 activities.

34 (j) Effective January 1, 2016, the commission shall annually allocate from the

1 administrative funding amount allocated in subsection (i) from the demand-side management
2 program as described in subsection (i) as follows: fifty percent (50%) for the purposes identified in
3 subsection (i) and fifty percent (50%) annually to the office of energy resources for activities
4 associated with planning, management, and evaluation of energy-efficiency programs, renewable
5 energy programs, system reliability, least-cost procurement, and with regulatory proceedings,
6 contested cases, and other actions pertaining to the purposes, powers, and duties of the office of
7 energy resources.

8 (k) On April 15, of each year, the office and the council shall submit to the governor, the
9 president of the senate, and the speaker of the house of representatives, separate financial and
10 performance reports regarding the demand-side management programs, including the specific level
11 of funds that were contributed by the residential, municipal, and commercial and industrial sectors
12 to the overall programs; the businesses, vendors, and institutions that received funding from
13 demand-side management gas and electric funds used for the purposes in this section; and the
14 businesses, vendors, and institutions that received the administrative funds for the purposes in
15 subsections (i) and (j). These reports shall be posted electronically on the websites of the office of
16 energy resources and the energy efficiency and resources management council.

17 (l) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank, each
18 electric distribution company, except for the Pascoag Utility District and Block Island Power
19 Company, shall remit two percent (2%) of the amount of the 2014 electric demand-side charge
20 collections to the Rhode Island infrastructure bank.

21 (m) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank, each
22 gas distribution company shall remit two percent (2%) of the amount of the 2014 gas demand-side
23 charge collections to the Rhode Island infrastructure bank.

24 SECTION 3. 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 -- PUBLIC UTILITIES COMMISSION

1 This act would require the energy efficiency and resources management council to run a
2 triennial competitive bid process to select an entity to propose and administer system reliability and
3 energy efficiency and conservation procurement, which entity may be one or more electrical and
4 natural gas distribution companies.

5 This act would take effect upon passage.

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