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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - NET METERING- RENEWABLE ENERGY GROWTH

Introduced By: Representatives Speakman, Cortvriend, Carson, Donovan, Fogarty, Potter, McGaw, and Fellela

Date Introduced: February 18, 2022

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

1 of the generating system. The community remote net-metering system may be owned by the same
2 entity that is the customer of record on the net-metered account or may be owned by a third party.

3 (2) "Conservation opportunity areas" means areas identified in the 2015 DEM Wildlife
4 Action Plan as priority areas for conserving Rhode Island's species of greatest conservation need
5 and key habitats. The terrestrial components of these areas include: core forests (unfragmented
6 forest blocks greater than two hundred fifty (250) acres, high value and high vulnerability habitat,
7 natural heritage areas (which represent known occurrences of rare species), important coastal
8 habitats, and corridors (largely undeveloped paths that connect the core natural areas, river
9 corridors, and other pathways).

10 ~~(2)~~(3) "Electric distribution company" shall have the same meaning as § 39-1-2, but shall
11 not include Block Island Power Company or Pascoag Utility District, each of whom shall be
12 required to offer net metering to customers through a tariff approved by the public utilities
13 commission after a public hearing. Any tariff or policy on file with the public utilities commission
14 on the date of passage of this chapter shall remain in effect until the commission approves a new
15 tariff.

16 ~~(3)~~(4) "Eligible credit recipient" means one of the following eligible recipients in the
17 electric distribution company's service territory whose electric service account or accounts may
18 receive net-metering credits from a community remote net-metering system. Eligible credit
19 recipients include the following definitions:

20 (i) Residential accounts in good standing.

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

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

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

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

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

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

8 ~~(4)~~(5) "Eligible net-metering resource" means eligible renewable energy resource, as
9 defined in § 39-26-5 including biogas created as a result of anaerobic digestion, but, specifically
10 excluding all other listed eligible biomass fuels.

11 ~~(5)~~(6) "Eligible net-metering system" means a facility generating electricity using an
12 eligible net-metering resource that is reasonably designed and sized to annually produce electricity
13 in an amount that is equal to, or less than, the renewable self-generator's usage at the eligible net-
14 metering system site measured by the three-year (3) average annual consumption of energy over
15 the previous three (3) years at the electric distribution account(s) located at the eligible net-metering
16 system site. A projected annual consumption of energy may be used until the actual three-year (3)
17 average annual consumption of energy over the previous three (3) years at the electric distribution
18 account(s) located at the eligible net-metering system site becomes available for use in determining
19 eligibility of the generating system. The eligible net-metering system may be owned by the same
20 entity that is the customer of record on the net-metered accounts or may be owned by a third party
21 that is not the customer of record at the eligible net-metering system site and which may offer a
22 third-party, net-metering financing arrangement or net-metering financing arrangement, as
23 applicable. Notwithstanding any other provisions of this chapter, any eligible net-metering
24 resource: (i) Owned by a public entity, educational institution, hospital, nonprofit, or multi-
25 municipal collaborative or (ii) Owned and operated by a renewable-generation developer on behalf
26 of a public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative
27 through a net-metering financing arrangement shall be treated as an eligible net-metering system
28 and all accounts designated by the public entity, educational institution, hospital, nonprofit, or
29 multi-municipal collaborative for net metering shall be treated as accounts eligible for net metering
30 within an eligible net-metering system site. Notwithstanding any other provision of this chapter, no
31 net-metering system located or planned to be located on or in a conservation opportunity area shall
32 be considered an "eligible net metering system" as provided pursuant to § 39-26.4-3(a).

33 ~~(6)~~(7) "Eligible net-metering system site" means the site where the eligible net-metering
34 system or community remote net-metering system is located or is part of the same campus or

1 complex of sites contiguous to one another and the site where the eligible net-metering system or
2 community remote net-metering system is located or a farm in which the eligible net-metering
3 system or community remote net-metering system is located. Locations within conservation
4 opportunity areas shall not be considered eligible net-metering system sites. Except for an eligible
5 net-metering system owned by or operated on behalf of a public entity, educational institution,
6 hospital, nonprofit, or multi-municipal collaborative through a net-metering financing arrangement,
7 the purpose of this definition is to reasonably assure that energy generated by the eligible net-
8 metering system is consumed by net-metered electric service account(s) that are actually located in
9 the same geographical location as the eligible net-metering system. All energy generated from any
10 eligible net-metering system is, and will be considered, consumed at the meter where the renewable
11 energy resource is interconnected for valuation purposes. Except for an eligible net-metering
12 system owned by, or operated on behalf of, a public entity, educational institution, hospital,
13 nonprofit, or multi-municipal collaborative through a net-metering financing arrangement, or
14 except for a community remote net-metering system, all of the net-metered accounts at the eligible
15 net-metering system site must be the accounts of the same customer of record and customers are
16 not permitted to enter into agreements or arrangements to change the name on accounts for the
17 purpose of artificially expanding the eligible net-metering system site to contiguous sites in an
18 attempt to avoid this restriction. However, a property owner may change the nature of the metered
19 service at the accounts at the site to be master metered in the owner's name, or become the customer
20 of record for each of the accounts, provided that the owner becoming the customer of record
21 actually owns the property at which the account is located. As long as the net-metered accounts
22 meet the requirements set forth in this definition, there is no limit on the number of accounts that
23 may be net metered within the eligible net-metering system site.

24 ~~(7)~~(8) "Excess renewable net-metering credit" means a credit that applies to an eligible net-
25 metering system or community remote net-metering system for that portion of the production of
26 electrical energy beyond one hundred percent (100%) and no greater than one hundred twenty-five
27 percent (125%) of the renewable self-generator's own consumption at the eligible net-metering
28 system site or the sum of the usage of the eligible credit recipient accounts associated with the
29 community remote net-metering system during the applicable billing period. Such excess
30 renewable net-metering credit shall be equal to the electric distribution company's avoided cost
31 rate, which is hereby declared to be the electric distribution company's standard-offer service
32 kilowatt hour (KWh) charge for the rate class and time-of-use billing period (if applicable)
33 applicable to the customer of record for the eligible net-metering system or applicable to the
34 customer of record for the community remote net-metering system. The commission shall have the

1 authority to make determinations as to the applicability of this credit to specific generation facilities
2 to the extent there is any uncertainty or disagreement.

3 ~~(8)~~(9) "Farm" shall be defined in accordance with § 44-27-2, except that all buildings
4 associated with the farm shall be eligible for net-metering credits as long as: (i) The buildings are
5 owned by the same entity operating the farm or persons associated with operating the farm; and (ii)
6 The buildings are on the same farmland as the project on either a tract of land contiguous with, or
7 reasonably proximate to, such farmland or across a public way from such farmland.

8 ~~(9)~~(10) "Hospital" means and shall be defined and established as set forth in chapter 17 of
9 title 23.

10 ~~(10)~~(11) "Multi-municipal collaborative" means a group of towns and/or cities that enter
11 into an agreement for the purpose of co-owning a renewable-generation facility or entering into a
12 financing arrangement pursuant to subsection (14).

13 ~~(11)~~(12) "Municipality" means any Rhode Island town or city, including any agency or
14 instrumentality thereof, with the powers set forth in title 45.

15 ~~(12)~~(13) "Net metering" means using electrical energy generated by an eligible net-
16 metering system for the purpose of self-supplying electrical energy and power at the eligible net-
17 metering system site, or with respect to a community remote net-metering system, for the purpose
18 of generating net-metering credits to be applied to the electric bills of the eligible credit recipients
19 associated with the community net-metering system. The amount so generated will thereby offset
20 consumption at the eligible net-metering system site through the netting process established in this
21 chapter, or with respect to a community remote net-metering system, the amounts generated in
22 excess of that amount will result in credits being applied to the eligible credit-recipient accounts
23 associated with the community remote net-metering system.

24 ~~(13)~~(14) "Net-metering customer" means a customer of the electric distribution company
25 receiving and being billed for distribution service whose distribution account(s) are being net
26 metered.

27 ~~(14)~~(15) "Net-metering financing arrangement" means arrangements entered into by a
28 public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative with a
29 private entity to facilitate the financing and operation of a net-metering resource, in which the
30 private entity owns and operates an eligible net-metering resource on behalf of a public entity,
31 educational institution, hospital, nonprofit, or multi-municipal collaborative, where: (i) The eligible
32 net-metering resource is located on property owned or controlled by the public entity, educational
33 institution, hospital, or one of the municipalities, as applicable; and (ii) The production from the
34 eligible net-metering resource and primary compensation paid by the public entity, educational

1 institution, hospital, nonprofit, or multi-municipal collaborative to the private entity for such
2 production is directly tied to the consumption of electricity occurring at the designated net-metered
3 accounts.

4 ~~(15)~~(16) "Nonprofit" means a nonprofit corporation as defined and established through
5 chapter 6 of title 7, and shall include religious organizations that are tax exempt pursuant to 26
6 U.S.C. § 501(d).

7 ~~(16)~~(17) "Person" means an individual, firm, corporation, association, partnership, farm,
8 town or city of the state of Rhode Island, multi-municipal collaborative, or the state of Rhode Island
9 or any department of the state government, governmental agency, or public instrumentality of the
10 state.

11 (18) "Preferred sites" means landfills, gravel pits, golf courses, brownfields, superfund
12 sites, parking lots or sites that are designated appropriate for carports, and all rooftops including,
13 but not limited to, those on residential, commercial, industrial, agricultural, and municipal
14 buildings.

15 ~~(17)~~(19) "Project" means a distinct installation of an eligible net-metering system or a
16 community remote net-metering system. An installation will be considered distinct if it is installed
17 in a different location, or at a different time, or involves a different type of renewable energy.

18 ~~(18)~~(20) "Public entity" means the federal government, the state of Rhode Island,
19 municipalities, wastewater treatment facilities, public transit agencies, or any water distributing
20 plant or system employed for the distribution of water to the consuming public within this state
21 including the water supply board of the city of Providence.

22 ~~(19)~~(21) "Renewable net-metering credit" means a credit that applies to an eligible net-
23 metering system or a community remote net-metering system up to one hundred percent (100%) of
24 either the renewable self-generator's usage at the eligible net-metering system site or the sum of the
25 usage of the eligible credit-recipient accounts associated with the community remote net-metering
26 system over the applicable billing period. This credit shall be equal to the total kilowatt hours of
27 electrical energy generated up to the amount consumed on-site, and/or generated up to the sum of
28 the eligible credit-recipient account usage during the billing period multiplied by the sum of the
29 distribution company's:

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

- 1 (ii) Distribution kilowatt-hour charge;
- 2 (iii) Transmission kilowatt-hour charge; and
- 3 (iv) Transition kilowatt-hour charge.

4 Notwithstanding the foregoing, except for systems that have requested an interconnection
5 study for which payment has been received by the distribution company, or if an interconnection
6 study is not required, a completed and paid interconnection application, by December 31, 2018, the
7 renewable net-metering credit for all remote public entity and multi-municipal collaborative net-
8 metering systems shall not include the distribution kilowatt-hour charge commencing on January
9 1, 2050.

10 ~~(20)~~(22) "Renewable self-generator" means an electric distribution service customer of
11 record for the eligible net-metering system or community remote net-metering system at the eligible
12 net-metering system site which system is primarily designed to produce electrical energy for
13 consumption by that same customer at its distribution service account(s), and/or, with respect to
14 community remote net-metering systems, electrical energy which generates net-metering credits to
15 be applied to offset the eligible credit-recipient account usage.

16 ~~(21)~~(23) "Third party" means and includes any person or entity, other than the renewable
17 self-generator, who or that owns or operates the eligible net-metering system or community remote
18 net-metering system on the eligible net-metering system site for the benefit of the renewable self-
19 generator.

20 ~~(22)~~(24) "Third-party, net-metering financing arrangement" means the financing of eligible
21 net-metering systems or community remote net-metering systems through lease arrangements or
22 power/credit purchase agreements between a third party and renewable self-generator, except for
23 those entities under a public entity net-metering financing arrangement. A third party engaged in
24 providing financing arrangements related to such net-metering systems with a public or private
25 entity is not a public utility as defined in § 39-1-2.

26 **39-26.4-3. Net metering.**

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

30 (1)(i) The maximum allowable capacity for eligible net-metering systems, based on
31 nameplate capacity, shall be ten megawatts (10 MW), ~~effective sixty (60) days after passage for~~
32 systems that either have requested an interconnection study for which payment has been received
33 by the distribution company or, if an interconnection study is not required, have completed and
34 paid for an interconnection application by date of passage. For all other eligible net-metering

1 [systems, the projects shall not be sited in conservation opportunity areas. For projects in preferred](#)
2 [sites, there is no cap on project size.](#) The aggregate amount of net metering in the Block Island
3 Utility District doing business as Block Island Power Company and the Pascoag Utility District
4 shall not exceed a maximum percentage of peak load for each utility district as set by the utility
5 district based on its operational characteristics, subject to commission approval; and

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

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

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

23 (ii) Aggregate consumption of the net-metered accounts at the eligible net-metering system
24 site or the sum of the consumption of the eligible credit-recipient accounts associated with the
25 community remote net-metering system, and establish a monthly billing plan that reflects the
26 expected credits that would be applied to the net-metered accounts over twelve (12) months. The
27 billing plan would be designed to even out monthly billings over twelve (12) months, regardless of
28 actual production and usage. If such election is made by the electric distribution company, the
29 electric distribution company would reconcile payments and credits under the billing plan to actual
30 production and consumption at the end of the twelve-month (12) period and apply any credits or
31 charges to the net-metered accounts for any positive or negative difference, as applicable. Should
32 there be a material change in circumstances at the eligible net-metering system site or associated
33 accounts during the twelve-month (12) period, the estimates and credits may be adjusted by the
34 electric distribution company during the reconciliation period. The electric distribution company

1 also may elect (but is not required) to issue checks to any net-metering customer in lieu of billing
2 credits or carry-forward credits or charges to the next billing period. For residential-eligible net-
3 metering systems and community remote net-metering systems twenty-five kilowatts (25 KW) or
4 smaller, the electric distribution company, at its option, may administer renewable net-metering
5 credits month to month allowing unused credits to carry forward into the following billing period.

6 (3) If the electricity generated by an eligible net-metering system or community remote
7 net-metering system during a billing period is equal to, or less than, the net-metering customer's
8 usage at the eligible net-metering system site or the sum of the usage of the eligible credit-recipient
9 accounts associated with the community remote net-metering system during the billing period, the
10 customer shall receive renewable net-metering credits, that shall be applied to offset the net-
11 metering customer's usage on accounts at the eligible net-metering system site, or shall be used to
12 credit the eligible credit-recipient's electric account.

13 (4) If the electricity generated by an eligible net-metering system or community remote
14 net-metering system during a billing period is greater than the net-metering customer's usage on
15 accounts at the eligible net-metering system site or the sum of the usage of the eligible credit-
16 recipient accounts associated with the community remote net-metering system during the billing
17 period, the customer shall be paid by excess renewable net-metering credits for the excess
18 electricity generated up to an additional twenty-five percent (25%) beyond the net-metering
19 customer's usage at the eligible net-metering system site, or the sum of the usage of the eligible
20 credit-recipient accounts associated with the community remote net-metering system during the
21 billing period; unless the electric distribution company and net-metering customer have agreed to
22 a billing plan pursuant to subsection (a)(2).

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

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

31 (c) Any prudent and reasonable costs incurred by the electric distribution company
32 pursuant to achieving compliance with subsection (a) and the annual amount of any renewable net-
33 metering credits or excess renewable net-metering credits provided to accounts associated with
34 eligible net-metering systems or community remote net-metering systems, shall be aggregated by

1 the distribution company and billed to all distribution customers on an annual basis through a
2 uniform, per-kilowatt-hour (KWh) surcharge embedded in the distribution component of the rates
3 reflected on customer bills.

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

6 SECTION 2. Sections 39-26.6-1, 39-26.6-3, 39-26.6-4, 39-26.6-5, 39-26.6-7, 39-26.6-12
7 and 39-26.6-22 of the General Laws in Chapter 39-26.6 entitled "The Renewable Energy Growth
8 Program" are hereby amended to read as follows:

9 **39-26.6-1. Purpose.**

10 The purpose of this chapter is to enable the state to meet its climate and resilience goals,
11 including those established in chapter 6.2 of title 42 ("act on climate"). This includes the goals to
12 facilitate and promote installation of grid-connected generation of renewable energy; support and
13 encourage development of distributed renewable energy generation systems while protecting
14 important conservation opportunity areas essential to climate resilience and complying with Rhode
15 Island's climate change mandates; reduce environmental impacts; reduce carbon emissions that
16 contribute to climate change by encouraging the siting of renewable energy projects in the load
17 zone of the electric distribution company and in preferred areas that have already been disturbed
18 by industry or other uses; diversify the energy-generation sources within the load zone of the
19 electric distribution company; stimulate economic development; improve distribution-system
20 resilience and reliability within the load zone of the electric distribution company; ~~and reduce~~
21 ~~distribution-system costs.~~

22 **39-26.6-3. Definitions.**

23 When used in this chapter, the following terms shall have the following meanings:

24 (1) "Board" shall mean the distributed-generation board as established pursuant to the
25 provisions of § 39-26.2-10 under the title distributed generation standard contract board, but shall
26 also fulfill the responsibilities set forth in this chapter.

27 (2) "Ceiling price" means the bidding price cap applicable to an enrollment for a given
28 distributed-generation class, that shall be approved annually for each renewable energy class
29 pursuant to the procedure established in this chapter. The ceiling price for each technology should
30 be a price that would allow a private owner to invest in a given project at a reasonable rate of return,
31 based on recently reported and forecast information on the cost of capital and the cost of generation
32 equipment. The calculation of the reasonable rate of return for a project shall include, where
33 applicable, any state or federal incentives, including, but not limited to, tax incentives.

34 (3) "Commercial-scale solar project" means a solar distributed-generation project with the

1 nameplate capacity specified in § 39-26.6-7.

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

3 (5) "Community remote distributed-generation system" means a distributed-generation
4 facility greater than two hundred fifty kilowatt (250 KW) nameplate direct current that allocates
5 bill credits for each kilowatt hour (KWh) generated to a minimum of three (3), eligible recipient-
6 customer accounts, provided that no more than fifty percent (50%) of the credits produced by the
7 system are allocated to one eligible recipient-customer account, and provided further that at least
8 fifty percent (50%) of the credits produced by the system are allocated to eligible recipients in an
9 amount not to exceed that which is produced annually by twenty-five kilowatt (25 KW) AC
10 capacity. The community remote distributed-generation system may transfer credits to eligible
11 recipient-customer accounts in an amount that is equal to, or less than, the sum of the usage of the
12 eligible recipient-customer accounts measured by the three-year-average (3) annual consumption
13 of energy over the previous three (3) years. A projected, annual consumption of energy may be
14 used until the actual three-year-average (3) annual consumption of energy over the previous three
15 (3) years at the eligible recipient-customer accounts becomes available for use in determining
16 eligibility of the generating system. The community remote distributed-generation system may be
17 owned by the same entity that is the customer of record on the net-metered account or may be
18 owned by a third party.

19 (6) "Conservation opportunity areas" means areas identified in the 2015 DEM wildlife
20 action plan as priority areas for conserving Rhode Island's species of greatest conservation need
21 and key habitats. The terrestrial components of these areas include: core forests (unfragmented
22 forest blocks greater than two hundred fifty (250) acres, high value and high vulnerability habitat,
23 natural heritage areas (which represent known occurrences of rare species), important coastal
24 habitats, and corridors (largely undeveloped paths that connect the core natural areas, river
25 corridors, and other pathways).

26 Notwithstanding any other provision of this chapter, no renewable-distributed-generation
27 project that is located or planned to be located in or on a conservation opportunity area shall be
28 considered an eligible renewable-distributed-generation project or otherwise be eligible to
29 participate in this program.

30 ~~(6)~~(7) "Distributed-generation facility" means an electrical-generation facility located in
31 the electric distribution company's load zone with a nameplate capacity no greater than five
32 megawatts (5 MW), using eligible renewable energy resources as defined by § 39-26-5, including
33 biogas created as a result of anaerobic digestion, but, specifically excluding all other listed eligible
34 biomass fuels, and connected to an electrical power system owned, controlled, or operated by the

1 electric distribution company. For purposes of this chapter, a distributed-generation facility must
2 be a new resource that:

3 (i) Has not begun operation;

4 (ii) Is not under construction, but excluding preparatory site work that is less than twenty-
5 five percent (25%) of the estimated total project cost; and

6 (iii) Except for small-scale solar projects, does not have in place investment or lending
7 agreements necessary to finance the construction of the facility prior to the submittal of an
8 application or bid for which the payment of performance-based incentives is sought under this
9 chapter except to the extent that such financing agreements are conditioned upon the project owner
10 being awarded performance-based incentives under the provisions of this chapter. For purposes of
11 this definition, preexisting hydro generation shall be exempt from the provisions of subsection
12 (6)(i) regarding operation, if the hydro-generation facility will need a material investment to restore
13 or maintain reliable and efficient operation and meet all regulatory, environmental, or operational
14 requirements. For purposes of this provision, "material investment" shall mean investment
15 necessary to allow the project to qualify as a new, renewable energy resource under § 39-26-2. To
16 be eligible for this exemption, the hydro-project developer at the time of submitting a bid in the
17 applicable procurement must provide reasonable evidence with its bid application showing the level
18 of investment needed, along with any other facts that support a finding that the investment is
19 material, the determination of which shall be a part of the bid review process set forth in § 39-26.6-
20 16 for the award of bids.

21 ~~(7)~~(8) "Distributed-generation project" means a distinct installation of a distributed-
22 generation facility. An installation will be considered distinct if it does not violate the segmentation
23 prohibition set forth in § 39-26.6-9.

24 ~~(8)~~(9) "Electric distribution company" means a company defined in § 39-1-2(a)(12),
25 supplying standard-offer service, last-resort service, or any successor service to end-use customers,
26 but not including the Block Island Power Company or the Pascoag Utility District.

27 ~~(9)~~(10) "ISO-NE" means Independent System Operator-New England, the Regional
28 Transmission Organization for New England designated by the Federal Energy Regulatory
29 Commission.

30 ~~(10)~~(11) "Large distributed-generation project" means a distributed-generation project that
31 has a nameplate capacity that exceeds the size of a small distributed-generation project in a given
32 year, but is no greater than five megawatts (5 MW) nameplate capacity.

33 ~~(11)~~(12) "Large-scale solar project" means a solar distributed-generation project with the
34 nameplate capacity specified in § 39-26.6-7.

1 ~~(12)~~(13) "Medium-scale solar project" means a solar distributed-generation project with
2 the nameplate capacity specified in § 39-26.6-7.

3 ~~(13)~~(14) "Office" means the Rhode Island office of energy resources.

4 (15) "Preferred sites" means landfills, gravel pits, golf courses, brownfields, superfund
5 sites, parking lots or sites that are designated appropriate for carports, and all rooftops including,
6 but not limited to, those on residential, commercial, industrial, agricultural, and municipal
7 buildings.

8 ~~(14)~~(16) "Program year" means a year beginning April 1 and ending March 31, except for
9 the first program year, that may commence after April 1, 2015, subject to commission approval.

10 ~~(15)~~(17) "Renewable energy certificate" means a New England Generation Information
11 System renewable energy certificate as defined in § 39-26-2(14).

12 ~~(16)~~(18) "Renewable energy classes" means categories for different renewable energy
13 technologies using eligible renewable energy resources as defined by § 39-26-5, including biogas
14 created as a result of anaerobic digestion, but, specifically excluding all other listed eligible biomass
15 fuels specified in § 39-26-2(6). For each program year, in addition to the classes of solar distributed
16 generation specified in § 39-26.6-7, the board shall determine the renewable energy classes as are
17 reasonably feasible for use in meeting distributed-generation objectives from renewable energy
18 resources and are consistent with the goal of meeting the annual target for the program year. The
19 board may make recommendations to the commission to add, eliminate, or adjust renewable energy
20 classes for each program year, provided that the solar classifications set forth in § 39-26.6-7 shall
21 remain in effect for at least the first two (2) program years and no distributed-generation project
22 may ~~exceed five megawatts (5 MW) of nameplate capacity~~ be sited in conservation opportunity
23 areas.

24 ~~(17)~~(19) "Shared solar facility" means a single small-scale or medium-scale solar facility
25 that must allocate bill credits to at least two (2), and no more than fifty (50), accounts in the same
26 customer class and on the same or adjacent parcels of land. Public entities may allocate such bill
27 credits to at least two (2), and up to fifty (50), accounts without regard to physical location so long
28 as the facility and accounts are within the same municipality. In no case will the annual allocated
29 credits in KWh exceed the prior three-year (3) annual average usage, less any reductions for verified
30 energy-efficiency measures installed at the customer premises, of the customer account to which
31 the bill credits are transferred.

32 ~~(18)~~(20) "Small distributed-generation project" means a distributed-generation renewable
33 energy project that has a nameplate capacity within the following: Wind: fifty kilowatts (50 KW)
34 to one and one-half megawatts (1.5 MW); small-scale solar projects and medium-scale solar

1 projects with the capacity limits as specified in § 39-26.6-7. For technologies other than solar and
2 wind, the board shall set the nameplate capacity-size limits, but such limits may not exceed one
3 megawatt (1 MW).

4 ~~(19)~~(21) "Small-scale solar project" means a solar distributed-generation project with the
5 nameplate capacity specified in § 39-26.6-7.

6 **39-26.6-4. Continuation of board.**

7 (a) The distributed generation standard contract board shall remain fully constituted and
8 authorized as provided in chapter 26.2 of this title; provided, however, that the name shall be
9 changed to the "distributed-generation board." Additional purposes of the board shall be to:

10 (1) Evaluate and make recommendations to the commission regarding ceiling prices and
11 annual targets, the make-up of renewable energy classifications eligible under the distributed-
12 generation growth program, the terms of the tariffs, and other duties as set forth in this chapter;

13 (2) Provide consistent, comprehensive, informed, and publicly accountable involvement
14 by representatives of all interested stakeholders affected by, involved with, or knowledgeable about
15 the development of distributed-generation projects that are eligible for performance-based
16 incentives under the distributed-generation growth program; and

17 (3) Monitor and evaluate the effectiveness of the distributed-generation growth program.

18 (b) The office, in consultation with the board, shall be authorized to hire, or to request the
19 electric distribution company to hire, the services of qualified consultants to make any studies of
20 conditions, activities, or problems related to the state's energy needs, usage, and supplies to carry
21 out its responsibilities, which shall include ~~perform~~ performing ceiling price studies subject to
22 commission approval that shall be granted or denied within sixty (60) days of receipt of such request
23 from the office. The cost of the ~~studies~~ consultants shall be recoverable through the rate-
24 reconciliation provisions of the electric distribution company set forth in § 39-26.6-25, subject to
25 commission approval. In addition, the office, in consultation with the board, may request the
26 commission to approve other costs incurred by the board, office, or the electric distribution
27 company to utilize consultants for annual programmatic services or to perform any other studies
28 and reports, subject to the review and approval of the commission, that shall be granted or denied
29 within one hundred twenty (120) days of receipt of the request from the office, and that shall be
30 recoverable through the same reconciliation provisions.

31 (c) Revenues generated through the rate reconciliation process to finance the expenses
32 incurred as outlined in subsection (b) shall be transferred to the office and deposited in a restricted-
33 receipt account within the general fund. The restricted-receipt account shall be exempt from the
34 indirect cost recovery assessment under § 35-4-27.

1 **39-26.6-5. Tariffs proposed and approved.**

2 (a) Each year, for a period of at least five (5) program years, the electric distribution
3 company shall file tariffs with the commission that are designed to provide a multiyear stream of
4 performance-based incentives to eligible renewable-distributed-generation projects for a term of
5 years, under terms and conditions set forth in the tariffs and approved by the commission. The
6 tariffs shall set forth the rights and obligations of the owner of the distributed-generation project
7 and the conditions upon which payment of performance-based incentives by the electric
8 distribution company will be paid. The tariffs shall include the non-price conditions set forth in §§
9 39-26.2-7(2)(i) -- (vii) for small distributed-generation projects (other than small- and medium-
10 scale solar) and large distributed-generation projects; provided, however, that the time periods for
11 the projects to reach ninety percent (90%) of output shall be extended to twenty-four (24) months
12 (other than eligible anaerobic-digestion projects, which shall be thirty-six (36) months, and eligible
13 small-scale hydro, which shall be forty-eight (48) months). The non-price conditions in the tariffs
14 for small- and medium-scale solar shall take into account the different circumstances for
15 distributed-generation projects of the smaller sizes.

16 (b) In addition to the tariff(s), the filing shall include the rules governing the solicitation
17 and enrollment process. The solicitation rules will be designed to ensure the orderly functioning of
18 the distributed-generation growth program and shall be consistent with the legislative purposes of
19 this chapter.

20 (c) In proposing the tariff(s) and solicitation rules applicable to each year, the tariff(s) and
21 rules shall be developed by the electric distribution company and will be reviewed by the office
22 and the board before being sent to the commission for its approval. The proposed tariffs shall
23 include the ceiling prices and term lengths for each tariff that are recommended by the board. The
24 term lengths shall be from fifteen (15) to twenty (20) years; provided, however, that the board may
25 recommend shorter terms for small-scale solar projects. Whatever term lengths between fifteen
26 (15) and twenty (20) years are chosen for any given tariff, the evaluation of the bids for that tariff
27 shall be done on a consistent basis such that the same term lengths for competing bids are used to
28 determine the winning bids.

29 (d) The board shall use the same standards for setting ceiling prices as set forth in § 39-
30 26.2-5. In setting the ceiling prices, the board may specifically consider:

31 (1) Transactions for newly developed renewable energy resources, by technology and size,
32 in the ISO-NE control area and the northeast corridor;

33 (2) Pricing from bids received during the previous program year;

34 (3) Environmental benefits, including, but not limited to, reducing carbon emissions;

1 (4) For community remote distributed-generation systems, administrative costs and
2 financial benefits for participating customers;

3 (5) System benefits; ~~and~~

4 (6) Cost-effectiveness-;

5 (7) Location of projects, including climate resilience and conservation benefits; and

6 (8) Labor standards to promote fair labor standards, support local jobs and prioritize hiring
7 and training for workers adversely affected by the transition to renewable energy, and are
8 underrepresented in the workforce, or facing employment barriers, including women, people of
9 color, veterans, formerly incarcerated individuals, and people with disabilities.

10 (e) At least forty-five (45) days before filing the tariff(s) and solicitation rules, the electric
11 distribution company shall provide the tariff(s) and rules in draft form to the board for review. The
12 commission shall have the authority to determine the final terms and conditions in the tariff and
13 rules. Once approved, the commission shall retain exclusive jurisdiction over the performance-
14 based incentive payments, terms, conditions, rights, enforcement, and implementation of the tariffs
15 and rules, subject to appeals pursuant to chapter 5 of this title.

16 **39-26.6-7. Solar project size categories.**

17 (a) Tariff(s) shall be proposed for each of the following solar distributed- generation
18 classes:

19 (1) Small-scale solar projects;

20 (2) Medium-scale solar projects;

21 (3) Commercial-scale solar projects; ~~and~~

22 (4) Large-scale solar projects-;

23 (5) Solar installed on carports; and

24 (6) Solar installed on school buildings.

25 (b) ~~Such classes~~ Classes of solar distributed-generation projects shall be established based
26 on nameplate megawatt size as follows:

27 (1) Large scale: solar projects from one megawatt (1 MW), up to and including, five
28 megawatts (5 MW) nameplate capacity;

29 (2) Commercial scale: solar projects greater than two hundred fifty kilowatts (250 KW),
30 but less than one megawatt (1 MW) nameplate capacity;

31 (3) Medium scale: solar projects greater than twenty-five kilowatts (25 KW), up to and
32 including, two hundred fifty kilowatts (250 KW) nameplate capacity; and

33 (4) Small scale: solar projects, up to and including, twenty-five kilowatts (25 KW)
34 nameplate capacity.

1 (c) Other classifications of solar projects may also be proposed by the board, [including](#)
2 [projects greater than five megawatts \(5MW\) if they are sited in preferred sites](#), subject to the
3 approval of the commission. After the second program year, the board may make recommendations
4 to the commission to adjust the size categories of the solar classes, provided that the medium-scale
5 solar projects may not exceed two hundred fifty kilowatts (250 KW); and/or allocated capacity to
6 community distributed-generation facilities, allowing them to compete or enroll under a distinct
7 ceiling price.

8 **39-26.6-12. Annual bidding and enrollments.**

9 (a) With the exception of the first program year (2015), the electric distribution company,
10 in consultation with the board and office, shall conduct at least three (3) tariff enrollments for each
11 distributed-generation class each program year. For the first program year, the board may
12 recommend that either two (2) or three (3) enrollments be conducted.

13 (b) During each program year, the tariff enrollments shall have both an annual targeted
14 amount of nameplate megawatts ("annual MW target") and a nameplate megawatt target for each
15 separate enrollment event ("enrollment MW target"). The enrollment MW target shall comprise the
16 specific portion of the annual MW target sought to be obtained in that enrollment. The enrollment
17 MW targets shall be recommended by the board each year, subject to commission approval. The
18 board shall also recommend a megawatt target for each class ("class MW target") that comprises a
19 specified portion of the enrollment MW target, subject to commission approval. If the electric
20 distribution company, the office, and the board mutually agree, they may reallocate megawatts
21 during an enrollment from one class to another without commission approval if there is an over-
22 subscription in one class and an under-subscription in another, provided that the annual MW target
23 is not being exceeded, except as provided in § 39-26.6-7.

24 (c) The annual MW targets shall be established as follows; provided, however, that at least
25 three megawatts (3 MW) of nameplate capacity shall be carved out exclusively for small-scale solar
26 projects in each of the first four (4) program years:

27 (1) For the first program year (2015), the annual MW target shall be twenty-five nameplate
28 megawatts (25 MW);

29 (2) For the second program year, the annual targets shall be forty nameplate megawatts (40
30 MW);

31 (3) For the third and fourth program years, the annual target shall be forty nameplate
32 megawatts (40 MW), subject to the conditions set forth in subsection (f) of this section having been
33 met for the applicable prior program year as determined in the manner specified in subsection (g)
34 of this section;

1 (4) For the fifth program year, the annual target shall be set to obtain the balance of capacity
2 needed to achieve one hundred sixty nameplate megawatts (160 MW) within the five-year (5)
3 distributed-generation growth program, subject to subsection (e) of this section and the conditions
4 set forth in subsection (f) of this section having been met for the fourth program year as determined
5 in the manner specified in subsection (g) of this section; and

6 (5) From the year 2020 through the year 2029, all projects that bid in under the relevant
7 ceiling price are eligible, with the annual target of up to two hundred megawatts (200 MW) for
8 each program year ~~shall be an additional forty nameplate megawatts (40 MW) above the annual~~
9 ~~target for the preceding program year.~~

10 (d) During the fifth year of the distributed-generation growth program, the board may
11 recommend to the commission an extension of time in the event that additional time is required to
12 achieve the full one hundred sixty nameplate megawatt (160 MW) target of the program. The
13 commission shall approve the recommendation of the board; provided, however, that the
14 commission may make any modifications to the board's recommendation that the commission
15 deems appropriate, consistent with the legislative purposes of this chapter as set forth herein.

16 (e) To the extent there was a shortfall of capacity procured under chapter 26.2 of this title
17 from distributed-generation procurements in 2014, such shortfall amount may be added to the one
18 hundred sixty megawatt (160 MW) target for acquisition in the fifth program year under this
19 chapter. In no event shall the electric distribution company be required to exceed the aggregate
20 amount of one hundred sixty (160) nameplate capacity plus any such shortfall amount over the five
21 (5) years, but may do so voluntarily, in consultation with the board and subject to commission
22 approval.

23 (f) The conditions specified in subsections (c)(3) and (c)(4) of this section are as follows:

24 (1) That it is reasonable to conclude that the bid prices submitted in the procurements for the large-
25 scale solar and commercial-scale solar classes were reasonably competitive in the immediately
26 preceding program year; (2) That it is reasonable to conclude that the annual MW target specified
27 for the next program year is reasonably achievable; and (3) That the electric distribution company
28 was able to, or with reasonably prudent efforts should have been able to, perform the studies and
29 system upgrades on a timely basis necessary to accommodate the number of applications associated
30 with the targets without materially adversely affecting other electric-distribution construction
31 projects needed to provide reliable and safe electric-distribution service. To the extent the board or
32 the commission concludes that any of these conditions have not been met for the applicable
33 program year, the board may recommend, and/or the commission may adopt, a new annual MW
34 target, based on the factors set forth in subsection (h) of this section.

1 (g) Before the third, fourth, and fifth program years, each year the board shall review the
2 conditions specified in subsection (f) of this section and make a recommendation to the commission
3 for findings as to whether they have been met for the applicable year. The recommendation shall
4 be filed with the commission, with copies to the office and the electric distribution company, and
5 any person who has made a written request to the commission to be included in such notification,
6 such list which may be obtained from the commission clerk, and a notice of such filing shall be
7 posted by the commission on its website. If no party files an objection to the recommended findings
8 within ten (10) business days of the posting, the commission may accept them without hearings. If
9 an objection is filed with a reasonable explanation for its basis, the commission shall hold hearings
10 and make the factual determination of whether the conditions have been met.

11 (h) In the event that the conditions in subsection (f) of this section have not been met for
12 any program year, then the board and the commission shall take into account the factors set forth
13 below in setting the annual MW target for the following year. In addition, for every program year
14 the board and the commission shall take into account these factors in setting the class MW targets,
15 and the enrollment MW targets for the following year: (1) That the new annual, class, and
16 enrollment levels reasonably assure that competition among projects for the applicable bidding
17 classifications remains robust and likely to yield reasonable and competitive program costs; (2)
18 That, assuming prudent management of the program, the electric distribution company should be
19 able to perform the studies and system upgrades on a timely basis necessary to accommodate the
20 number of applications associated with the targets without materially adversely affecting other
21 electric-distribution construction projects needed to provide reliable and safe electric-distribution
22 service; and (3) Any other reasonable factors that are consistent with the legislative purpose of this
23 chapter as set forth herein, including the program purpose to facilitate the development of
24 renewable distributed generation in the load zone of the electric distribution company at reasonable
25 cost.

26 (i) The renewable energy growth program is intended to achieve at least an aggregate
27 amount of one hundred sixty nameplate megawatts (160 MW) over five (5) years, plus any shortfall
28 amount added in pursuant to subsection (e) of this section. However, after the second program year,
29 the board may, based on market data and other information available to it, including pricing
30 received during previous program years, recommend changes to the annual target for any program
31 year above or below the specified targets in subsection (c) of this section if the board concludes
32 that market conditions are likely to produce favorably low or unfavorably high target pricing during
33 the upcoming program year, provided that the recommendation may not result in the five-year (5),
34 one-hundred-sixty-megawatt-nameplate (160 MW) target, plus any shortfall added pursuant to

1 subsection (e) of this section, being exceeded. Any megawatt reduction in an annual target shall be
2 added to the target in the fifth year of the program (and any subsequent years if necessary) such
3 that the overall program target of one-hundred-sixty-megawatt-nameplate (160 MW) capacity, plus
4 any shortfall added pursuant to subsection (e) of this section, is achieved. In considering these
5 issues, the board and the commission may take into account the reasonableness of current pricing
6 and its impact on all electric distribution customers and the legislative purpose of this chapter as
7 set forth herein, including the program purpose to facilitate the development of renewable
8 distributed generation in the load zone of the electric distribution company at reasonable cost.

9 (j) The provisions of § 39-26.1-4 shall apply to the annual value of performance-based
10 incentives (actual payments plus the value of net-metering credits, as applicable) provided by the
11 electric distribution company to all the distributed-generation projects under this chapter, subject
12 to the following conditions:

13 (1) The targets set for the applicable program year for the applicable project classifications
14 were met or, if not met, such failure was due to factors beyond the reasonable control of the electric
15 distribution company;

16 (2) The electric distribution company has processed applications for service and completed
17 interconnections in a timely and prudent manner for the projects under this chapter, taking into
18 account factors within the electric distribution company's reasonable control. The commission is
19 authorized to establish more specific performance standards to implement the provisions of this
20 chapter; and

21 (3) The incentive shall be one and three-quarters percent (1.75%) of the annual value of
22 performance-based incentives. The commission is authorized to establish more specific
23 performance standards to implement the provisions of this paragraph.

24 **39-26.6-22. Zonal and other incentive payments.**

25 In order to provide the electric distribution company and the board with the flexibility to
26 encourage distributed-generation projects to be located in designated geographical areas within its
27 load zone where there is an identifiable system benefit, reliability benefit, ~~or~~ cost savings to the
28 distribution system, conservation benefit, or climate resilience benefit in that geographical area, the
29 electric distribution company, ~~in consultation with~~ the board, ~~or~~ and the office, ~~may~~ shall propose
30 to include an incentive-payment adder to the bid price of any winning bidder that proposes a
31 distributed-generation project in the preferred sites that require remediation. The company, board,
32 or office can also propose disincentive subtractors for projects outside of preferred sites ~~desired~~
33 ~~geographical area~~. The electric distribution company also may propose other incentive payments
34 to achieve other technical or public policy objectives that provide identifiable benefits to customers.

1 Any incentive-payment adders must be approved by the commission, and shall not be counted as
2 part of the bid price when the bids are selected at an enrollment event.

3 SECTION 3. This act shall take effect upon passage.

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LC004640
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - NET METERING- RENEWABLE
ENERGY GROWTH

- 1 This act would provide that certain eligible net-metering systems projects, including solar
- 2 siting, cannot be sited in conservation opportunity areas.
- 3 This act would take effect upon passage.

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