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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- NET METERING

Introduced By: Representatives Ackerman, McNamara, Kennedy, Corvese, Serpa,
Costantino, Slater, Edwards, Shanley, and Voas

Date Introduced: February 10, 2023

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-26.4-2 of the General Laws in Chapter 39-26.4 entitled "Net
2 Metering" is 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
9 net-metering credits from a community remote net-metering system. Eligible credit recipients
10 include 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-
5 metering system site measured by the three-year (3) average annual consumption of energy over
6 the previous three (3) years at the electric distribution account(s) located at the eligible net-metering
7 system site. A projected annual consumption of energy may be used until the actual three-year (3)
8 average 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, [private entity](#), educational institution, hospital, nonprofit, or multi-municipal
18 collaborative through a net-metering financing arrangement shall be treated as an eligible net-
19 metering system and all accounts designated by the public entity, [private entity](#), educational
20 institution, hospital, nonprofit, or multi-municipal collaborative for net metering shall be treated
21 as accounts eligible for net metering 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, [private entity](#), educational institution,
28 hospital, nonprofit, or multi-municipal collaborative through a net-metering financing arrangement,
29 the purpose of this definition is to reasonably assure that energy generated by the eligible net-
30 metering system is consumed by net-metered electric service account(s) that are actually located in
31 the same geographical location as the eligible net-metering system. All energy generated from any
32 eligible net-metering system is, and will be considered, consumed at the meter where the renewable
33 energy resource is interconnected for valuation purposes. Except for an eligible net-metering
34 system owned by, or operated on behalf of, a public entity, [private entity](#), educational institution,

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

1 "public entity", which entities are charged by the distribution company at the C-06 small
2 commercial and industrial rate, the G-02 general commercial and industrial rate, the G-32 large
3 demand rate or the G-62 optional large demand rate.

4 ~~(17)~~(18) "Project" means a distinct installation of an eligible net-metering system or a
5 community remote net-metering system. An installation will be considered distinct if it is installed
6 in a different location, or at a different time, or involves a different type of renewable energy.

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

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

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

24 (ii) Distribution kilowatt-hour charge;

25 (iii) Transmission kilowatt-hour charge; and

26 (iv) Transition kilowatt-hour charge.

27 Notwithstanding the foregoing, except for systems that have requested an interconnection
28 study for which payment has been received by the distribution company, or if an interconnection
29 study is not required, a completed and paid interconnection application, by December 31, 2018, the
30 renewable net-metering credit for all remote public entity and multi-municipal collaborative net-
31 metering systems shall not include the distribution kilowatt-hour charge commencing on January
32 1, 2050.

33 ~~(20)~~(21) "Renewable self-generator" means an electric distribution service customer of
34 record for the eligible net-metering system or community remote net-metering system at the eligible

1 net-metering system site which system is primarily designed to produce electrical energy for
2 consumption by that same customer at its distribution service account(s), and/or, with respect to
3 community remote net-metering systems, electrical energy which generates net-metering credits to
4 be applied to offset the eligible credit-recipient account usage.

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

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

15 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 add a definition for the term "private entity" to the "Net Metering" chapter
2 of title 39, and would include private entity within the provisions of the definition for "eligible net-
3 metering system" and "eligible net-metering system site".

4 This act would take effect upon passage.

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