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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIES -- NET METERING

Introduced By: Senators DiMario, Euer, Britto, Miller, Lawson, Ruggerio, and Kallman

Date Introduced: March 17, 2023

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

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

3 **39-26.4-1. Purpose.**

4 The purpose of this chapter is to facilitate and promote installation of customer-sited, grid-
5 connected generation of renewable energy; to support and encourage customer development of
6 renewable generation systems; to reduce environmental and siting impacts; to reduce carbon
7 emissions that contribute to climate change by encouraging the local siting of renewable energy
8 projects; to diversify the state's energy generation sources; to stimulate economic development; to
9 improve distribution system resilience and reliability; and to reduce distribution system costs.

10 **39-26.4-2. Definitions.**

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

13 (1) "Community remote net-metering system" means a facility generating electricity using
14 an eligible net-metering resource that allocates net-metering credits to a minimum of one account
15 for a system associated with low- or moderate-income housing eligible credit recipients, or three
16 (3) eligible credit-recipient customer accounts, provided that no more than fifty percent (50%) of
17 the credits produced by the system are allocated to one eligible credit recipient, and provided further
18 at least fifty percent (50%) of the credits produced by the system are allocated to the remaining
19 eligible credit recipients in an amount not to exceed that which is produced annually by twenty-

1 five kilowatt (25 KW) AC capacity. The community remote net-metering system may transfer
2 credits to eligible credit recipients in an amount that is equal to or less than the sum of the usage of
3 the eligible credit recipient accounts measured by the three-year (3) average annual consumption
4 of energy over the previous three (3) years. A projected annual consumption of energy may be used
5 until the actual three-year (3) average annual consumption of energy over the previous three (3)
6 years at the eligible credit recipient accounts becomes available for use in determining eligibility
7 of the generating system. The community remote net-metering system may be owned by the same
8 entity that is the customer of record on the net-metered account or may be owned by a third party.

9 (2) “Core forest” refers to unfragmented forest blocks of single or multiple parcels totaling
10 two hundred fifty (250) acres or greater unbroken by development and at least twenty-five yards
11 (25 yds.) from mapped roads, with eligibility questions to be resolved by the director of the
12 department of environmental management. Such determination shall constitute a contested case as
13 defined in § 42-35-1.

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

20 ~~(3)~~(4) “Eligible credit recipient” means one of the following eligible recipients in the
21 electric distribution company’s service territory whose electric service account or accounts may
22 receive net-metering credits from a community remote net-metering system. Eligible credit
23 recipients include the following definitions:

24 (i) Residential accounts in good standing.

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

33 (A) Restricts occupancy of no less than fifty percent (50%) of the housing to households
34 with a gross, annual income that does not exceed eighty percent (80%) of the area median income

1 as defined annually by the United States Department of Housing and Urban Development (HUD);

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

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

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

10 (iii) “Educational institutions” means public and private schools at the primary, secondary,
11 and postsecondary levels.

12 (iv) “Commercial and industrial customers” means any commercial or business entity that
13 is charged by the distribution company at the C-06 small commercial and industrial rate, the G-02
14 general commercial and industrial rate, the G-32 large demand rate or the G-62 optional large
15 demand rate.

16 ~~(4)~~(5) “Eligible net-metering resource” means eligible renewable energy resource, as
17 defined in § 39-26-5 including biogas created as a result of anaerobic digestion, but, specifically
18 excluding all other listed eligible biomass fuels.

19 ~~(5)~~(6) “Eligible net-metering system” means a facility generating electricity using an
20 eligible net-metering resource that is reasonably designed and sized to annually produce electricity
21 in an amount that is equal to, or less than, the renewable self-generator’s usage at the eligible net-
22 metering system site measured by the three-year (3) average annual consumption of energy over
23 the previous three (3) years at the electric distribution account(s) located at the eligible net-metering
24 system site. A projected annual consumption of energy may be used until the actual three-year (3)
25 average annual consumption of energy over the previous three (3) years at the electric distribution
26 account(s) located at the eligible net-metering system site becomes available for use in determining
27 eligibility of the generating system. The eligible net-metering system may be owned by the same
28 entity that is the customer of record on the net-metered accounts or may be owned by a third party
29 that is not the customer of record at the eligible net-metering system site and which may offer a
30 third-party, net-metering financing arrangement or net-metering financing arrangement, as
31 applicable. Notwithstanding any other provisions of this chapter, any eligible net-metering
32 resource: (i) Owned by a public entity, educational institution, hospital, nonprofit, or multi-
33 municipal collaborative or (ii) Owned and operated by a renewable-generation developer on behalf
34 of a public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative

1 through a net-metering financing arrangement shall be treated as an eligible net-metering system
2 and all accounts designated by the public entity, educational institution, hospital, nonprofit, or
3 multi-municipal collaborative for net metering shall be treated as accounts eligible for net metering
4 within an eligible net-metering system site. Any net-metering resource owned by a commercial or
5 industrial customer or owned and operated by a renewable generation developer on behalf of a
6 commercial or industrial customer shall be treated as an eligible net-metering system.

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

32 ~~(7)~~(8) “Excess renewable net-metering credit” means a credit that applies to an eligible net-
33 metering system or community remote net-metering system for that portion of the production of
34 electrical energy beyond one hundred percent (100%) and no greater than one hundred twenty-five

1 percent (125%) of the renewable self-generator’s own consumption at the eligible net-metering
2 system site or the sum of the usage of the eligible credit recipient accounts associated with the
3 community remote net-metering system during the applicable billing period. Such excess
4 renewable net-metering credit shall be equal to the electric distribution company’s avoided cost
5 rate, which is hereby declared to be the electric distribution company’s standard-offer service
6 kilowatt hour (KWh) charge for the rate class and time-of-use billing period (if applicable)
7 applicable to the customer of record for the eligible net-metering system or applicable to the
8 customer of record for the community remote net-metering system. The commission shall have the
9 authority to make determinations as to the applicability of this credit to specific generation facilities
10 to the extent there is any uncertainty or disagreement.

11 ~~(8)~~(9) “Farm” shall be defined in accordance with § 44-27-2, except that all buildings
12 associated with the farm shall be eligible for net-metering credits as long as: (i) The buildings are
13 owned by the same entity operating the farm or persons associated with operating the farm; and (ii)
14 The buildings are on the same farmland as the project on either a tract of land contiguous with, or
15 reasonably proximate to, such farmland or across a public way from such farmland.

16 ~~(9)~~(10) “Hospital” means and shall be defined and established as set forth in chapter 17 of
17 title 23.

18 ~~(10)~~(11) “Multi-municipal collaborative” means a group of towns and/or cities that enter
19 into an agreement for the purpose of co-owning a renewable-generation facility or entering into a
20 financing arrangement pursuant to subsection (14).

21 ~~(11)~~(12) “Municipality” means any Rhode Island town or city, including any agency or
22 instrumentality thereof, with the powers set forth in title 45.

23 ~~(12)~~(13) “Net metering” means using electrical energy generated by an eligible net-
24 metering system for the purpose of self-supplying electrical energy and power at the eligible net-
25 metering system site, or with respect to a community remote net-metering system, for the purpose
26 of generating net-metering credits to be applied to the electric bills of the eligible credit recipients
27 associated with the community net-metering system. The amount so generated will thereby offset
28 consumption at the eligible net-metering system site through the netting process established in this
29 chapter, or with respect to a community remote net-metering system, the amounts generated in
30 excess of that amount will result in credits being applied to the eligible credit-recipient accounts
31 associated with the community remote net-metering system.

32 ~~(13)~~(14) “Net-metering customer” means a customer of the electric distribution company
33 receiving and being billed for distribution service whose distribution account(s) are being net
34 metered.

1 ~~(14)~~(15) “Net-metering financing arrangement” means arrangements entered into by a
2 public entity, educational institution, hospital, nonprofit, ~~or~~ multi-municipal collaborative or a
3 commercial and industrial customer with a private entity to facilitate the financing and operation
4 of a net-metering resource, in which the private entity owns and operates an eligible net-metering
5 resource on behalf of a public entity, educational institution, hospital, nonprofit, ~~or~~ multi-municipal
6 collaborative or commercial or industrial customer, where: (i) The eligible net-metering resource
7 is located on property owned or controlled by the public entity, educational institution, hospital, or
8 ~~one of the municipalities, municipality, multi-municipal collaborative or commercial and industrial~~
9 customer as applicable; and (ii) The production from the eligible net-metering resource and primary
10 compensation paid by the public entity, educational institution, hospital, nonprofit, ~~or~~ multi-
11 municipal collaborative or commercial and industrial customer to the private entity for such
12 production is directly tied to the consumption of electricity occurring at the designated net-metered
13 accounts.

14 ~~(15)~~(16) “Nonprofit” means a nonprofit corporation as defined and established through
15 chapter 6 of title 7, and shall include religious organizations that are tax exempt pursuant to 26
16 U.S.C. § 501(d).

17 ~~(16)~~(17) “Person” means an individual, firm, corporation, association, partnership, farm,
18 town or city of the state of Rhode Island, multi-municipal collaborative, or the state of Rhode Island
19 or any department of the state government, governmental agency, or public instrumentality of the
20 state.

21 (18) “Preferred site” means a location for a renewable energy system that has had prior
22 development, including, but not limited to, landfills, gravel pits and quarries, highway and major
23 road median strips, brownfields, superfund sites, parking lots or sites that are designated
24 appropriate for carpools, and all rooftops including, but not limited to, residential, commercial,
25 industrial and municipal buildings.

26 ~~(17)~~(19) “Project” means a distinct installation of an eligible net-metering system or a
27 community remote net-metering system. An installation will be considered distinct if it is installed
28 in a different location, or at a different time, or involves a different type of renewable energy.
29 Subject to the safe-harbor provisions in § 39-26.4-3(a)(1), new and distinct projects cannot be
30 located on adjoining parcels of land within core forests.

31 (18)(20) “Public entity” means the federal government, the state of Rhode Island,
32 municipalities, wastewater treatment facilities, public transit agencies, or any water distributing
33 plant or system employed for the distribution of water to the consuming public within this state
34 including the water supply board of the city of Providence.

1 ~~(19)~~(21) “Renewable net-metering credit” means a credit that applies to an eligible net-
2 metering system or a community remote net-metering system up to one hundred percent (100%) of
3 either the renewable self-generator’s usage at the eligible net-metering system site or the sum of
4 the usage of the eligible credit-recipient accounts associated with the community remote net-
5 metering system over the applicable billing period. This credit shall be equal to the total kilowatt
6 hours of electrical energy generated up to the amount consumed on-site, and/or generated up to the
7 sum of the eligible credit-recipient account usage during the billing period multiplied by the sum
8 of the distribution company’s:

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

14 (ii) Distribution kilowatt-hour charge;

15 (iii) Transmission kilowatt-hour charge; and

16 (iv) Transition kilowatt-hour charge.

17 Notwithstanding the foregoing, except for systems that have requested an interconnection
18 study for which payment has been received by the distribution company, or if an interconnection
19 study is not required, a completed and paid interconnection application, by December 31, 2018, the
20 renewable net-metering credit for all remote public entity and multi-municipal collaborative net-
21 metering systems shall not include the distribution kilowatt-hour charge commencing on January
22 1, 2050. For commercial and industrial customers, the credit does not include any demand charges
23 included on the customer’s bill.

24 ~~(20)~~(22) “Renewable self-generator” means an electric distribution service customer of
25 record for the eligible net-metering system or community remote net-metering system at the eligible
26 net-metering system site which system is primarily designed to produce electrical energy for
27 consumption by that same customer at its distribution service account(s), and/or, with respect to
28 community remote net-metering systems, electrical energy which generates net-metering credits to
29 be applied to offset the eligible credit-recipient account usage.

30 (21)(23) “Third party” means and includes any person or entity, other than the renewable
31 self-generator, who or that owns or operates the eligible net-metering system or community remote
32 net-metering system on the eligible net-metering system site for the benefit of the renewable self-
33 generator.

34 ~~(22)~~(24) “Third-party, net-metering financing arrangement” means the financing of

1 eligible net-metering systems or community remote net-metering systems through lease
2 arrangements or power/credit purchase agreements between a third party and renewable self-
3 generator, except for those entities under a public entity net-metering financing arrangement. A
4 third party engaged in providing financing arrangements related to such net-metering systems with
5 a public or private entity is not a public utility as defined in § 39-1-2.

6 **39-26.4-3. Net metering.**

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

10 (1)(i) The maximum allowable capacity for eligible net-metering systems, based on
11 nameplate capacity, shall be ten megawatts (10 MW), ~~effective sixty (60) days after passage.~~
12 Eligible net-metering systems shall be sited outside of core forests with the exception of
13 development on preferred sites in the core forest and the exception of systems that have requested
14 an interconnection study for which payment has been received by the distribution company, or if
15 an interconnection study is not required, a completed and paid interconnection application by the
16 effective date of this section. For systems developed in core forests on preferred sites, no more than
17 one hundred thousand square feet (100,000 sq. ft) of core forest shall be removed, except for work
18 required for utility interconnection or development of a brownfield, in which case no more core
19 forest than necessary for interconnection or brownfield development shall be removed. For projects
20 outside of core forests, there is no cap on system size. The aggregate amount of net metering in the
21 Block Island Utility District doing business as Block Island Power Company and the Pascoag
22 Utility District shall not exceed a maximum percentage of peak load for each utility district as set
23 by the utility district based on its operational characteristics, subject to commission approval; ~~and~~

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

1 charge as a part of the net-metering calculation; and

2 (iii) The maximum aggregate of net-metering allowable for eligible net-metering systems,
3 as defined by § 39-26.4-2, with the exception of systems that have requested an interconnection
4 study for which payment has been received by the distribution company, or if an interconnection
5 study is not required, a completed and paid interconnection application by effective date of this
6 section, shall be five hundred fifty megawatts, alternating current (550 MWAC), excluding off-
7 shore wind. None of the systems to which this cap applies shall be in core forests unless on a
8 preferred site located within the core forest.

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

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

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

31 (3) If the electricity generated by an eligible net-metering system or community remote
32 net-metering system during a billing period is equal to, or less than, the net-metering customer's
33 usage at the eligible net-metering system site or the sum of the usage of the eligible credit-recipient
34 accounts associated with the community remote net-metering system during the billing period, the

1 customer shall receive renewable net-metering credits, that shall be applied to offset the net-
2 metering customer's usage on accounts at the eligible net-metering system site, or shall be used to
3 credit the eligible credit-recipient's electric account.

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

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

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

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

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

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

34 **39-26.6-1. Purpose.**

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

19 **39-26.6-3. Definitions.**

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

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

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

31 (3) “Commercial-scale solar project” means a solar distributed-generation project with the
32 nameplate capacity specified in § 39-26.6-7.

33 (4) “Commission” means the Rhode Island public utilities commission.

34 (5) “Community remote distributed-generation system” means a distributed-generation

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

16 (6) “Core forest” refers to unfragmented forest blocks of single or multiple parcels totaling
17 two hundred fifty (250) acres or greater unbroken by development and at least twenty-five (25)
18 acres from mapped roads, with eligibility questions to be resolved by the director of the department
19 of environmental management. Such determination shall constitute a contested case as defined in
20 § 42-35-1. Notwithstanding any other provisions of this chapter, no renewable-distributed-
21 generation project that is located or planned to be located in or on a core forest, shall be considered
22 an eligible renewable-distributed-generation project or otherwise be eligible to participate in this
23 program, unless it is on a preferred site.

24 ~~(6)~~(7) “Distributed-generation facility” means an electrical-generation facility located in
25 the electric distribution company’s load zone with a nameplate capacity no greater than five
26 megawatts (5 MW), using eligible renewable energy resources as defined by § 39-26-5, including
27 biogas created as a result of anaerobic digestion, but, specifically excluding all other listed eligible
28 biomass fuels, and connected to an electrical power system owned, controlled, or operated by the
29 electric distribution company. For purposes of this chapter, a distributed-generation facility must
30 be a new resource that:

- 31 (i) Has not begun operation;
- 32 (ii) Is not under construction, but excluding preparatory site work that is less than twenty-
33 five percent (25%) of the estimated total project cost; and
- 34 (iii) Except for small-scale solar projects, does not have in place investment or lending

1 agreements necessary to finance the construction of the facility prior to the submittal of an
2 application or bid for which the payment of performance-based incentives is sought under this
3 chapter except to the extent that such financing agreements are conditioned upon the project owner
4 being awarded performance-based incentives under the provisions of this chapter. For purposes of
5 this definition, preexisting hydro generation shall be exempt from the provisions of subsection
6 (6)(i) regarding operation, if the hydro-generation facility will need a material investment to restore
7 or maintain reliable and efficient operation and meet all regulatory, environmental, or operational
8 requirements. For purposes of this provision, “material investment” shall mean investment
9 necessary to allow the project to qualify as a new, renewable energy resource under § 39-26-2. To
10 be eligible for this exemption, the hydro-project developer at the time of submitting a bid in the
11 applicable procurement must provide reasonable evidence with its bid application showing the level
12 of investment needed, along with any other facts that support a finding that the investment is
13 material, the determination of which shall be a part of the bid review process set forth in § 39-26.6-
14 16 for the award of bids.

15 ~~(7)~~(8) “Distributed-generation project” means a distinct installation of a distributed-
16 generation facility. An installation will be considered distinct if it does not violate the segmentation
17 prohibition set forth in § 39-26.6-9.

18 ~~(8)~~(9) “Electric distribution company” means a company defined in § 39-1-2(a)(12),
19 supplying standard-offer service, last-resort service, or any successor service to end-use customers,
20 but not including the Block Island Power Company or the Pascoag Utility District.

21 ~~(9)~~(10) “ISO-NE” means Independent System Operator-New England, the Regional
22 Transmission Organization for New England designated by the Federal Energy Regulatory
23 Commission.

24 ~~(10)~~(11) “Large distributed-generation project” means a distributed-generation project that
25 has a nameplate capacity that exceeds the size of a small distributed-generation project in a given
26 year, but is no greater than five megawatts (5 MW) nameplate capacity.

27 ~~(11)~~(12) “Large-scale solar project” means a solar distributed-generation project with the
28 nameplate capacity specified in § 39-26.6-7.

29 ~~(12)~~(13) “Medium-scale solar project” means a solar distributed-generation project with
30 the nameplate capacity specified in § 39-26.6-7.

31 ~~(13)~~(14) “Office” means the Rhode Island office of energy resources.

32 (15) “Preferred sites” means a location for a renewable energy system that has had prior
33 development, including, but not limited to, landfills, gravel pits and quarries, highway and major
34 road median strips, brownfields, superfund sites, parking lots or sites that are designated

1 [appropriate for carports, and all rooftops including, but not limited to, residential, commercial,](#)
2 [industrial and municipal buildings.](#)

3 ~~(14)~~(16) “Program year” means a year beginning April 1 and ending March 31, except for
4 the first program year, that may commence after April 1, 2015, subject to commission approval.

5 ~~(15)~~(17) “Renewable energy certificate” means a New England Generation Information
6 System renewable energy certificate as defined in § 39-26-2(14).

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

18 ~~(17)~~(19) “Shared solar facility” means a single small-scale or medium-scale solar facility
19 that must allocate bill credits to at least two (2), and no more than fifty (50), accounts in the same
20 customer class and on the same or adjacent parcels of land. Public entities may allocate such bill
21 credits to at least two (2), and up to fifty (50), accounts without regard to physical location so long
22 as the facility and accounts are within the same municipality. In no case will the annual allocated
23 credits in KWh exceed the prior three-year (3) annual average usage, less any reductions for verified
24 energy-efficiency measures installed at the customer premises, of the customer account to which
25 the bill credits are transferred.

26 ~~(18)~~(20) “Small distributed-generation project” means a distributed-generation renewable
27 energy project that has a nameplate capacity within the following: Wind: fifty kilowatts (50 KW)
28 to one and one-half megawatts (1.5 MW); small-scale solar projects and medium-scale solar
29 projects with the capacity limits as specified in § 39-26.6-7. For technologies other than solar and
30 wind, the board shall set the nameplate capacity-size limits, but such limits may not exceed one
31 megawatt (1 MW).

32 ~~(19)~~(21) “Small-scale solar project” means a solar distributed-generation project with the
33 nameplate capacity specified in § 39-26.6-7.

34 **39-26.6-5. Tariffs proposed and approved.**

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

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

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

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

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

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

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

34 (4) For community remote distributed-generation systems, administrative costs and

1 financial benefits for participating customers;

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

3 (6) Cost-effectiveness; and

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

5 (8) Labor and standards to promote fair labor standards, support local jobs and prioritize
6 hiring and training for workers affected by the transition to renewable energy, under-represented
7 in the work force, of facing employment barriers, including women, people of color, veterans,
8 formerly incarcerated individuals, and people with disabilities.

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

15 **39-26.6-12. Annual bidding and enrollments.**

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

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

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

34 (1) For the first program year (2015), the annual MW target shall be twenty-five nameplate

1 megawatts (25 MW);

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

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

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

13 (5) From the year 2020 through the year 2029, ~~the annual target for each program year shall~~
14 ~~be an additional forty nameplate megawatts (40 MW) above the annual target for the preceding~~ all
15 projects that bid in under the relevant ceiling price are eligible, with a target of up to three hundred
16 megawatts (300 MW) for each program year.

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

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

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

31 (1) That it is reasonable to conclude that the bid prices submitted in the procurements for the large-
32 scale solar and commercial-scale solar classes were reasonably competitive in the immediately
33 preceding program year; (2) That it is reasonable to conclude that the annual MW target specified
34 for the next program year is reasonably achievable; and (3) That the electric distribution company

1 was able to, or with reasonably prudent efforts should have been able to, perform the studies and
2 system upgrades on a timely basis necessary to accommodate the number of applications associated
3 with the targets without materially adversely affecting other electric-distribution construction
4 projects needed to provide reliable and safe electric-distribution service. To the extent the board or
5 the commission concludes that any of these conditions have not been met for the applicable
6 program year, the board may recommend, and/or the commission may adopt, a new annual MW
7 target, based on the factors set forth in subsection (h) of this section.

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

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

33 (i) The renewable energy growth program is intended to achieve at least an aggregate
34 amount of one hundred sixty nameplate megawatts (160 MW) over five (5) years, plus any shortfall

1 amount added in pursuant to subsection (e) of this section. However, after the second program year,
2 the board may, based on market data and other information available to it, including pricing
3 received during previous program years, recommend changes to the annual target for any program
4 year above or below the specified targets in subsection (c) of this section if the board concludes
5 that market conditions are likely to produce favorably low or unfavorably high target pricing during
6 the upcoming program year, provided that the recommendation may not result in the five-year (5),
7 one-hundred-sixty-megawatt-nameplate (160 MW) target, plus any shortfall added pursuant to
8 subsection (e) of this section, being exceeded. Any megawatt reduction in an annual target shall be
9 added to the target in the fifth year of the program (and any subsequent years if necessary) such
10 that the overall program target of one-hundred-sixty-megawatt-nameplate (160 MW) capacity, plus
11 any shortfall added pursuant to subsection (e) of this section, is achieved. In considering these
12 issues, the board and the commission may take into account the reasonableness of current pricing
13 and its impact on all electric distribution customers and the legislative purpose of this chapter as
14 set forth herein, including the program purpose to facilitate the development of renewable
15 distributed generation in the load zone of the electric distribution company at reasonable cost.

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

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

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

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

31 **39-26.6-22. Zonal and other incentive payments.**

32 In order to provide the electric distribution company [and the board](#) with the flexibility to
33 encourage distributed-generation projects to be located in designated geographical areas within its
34 load zone where there is an identifiable system benefit, reliability benefit, or cost savings to the

1 distribution system in that geographical area, the electric distribution company, ~~in consultation with~~
2 ~~the board and the office, may propose to include an incentive payment adder to the bid price of any~~
3 ~~winning bidder that proposes a distributed-generation project in the desired geographical area.~~
4 conservation benefit, or climate resilience benefit in that geographical area, the electric distribution
5 company, the board or the office, shall propose to include an incentive-payment adder to the bid
6 price of any winning bidder that proposes a distributed-generation project in the preferred sites that
7 require remediation. The company, board, or office can also propose disincentive subtractors for
8 projects outside of preferred areas. The electric distribution company also may propose other
9 incentive payments to achieve other technical or public policy objectives that provide identifiable
10 benefits to customers. Any incentive-payment adders must be approved by the commission, and
11 shall not be counted as part of the bid price when the bids are selected at an enrollment event.

12 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 CARRIES -- NET METERING

1 This act would define core forest and preferred sites and would provide that any net-
2 metering resource owned or operated by a renewable energy developer be treated as an eligible net-
3 metering system provided it is not in a core forest.

4 This act would take effect upon passage.

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