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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- THE RENEWABLE ENERGY
GROWTH PROGRAM

Introduced By: Representatives Chippendale, J. Brien, Paplauskas, Quattrocchi,
Santucci, Newberry, Place, Fascia, Nardone, and Hopkins

Date Introduced: April 09, 2025

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 39-26.6 of the General Laws entitled "The Renewable Energy
2 Growth Program" is hereby repealed in its entirety.

~~CHAPTER 39-26.6~~

~~The Renewable Energy Growth Program~~

~~**39-26.6-1. Purpose.**~~

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

~~**39-26.6-2. Renewable energy growth program established.**~~

~~To carry out these purposes, a tariff-based, renewable energy distributed generation~~

1 ~~financing program, hereinafter referred to as the renewable energy growth program, is hereby~~
2 ~~established with the intention of continuing the development of renewable energy distributed~~
3 ~~generation in the load zone of the electric distribution company at reasonable cost. The program~~
4 ~~shall be designed to finance the development, construction, and operation of renewable energy~~
5 ~~distributed generation projects over five (5) years through a performance based incentive system~~
6 ~~that is designed to achieve specified megawatt targets at reasonable cost through competitive~~
7 ~~processes. The renewable energy growth program shall be implemented by the electric distribution~~
8 ~~company, and guided by the distributed generation board, in consultation with the office of energy~~
9 ~~resources, subject to the review and supervision of the commission.~~

10 **39-26.6-3. Definitions.**

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

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

15 ~~(2) "Ceiling price" means the bidding price cap(s) applicable to each annual enrollment for~~
16 ~~a given distributed generation class, that shall be approved for each renewable energy class~~
17 ~~pursuant to the procedure established in this chapter. The ceiling price(s) are not required to, but~~
18 ~~may be, approved for up to three years. The ceiling price for each technology should be a price that~~
19 ~~would allow a private owner to invest in a given project at a reasonable rate of return, based on~~
20 ~~recently reported and forecast information on the cost of capital and the cost of generation~~
21 ~~equipment. The calculation of the reasonable rate of return for a project shall include, where~~
22 ~~applicable, any state or federal incentives, including, but not limited to, tax incentives. Nothing~~
23 ~~shall prohibit the distributed generation board from proposing revised ceiling prices prior to a~~
24 ~~program year to account for changes to available federal or state tax incentives, trade tariffs, or~~
25 ~~other federal or state incentives that would affect the calculation of the rate of return on a project.~~

26 ~~(3) "Commercial scale solar project" means a solar distributed generation project with the~~
27 ~~nameplate capacity specified in § 39-26.6-7.~~

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

29 ~~(5) "Community remote distributed generation system" means a distributed generation~~
30 ~~facility greater than two hundred fifty kilowatt (250 KW) nameplate direct current that allocates~~
31 ~~bill credits for each kilowatt hour (KWh) generated to a minimum of three (3), eligible recipient-~~
32 ~~customer accounts, provided that no more than fifty percent (50%) of the credits produced by the~~
33 ~~system are allocated to one eligible recipient customer account, and provided further that at least~~
34 ~~fifty percent (50%) of the credits produced by the system are allocated to eligible recipients in an~~

1 ~~amount not to exceed that which is produced annually by twenty five kilowatt (25 KW) AC~~
2 ~~capacity. The community remote distributed generation system may transfer credits to eligible~~
3 ~~recipient customer accounts in an amount that is equal to, or less than, the sum of the usage of the~~
4 ~~eligible recipient customer accounts measured by the three year average (3) annual consumption~~
5 ~~of energy over the previous three (3) years. A projected, annual consumption of energy may be~~
6 ~~used until the actual three year average (3) annual consumption of energy over the previous three~~
7 ~~(3) years at the eligible recipient customer accounts becomes available for use in determining~~
8 ~~eligibility of the generating system. The community remote distributed generation system may be~~
9 ~~owned by the same entity that is the customer of record on the net metered account or may be~~
10 ~~owned by a third party.~~

11 ~~(6) "Core forest" refers to unfragmented forest blocks of single or multiple parcels totaling~~
12 ~~two hundred fifty (250) acres or greater unbroken by development and at least twenty five (25)~~
13 ~~yards from mapped roads, with eligibility questions to be resolved by the director of the department~~
14 ~~of environmental management. Such determination shall constitute a contested case as defined in~~
15 ~~§ 42-35-1. Notwithstanding any other provisions of this chapter, no renewable distributed~~
16 ~~generation project that is located or planned to be located in or on a core forest, shall be considered~~
17 ~~an eligible renewable distributed generation project or otherwise be eligible to participate in this~~
18 ~~program, unless it is on a preferred site.~~

19 ~~(7) "Distributed generation facility" means an electrical generation facility located in the~~
20 ~~electric distribution company's load zone with a nameplate capacity no greater than five megawatts~~
21 ~~(5 MW), except for solar projects as described in § 39-26-6-7 that may exceed five megawatts (5~~
22 ~~MW) but shall not be greater than fifteen megawatts (15 MW), unless located on preferred sites, in~~
23 ~~which case they may be sized up to thirty nine megawatts (39 MW), using eligible renewable~~
24 ~~energy resources as defined by § 39-26-5, including biogas created as a result of anaerobic~~
25 ~~digestion, but, specifically excluding all other listed eligible biomass fuels, and connected to an~~
26 ~~electrical power system owned, controlled, or operated by the electric distribution company. For~~
27 ~~facilities developed in core forests on preferred sites, no more than one hundred thousand square~~
28 ~~feet (100,000 sq. ft.) of core forest shall be removed, except for work required for utility~~
29 ~~interconnection or development of a brownfield, in which case no more core forest than necessary~~
30 ~~for interconnection or brownfield development shall be removed. For purposes of this chapter, a~~
31 ~~distributed generation facility must be a new resource that:~~

32 ~~(i) Has not begun operation;~~

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

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

16 ~~(8) “Distributed generation project” means a distinct installation of a distributed~~
17 ~~generation facility. An installation will be considered distinct if it does not violate the segmentation~~
18 ~~prohibition set forth in § 39-26-6-9.~~

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

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

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

28 ~~(12) “Large scale solar project” means a solar distributed generation project with the~~
29 ~~nameplate capacity specified in § 39-26-6-7.~~

30 ~~(13) “Medium scale solar project” means a solar distributed generation project with the~~
31 ~~nameplate capacity specified in § 39-26-6-7.~~

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

33 ~~(15) “Preferred sites” means a location for a renewable energy system that has had prior~~
34 ~~development, including, but not limited to: landfills, gravel pits and quarries, highway and major~~

1 ~~road median strips, brownfields, superfund sites, parking lots or sites that are designated~~
2 ~~appropriate for carports, and all rooftops including, but not limited to, residential, commercial,~~
3 ~~industrial and municipal buildings.~~

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

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

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

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

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

34 (21) ~~“Small scale solar project” means a solar distributed generation project with the~~

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

2 **39-26.6-4. Continuation of board.**

3 ~~(a) The distributed generation standard contract board shall remain fully constituted and~~
4 ~~authorized as provided in chapter 26.2 of this title; provided, however, that the name shall be~~
5 ~~changed to the “distributed generation board.” Additional purposes of the board shall be to:~~

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

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

13 ~~(3) Monitor and evaluate the effectiveness of the distributed generation growth program.~~

14 ~~(b) The office, in consultation with the board, shall be authorized to hire, or to request the~~
15 ~~electric distribution company to hire, the services of qualified consultants to perform ceiling price~~
16 ~~studies subject to commission approval that shall be granted or denied within sixty (60) days of~~
17 ~~receipt of such request from the office. The cost of the studies shall be recoverable through the rate-~~
18 ~~reconciliation provisions of the electric distribution company set forth in § 39-26.6-25, subject to~~
19 ~~commission approval. In addition, the office, in consultation with the board, may request the~~
20 ~~commission to approve other costs incurred by the board, office, or the electric distribution~~
21 ~~company to utilize consultants for annual programmatic services or to perform any other studies~~
22 ~~and reports, subject to the review and approval of the commission, that shall be granted or denied~~
23 ~~within one hundred twenty (120) days of receipt of the request from the office, and that shall be~~
24 ~~recoverable through the same reconciliation provisions.~~

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

29 **39-26.6-5. Tariffs proposed and approved.**

30 ~~(a) Each year the electric distribution company shall file tariffs with the commission that~~
31 ~~are designed to provide a multiyear stream of performance-based incentives to eligible renewable-~~
32 ~~distributed generation projects for a term of years, under terms and conditions set forth in the tariffs~~
33 ~~and approved by the commission. The tariffs shall set forth the rights and obligations of the owner~~
34 ~~of the distributed generation project and the conditions upon which payment of performance-based~~

1 ~~incentives by the electric distribution company will be paid. The tariffs shall include the non-price~~
2 ~~conditions set forth in §§ 39-26.2-7(2)(i) — (vii) for small distributed generation projects (other~~
3 ~~than small and medium scale solar) and large distributed generation projects; provided, however,~~
4 ~~that the time periods for the projects to reach ninety percent (90%) of output shall be extended to~~
5 ~~twenty-four (24) months (other than eligible anaerobic digestion projects, which shall be thirty-six~~
6 ~~(36) months, and eligible small scale hydro, and large scale solar projects which shall be forty-~~
7 ~~eight (48) months). The non-price conditions in the tariffs for small and medium scale solar shall~~
8 ~~take into account the different circumstances for distributed generation projects of the smaller sizes.~~

9 ~~(b) In addition to the tariff(s), the filing shall include the rules governing the solicitation~~
10 ~~and enrollment process. The solicitation rules will be designed to ensure the orderly functioning of~~
11 ~~the distributed generation growth program and shall be consistent with the legislative purposes of~~
12 ~~this chapter.~~

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

22 ~~(d) In setting the ceiling prices, the board may specifically consider:~~

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

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

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

27 ~~(4) For community remote distributed generation systems, administrative costs and~~
28 ~~financial benefits for participating customers;~~

29 ~~(5) System benefits;~~

30 ~~(6) Cost effectiveness;~~

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

32 ~~(8) Labor standards pursuant to chapter 26.9 of this title.~~

33 ~~(e) At least forty-five (45) days before filing the tariff(s) and solicitation rules, the electric~~
34 ~~distribution company shall provide the tariff(s) and rules in draft form to the board for review. The~~

1 ~~commission shall have the authority to determine the final terms and conditions in the tariff and~~
2 ~~rules. Once approved, the commission shall retain exclusive jurisdiction over the performance-~~
3 ~~based incentive payments, terms, conditions, rights, enforcement, and implementation of the tariffs~~
4 ~~and rules, subject to appeals pursuant to chapter 5 of this title.~~

5 **39-26.6-6. Permanence of tariff terms once set.**

6 ~~It is the intention of the general assembly in enacting this chapter that the developers,~~
7 ~~owners, investors, customers, and lenders of the distributed generation projects receiving~~
8 ~~performance based incentives under the tariffs be able to rely on the tariffs for the entire term of~~
9 ~~the applicable tariff for purposes of obtaining financing. Consistent with that intention and~~
10 ~~expectation, the terms under the tariffs for a given program year, once approved by the commission,~~
11 ~~shall not be altered in any way that would undermine such reliance on those tariffs during the~~
12 ~~applicable terms of the tariffs; and in no circumstance will the performance based incentive rate~~
13 ~~paid to a renewable energy project developer or owner be reduced during the term of the tariff once~~
14 ~~a renewable energy project has qualified to receive a tariff under the terms of this chapter.~~

15 **39-26.6-7. Solar project size categories.**

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

- 18 ~~(1) Small scale solar projects;~~
19 ~~(2) Medium scale solar projects;~~
20 ~~(3) Commercial scale solar projects; and~~
21 ~~(4) Large scale solar projects.~~

22 ~~(b) Such classes of solar distributed generation projects shall be established based on~~
23 ~~nameplate megawatt size as follows:~~

24 ~~(1) Large scale solar projects shall be comprised of four (4) classes as follows:~~

25 ~~(i) One megawatt (1 MW) but less than five megawatts (5 MW), nameplate capacity;~~

26 ~~(ii) Five megawatts (5 MW), but less than ten megawatts (10 MW), nameplate capacity;~~

27 ~~(iii) Ten megawatts (10 MW), but less than fifteen megawatts (15 MW), nameplate~~
28 ~~capacity; and~~

29 ~~(iv) Fifteen megawatts (15 MW), but less than thirty nine megawatts (39 MW), nameplate~~
30 ~~capacity for projects located on preferred sites;~~

31 ~~(2) Commercial scale shall be comprised of solar projects greater than two hundred fifty~~
32 ~~kilowatts (250 KW), but less than one megawatt (1 MW) nameplate capacity;~~

33 ~~(3) Medium scale shall be comprised of solar projects greater than twenty five kilowatts~~
34 ~~(25 KW), up to and including, two hundred fifty kilowatts (250 KW) nameplate capacity; and~~

1 ~~(4) Small scale shall be comprised of solar projects up to and including twenty five~~
2 ~~kilowatts (25 KW) nameplate capacity.~~

3 ~~(e) Other classifications of solar projects may also be proposed by the board, subject to the~~
4 ~~approval of the commission. After the second program year, the board may make recommendations~~
5 ~~to the commission to adjust the size categories of the solar classes, provided that the medium scale~~
6 ~~solar projects may not exceed two hundred fifty kilowatts (250 KW); and/or allocated capacity to~~
7 ~~community distributed generation facilities, allowing them to compete or enroll under a distinct~~
8 ~~ceiling price.~~

9 ~~**39-26.6-8. Renewable technologies other than solar.**~~

10 ~~Tariffs also shall be proposed for on shore wind and any other distributed generation~~
11 ~~technologies permissible under this chapter that the board, in its discretion, recommends; provided,~~
12 ~~however, that no project shall exceed five megawatts (5 MW) nameplate capacity. The electric~~
13 ~~distribution company shall file tariffs for each technology and size categories recommended by the~~
14 ~~board pursuant to the procedures set forth in this chapter.~~

15 ~~**39-26.6-9. Project segmentation prohibition.**~~

16 ~~In no case may a project developer be allowed to segment a distributed generation project~~
17 ~~on the same parcel or contiguous parcels into smaller sized projects in order to fall under a smaller-~~
18 ~~size project classification. Notwithstanding this prohibition, a project developer may designate a~~
19 ~~generation unit on the same parcel or contiguous parcel for net metering or other means of~~
20 ~~participating in electricity markets, provided that the unit, or portion of the unit, designated for net~~
21 ~~metering or other market participation is not receiving performance based incentives under this~~
22 ~~chapter; is capable of being segregated electrically; is configured with the electrical segregation;~~
23 ~~and is separately metered. Further, a project shall not be considered to have been segmented if:~~

24 ~~(1) There is a lapse of at least twenty four (24) months between: (i) The commencement~~
25 ~~of construction of new distributed generation units on a parcel that is the same as, or is contiguous~~
26 ~~with, a parcel upon which a distributed generation project has already been constructed; and (ii)~~
27 ~~The operation date of the preexisting project; or~~

28 ~~(2) The new project is a different renewable technology.~~

29 ~~**39-26.6-10. Timing and schedule of tariff filings.**~~

30 ~~(a) The electric distribution company shall file with the commission the first set of tariffs~~
31 ~~and solicitation rules pursuant to this chapter no later than November 15, 2014. Thereafter, the~~
32 ~~electric distribution company shall make tariff and solicitation rules filings with the commission~~
33 ~~no later than November 15 prior to the beginning of the applicable program year when necessary,~~
34 ~~which tariffs and rules shall be applicable for the next program year(s).~~

1 ~~(b) Upon receiving the filing from the electric distribution company, the commission shall~~
2 ~~open a docket to consider the filing. The commission shall issue an order approving the proposed~~
3 ~~tariffs and solicitation rules; provided, however, that the commission may make any modifications~~
4 ~~that it deems appropriate consistent with the legislative purposes of this chapter as set forth herein.~~

5 ~~(c) The commission shall approve tariff(s) and solicitation rules prior to the~~
6 ~~commencement of the applicable year(s).~~

7 ~~(d) During the course of any program year, the electric distribution company may, at any~~
8 ~~time, in consultation with the office and the board, propose tariff or solicitation rules modifications.~~
9 ~~The commission shall consider the proposed modifications through an already open or new docket,~~
10 ~~and shall issue its order within one hundred five (105) days of the filing of the proposed~~
11 ~~modification. If approved, the proposed modification shall take effect for the next enrollment event~~
12 ~~following the issuance of the commission's order.~~

13 **39-26.6-11. Power purchase agreements not required.**

14 ~~The distributed generation growth program shall be implemented and administered~~
15 ~~exclusively through the tariff structure and procedures set forth in this chapter, and the electric~~
16 ~~distribution company shall not be required to execute power purchase agreements for the~~
17 ~~procurement of the renewable energy distributed generation capacity requirements set forth in this~~
18 ~~chapter.~~

19 **39-26.6-12. Annual bidding and enrollments.**

20 ~~(a) The electric distribution company, in consultation with the board and office, shall~~
21 ~~conduct at least three (3) tariff enrollments for each distributed generation class each program year.~~

22 ~~(b) During each program year, the tariff enrollments shall have both an annual targeted~~
23 ~~amount of nameplate megawatts ("annual MW target") and a nameplate megawatt target for each~~
24 ~~separate enrollment event ("enrollment MW target"). The enrollment MW target shall comprise the~~
25 ~~specific portion of the annual MW target sought to be obtained in that enrollment. The annual MW~~
26 ~~target(s) and enrollment MW targets shall be recommended by the board no less frequently than~~
27 ~~every three (3) years, subject to commission approval. The board shall also recommend a megawatt~~
28 ~~target for each class ("class MW target") that comprises a specified portion of the enrollment MW~~
29 ~~target, subject to commission approval. If the electric distribution company, the office, and the~~
30 ~~board mutually agree, they may reallocate megawatts during an enrollment from one class to~~
31 ~~another without commission approval if there is an over-subscription in one class and an under-~~
32 ~~subscription in another, provided that the annual MW target is not being exceeded, except as~~
33 ~~provided in § 39-26.6-17. No reallocation of megawatts from a competitive pricing class to a non-~~
34 ~~competitive pricing class shall be made until after the completion of the three (3) enrollment periods~~

1 ~~in the program year and in no case may the annual MW target be exceeded as a result of a~~
2 ~~reallocation of megawatts.~~

3 ~~(e) The annual MW targets shall be established from the year 2023 through the year 2033.~~
4 ~~The annual target for each program year shall be up to three hundred megawatts (300 MW);~~
5 ~~provided that, thirty megawatts (30 MW) shall be reserved for projects less than one megawatt (1~~
6 ~~MW). The board may petition the commission for approval of multi year annual targets and~~
7 ~~associated ceiling prices.~~

8 ~~(d) —(j) [Deleted by P.L. 2023, ch. 300, § 2 and P.L. 2023, ch. 301, § 2.]~~

9 **39-26.6-13. Cost reconciliation.**

10 ~~To the extent the electric distribution company incurs incremental costs to meet the~~
11 ~~program objectives or make billing system improvements that are required to facilitate payments~~
12 ~~of performance based incentives and administering net metering, the electric distribution company~~
13 ~~may elect to recover those incremental costs through the annual charge set forth in § 39-26.6-25,~~
14 ~~subject to commission review and approval that assures such costs were properly and prudently~~
15 ~~incurred.~~

16 **39-26.6-14. Existing powers of agencies and advocacy rights of parties unchanged.**

17 ~~Nothing in this chapter shall be construed to derogate from the statutory authority of the~~
18 ~~commission or the division of public utilities and carriers, including, but not limited to, the authority~~
19 ~~to protect ratepayers from unreasonable rates. Nothing in this chapter shall be construed to preclude~~
20 ~~any party from advocating a position in commission proceedings that differs from the~~
21 ~~recommendations made by the board to the commission or in any filing with the commission~~
22 ~~relating to this chapter, including, without limitation: (1) Individual or organizational members of~~
23 ~~the board; (2) Participants in board deliberations; (3) The office; and (4) The electric distribution~~
24 ~~company, unless the party has consented by vote to the execution or executed a settlement~~
25 ~~agreement agreeing to the terms, policy proposals, or any other matter proposed to the commission.~~

26 **39-26.6-15. Bidding and incentive award processes for solar DG projects.**

27 ~~(a) Large scale and commercial scale solar projects and distributed generation projects for~~
28 ~~other eligible technologies shall bid a price per kilowatt hour for the entire output of the facility~~
29 ~~(net of any station service) that shall not exceed the applicable ceiling price. Small scale and~~
30 ~~medium scale solar projects will submit an enrollment application to receive a standard~~
31 ~~performance based incentive for the period of years in the applicable tariff, that shall be a price-~~
32 ~~per kilowatt hour for the entire output of the facility. Except for megawatts that may be allocated~~
33 ~~to the energy efficiency program pursuant to § 39-26.6-19, small and medium scale projects shall~~
34 ~~be selected on a first come, first served basis, or by means of a commission approved lottery~~

1 ~~system, or such other method as may be recommended by the board and approved by the~~
2 ~~commission.~~

3 ~~(b) Except for the first program year, the board shall determine, subject to commission~~
4 ~~approval, the standard performance-based incentive for small and medium-sized solar projects~~
5 ~~from the average bid price from the last two (2) procurement enrollments conducted in the~~
6 ~~commercial scale and/or large scale solar projects class. The standard performance incentive may~~
7 ~~be set at a higher rate than payments for commercial scale and large scale solar projects in order to~~
8 ~~take into account the potentially higher per unit cost of smaller projects. The standard performance~~
9 ~~incentive also shall be adjusted upward or downward, as needed, in order to take into account the~~
10 ~~term length over which the incentive shall be paid for the small and medium scale solar projects~~
11 ~~if such terms are different than the terms applicable to the classes from which the standard~~
12 ~~performance incentive was derived.~~

13 ~~(c) For each program year, the board shall recommend to the commission a standard~~
14 ~~performance incentive for each of the small scale and medium scale solar project classifications,~~
15 ~~which performance incentives may span up to three program years. Upon receiving the~~
16 ~~recommendations from the board, the commission shall open a docket to consider the~~
17 ~~recommendations or address the recommendations in its approval process for the applicable~~
18 ~~program year(s) in a consolidated docket as provided in § 39-26.6-10. The commission shall issue~~
19 ~~its order approving the recommendations no later than concurrently with approval of the entire~~
20 ~~program and tariffs applicable to the program year; provided, however, that the commission may~~
21 ~~make modifications or changes to the board's recommendations consistent with the legislative~~
22 ~~purposes of this chapter.~~

23 ~~(d) If after the first program year, the applications for the medium scale solar projects are~~
24 ~~significantly over-subscribed, then the board and the electric distribution company, in consultation~~
25 ~~with the office, may propose to the commission a bidding process for medium scale projects or a~~
26 ~~subset of the medium scale projects under which project selections would be made based on the~~
27 ~~lowest bids, rather than first come, first served or such other method previously approved by the~~
28 ~~commission. The commission shall approve the proposal from the board and electric company~~
29 ~~within ninety (90) days; provided, however, that the commission may make changes to the proposal~~
30 ~~consistent with the legislative purposes of this chapter.~~

31 ~~(e) The commission shall approve the bidding process for medium scale solar projects~~
32 ~~recommended by the board only if the commission finds that such bidding process is in a~~
33 ~~sufficiently simple form that is not administratively burdensome to bidders, and will not have the~~
34 ~~effect of discouraging participation in the distributed generation growth program by developers of~~

1 ~~medium-scale solar projects that may be unrepresented by counsel.~~

2 **39-26.6-16. Enrollment program.**

3 ~~(a) Each enrollment shall be open for a two-week (2) period during which the electric~~
4 ~~distribution company is required to receive standard short-form applications. The standard short-~~
5 ~~form application shall require the applicant to provide the following information: the project~~
6 ~~owner's identity; the location of the proposed project; the nameplate capacity of the proposed~~
7 ~~project; and renewable energy class of the proposed project. The standard short-form application~~
8 ~~shall allow project owners to provide additional information relative to the permitting, financial~~
9 ~~feasibility, ability to build, and timing for deployment of the proposed projects. The applicant must~~
10 ~~submit an affidavit with the standard short-form application confirming that the project is not in~~
11 ~~violation of the rules that prohibit project segmentation, as set forth in § 39-26.6-9.~~

12 ~~(b) For large distributed-generation projects only, the standard short-form application shall~~
13 ~~also require the applicant to bid a bundled price that applies to the energy, renewable energy~~
14 ~~certificates, and all other environmental attributes and market products that are available, or may~~
15 ~~become available, from the distributed-generation facility on a per-kilowatt-hour basis measured~~
16 ~~from the output of the project. At the election of the electric distribution company, and subject to~~
17 ~~the approval of the commission, the bid may be required to include the sale of capacity.~~

18 ~~(c) For (i) Small distributed-generation projects other than small-scale and medium-scale~~
19 ~~solar projects; and (ii) Large distributed-generation projects, the electric distribution company shall~~
20 ~~select projects based on the lowest proposed prices received that do not exceed the ceiling price~~
21 ~~from the distributed-generation projects that meet the requirements of all applicable tariffs and~~
22 ~~regulations, and meet the criteria of the renewable energy class in effect, until the class target is~~
23 ~~met. Performance-based incentives shall be awarded to the winning bidders based on their bids~~
24 ~~submitted.~~

25 ~~(d) For small-scale and medium-scale solar projects, awards shall be made in the manner~~
26 ~~set forth in §§ 39-26.6-15 and 39-26.6-19.~~

27 ~~(e) If there are more projects bidding at the same price than the capacity that is specified~~
28 ~~for a class target, the electric distribution company shall, in consultation with the board and the~~
29 ~~office, select first those projects that appear to be the furthest along in development and that are~~
30 ~~most likely to be deployed. Those projects that are likely to be deployed at the earliest time shall~~
31 ~~be selected first. To the extent the electric distribution company is unable to make a clear distinction~~
32 ~~on this basis, the electric distribution company shall report its findings to the board and not award~~
33 ~~bids for those projects that are tied on pricing. In that case, the board may take such action as it~~
34 ~~deems appropriate for the selection of projects, including seeking more information from the~~

1 ~~projects.~~

2 ~~(f) Should the electric distribution company determine that it has made sufficient awards~~
3 ~~to achieve a program year class target, it shall immediately report this fact to the board, the office,~~
4 ~~and the commission, and may cease making awards for that renewable energy class for the~~
5 ~~remainder of the program year. In any event, the electric distribution company may exceed the~~
6 ~~renewable energy class target if the last award may cause the total purchased to exceed the target.~~

7 ~~(g) The board, the office, and the electric distribution company shall enter into a~~
8 ~~memorandum of understanding regarding the sharing of the information and data related to the~~
9 ~~renewable energy growth program, including, without limitation, information on bids received,~~
10 ~~details regarding project ownership, and pricing. At the request of the board, the office, or the~~
11 ~~electric distribution company, the commission shall have the authority to protect from public~~
12 ~~disclosure individual bid information for any projects that have not been awarded performance-~~
13 ~~based incentives.~~

14 ~~(h) The electric distribution company is authorized to award bids up to the applicable~~
15 ~~ceiling price. As long as the terms of the tariff are met, and the pricing is no higher than the~~
16 ~~applicable ceiling price, such awards shall be deemed prudent and approved by the commission for~~
17 ~~purposes of recovering the costs in rates.~~

18 ~~(i) With respect to any procurement that includes bids from pre-existing, hydroelectric~~
19 ~~generation, the electric distribution company, in consultation with the office, shall have the~~
20 ~~authority to accept the applicant's representation that its investment is material, within the meaning~~
21 ~~of § 39-26.6-3(7). However, if the electric distribution company or the office questions whether the~~
22 ~~material investment standard has been met or the application is otherwise rejected, the application~~
23 ~~shall be submitted to the board for review and the board shall draw its own conclusion and make a~~
24 ~~recommendation to the commission at the time the commission is approving awards from the~~
25 ~~procurement to which the application pertains. The commission shall have the final authority to~~
26 ~~make the determination as to whether the material investment standard has been met. Nothing in~~
27 ~~this subsection shall preclude a project developer from seeking a preliminary confirmation of~~
28 ~~eligibility for the material investment exemption from the electric distribution company, the office,~~
29 ~~and the board prior to the submittal of a bid. In such case, if there is any disagreement, the final~~
30 ~~determination shall be submitted to the commission.~~

31 **39-26.6-17. Excess enrollment not required.**

32 ~~The electric distribution company shall not be required to award bids in excess of the~~
33 ~~annual target for the applicable program year and shall not be required to procure projects in excess~~
34 ~~of any limit set by the board and approved by the commission for a given enrollment. However,~~

1 ~~the electric distribution company, in consultation with the board and the office, may voluntarily~~
2 ~~exceed an enrollment period limit as long as it does not exceed an annual target for the applicable~~
3 ~~program year. At its election, the electric distribution company may exceed an annual target for the~~
4 ~~applicable program year after review by the board and approval by the commission.~~

5 ~~**39-26.6-18. Utility right to separately meter.**~~

6 ~~Owners of medium scale, commercial scale, and large scale solar projects and other~~
7 ~~distributed generation technologies shall be required to provide, at their cost, a revenue quality~~
8 ~~meter to standards approved by the division of public utilities and carriers and provide access to~~
9 ~~the information from the meter to the electric distribution company to measure the output of the~~
10 ~~generation. The electric distribution company shall have the discretion to install the second meter~~
11 ~~in a parallel configuration to the retail meter or behind the meter, provided that a parallel installation~~
12 ~~shall have no effect on the right of the customer to net meter using the net of the two meters. The~~
13 ~~electric distribution company also shall have the right to install its own revenue quality meter for~~
14 ~~small scale solar projects if not being supplied by the owner. The electric distribution company~~
15 ~~shall recover the installation and capital cost of the separate meters it installs for small scale solar~~
16 ~~projects in the annual reconciliation of solar costs under § 39-26.6-25.~~

17 ~~**39-26.6-19. Coordination with energy efficiency programs.**~~

18 ~~(a) In consultation with the office, the electric distribution company may make a request to~~
19 ~~the commission that up to half of the megawatts for the small and medium scale solar project~~
20 ~~enrollments be allocated by the commission for selection through a process coordinated with the~~
21 ~~energy efficiency program in order that specified solar incentives may be tied with energy~~
22 ~~efficiency program incentives in order to allow the electric distribution company to implement a~~
23 ~~coordinated, energy efficiency and solar program offering. In this case, the electric distribution~~
24 ~~company will propose criteria for eligibility for performance based incentives for solar that require~~
25 ~~certain energy efficiency standards be met at the customer location in order to be eligible for~~
26 ~~performance based incentives for a small scale and/or medium scale solar installation.~~

27 ~~(b) The electric distribution company must also include program parameters that do not~~
28 ~~disrupt competition among small scale and/or medium scale solar developers, including, without~~
29 ~~limitation, safeguards against any one, or subset of, developers in this market being given exclusive~~
30 ~~rights or other market advantages over competitors. In approving the proposal, the commission~~
31 ~~must find that there is no such small and medium solar market disruption.~~

32 ~~(c) The commission shall approve the request of the distribution company within ninety~~
33 ~~(90) days, making such modifications as it deems reasonable, provided the modifications are~~
34 ~~consistent with the legislative purposes of this chapter and the state's energy efficiency goals.~~

1 ~~(d) The allocation of megawatts is for implementation purposes only and shall not authorize~~
2 ~~funds to be shifted from the distributed generation growth program to energy efficiency programs,~~
3 ~~nor will implementation of the electric distribution company's request cause a reduction of the~~
4 ~~annual or cumulative capacity goals established for the distributed generation growth program. To~~
5 ~~the extent that the megawatts allocated to the energy efficiency program pursuant to this section~~
6 ~~are not committed during a program year, such uncommitted megawatts shall be allocated back to~~
7 ~~the distributed generation growth program in the following year or such year the board~~
8 ~~recommends to the commission. Funding for the energy efficiency measures that are tied to the~~
9 ~~solar installations must be obtained separately from the energy efficiency program budget funded~~
10 ~~through applicable energy efficiency charges.~~

11 ~~(e) Should the small scale and medium scale project classes in the renewable energy~~
12 ~~growth program be oversubscribed in two (2) consecutive enrollments and there are megawatts that~~
13 ~~have not been committed through the process coordinated with the energy efficiency program after~~
14 ~~the second enrollment, the board, after consultation with the office and the electric distribution~~
15 ~~company, shall have the authority to move all, or a portion of, the uncommitted megawatts out of~~
16 ~~the coordinated program back to the renewable energy growth program to meet the demand of the~~
17 ~~oversubscription, subject to commission approval. If, in such case, the board does not exercise the~~
18 ~~authority, any party may file a petition to the commission requesting action to be taken.~~

19 ~~**39-26.6 20. Issuance of certificates and right to incentive payments.**~~

20 ~~(a) For small scale and medium scale solar projects, the electric distribution company shall~~
21 ~~provide certificates of eligibility to the selected projects without commission confirmation of~~
22 ~~approval ("distribution company awarded certificates"), subject to the review and consent of the~~
23 ~~office. The electric distribution company shall file with the commission a list of all these~~
24 ~~distribution company awarded certificates.~~

25 ~~(b) For commercial scale and large scale solar, and all other distributed generation~~
26 ~~projects, the electric distribution company shall file with the commission a list of the distributed~~
27 ~~generation projects selected together with the corresponding pricing information. Within sixty (60)~~
28 ~~days of receipt of the list, the commission shall issue an order awarding certificates of eligibility to~~
29 ~~the distributed generation projects ("PUC awarded certificates").~~

30 ~~(c) Upon receipt of a PUC awarded certificate or a distribution company certificate, a~~
31 ~~distributed generation project shall be entitled to receive, and the electric distribution company~~
32 ~~shall pay and/or credit (as applicable), the performance based incentives for the specified term, and~~
33 ~~under the terms and conditions of the applicable tariff in the manner set forth below.~~

34 ~~(d) The performance based incentive shall be the price per kilowatt hour that was bid and~~

1 ~~awarded, or established as a standard incentive, as applicable. The performance-based incentive~~
2 ~~shall be applied as a price per kilowatt-hour for all kilowatt-hours actually produced from the~~
3 ~~distributed generation (net of station service, if any) for the term of years specified in the applicable~~
4 ~~tariff, less the value of any kilowatt-hour charges that were offset by any net metering (if applicable)~~
5 ~~for the host customer associated with the distributed generation for the billing month; provided,~~
6 ~~however, if the value of kilowatt-hour charges that otherwise would be offset by net metering in a~~
7 ~~given month exceeds the total value of the performance-based incentive for the month, the customer~~
8 ~~shall not be subject to any additional charge, nor receive any additional net metering credit, for the~~
9 ~~difference between the performance-based incentive value and net metering value for the month.~~

10 ~~(e) Except as provided herein for residential small-scale solar projects, in every case where~~
11 ~~a distributed generation project can be configured for net metering, it shall be the election of the~~
12 ~~owner of the generation to choose one of two (2) separate methods through which the owner will~~
13 ~~be compensated for the performance-based incentive:~~

14 ~~(1) The owner is compensated solely through direct payments under the performance-based~~
15 ~~incentive provisions of this chapter for the life of the tariff term with no net metering implemented;~~

16 ~~or~~

17 ~~(2) The owner is compensated through a combination of direct payments and the bill credit~~
18 ~~value of net metering for the life of the term of the tariff under the provisions of this chapter.~~

19 ~~(3) In the case of residential small-scale solar projects, only option (2) shall be available.~~

20 ~~(4) In either option, the total value of the performance-based incentive per kilowatt-hour~~
21 ~~is the same. An owner shall have a one-time right to switch the compensation methods after the~~
22 ~~generation commences operation, provided that at least sixty (60) days' notice is given to the~~
23 ~~electric distribution company. Thereafter, any further compensation method switches shall be at~~
24 ~~the sole discretion of the electric distribution company if requested again by the owner.~~

25 ~~(f) Every owner who elects the compensation method shall:~~

26 ~~(1) Receive compensation solely in the form of a check from the electric distribution~~
27 ~~company, or other payment method that is mutually agreed between the electric distribution~~
28 ~~company and the owner; and~~

29 ~~(2) Shall receive compensation in the form of offsets against its electricity bill from the~~
30 ~~electric distribution company from net metering and the balance in the form of a check from the~~
31 ~~electric distribution company, or other payment method that is mutually agreed upon between the~~
32 ~~electric distribution company and the owner; provided, however, that no owner of a distributed-~~
33 ~~generation project may be compensated twice for the same kilowatt-hour of electricity, and that~~
34 ~~every self-generator shall receive the full pecuniary benefit of its election to participate in the~~

1 ~~performance-based incentive program.~~

2 ~~(g) Every owner of a distributed generation project that can be configured for net metering~~
3 ~~that elects the first option for compensation under the provisions of subsection (e) shall become~~
4 ~~eligible to net meter its output in conformity with the provisions of existing law upon the~~
5 ~~completion of the full term of the applicable tariff. Nothing in this section shall preclude a customer~~
6 ~~from electing not to participate in the performance-based program and electing simply to net meter~~
7 ~~under the provisions of existing law; provided, however, once an election is made to participate,~~
8 ~~the customer will remain subject to the performance-based tariff conditions and may not terminate~~
9 ~~the arrangement without the consent of the electric distribution company.~~

10 ~~(h) As provided in § 39-26.6-9, any project developer may designate a generation unit on~~
11 ~~the same parcel or contiguous parcel for net metering, provided that such unit or portion of such~~
12 ~~unit designated for net metering is not receiving performance-based incentives under this chapter,~~
13 ~~is capable of being segregated electrically, is configured with such electrical segregation, and is~~
14 ~~separately metered.~~

15 ~~(i) All distributed generation projects accepting certificates shall be obligated to abide by~~
16 ~~all the terms and conditions of the approved, applicable tariff.~~

17 **39-26.6-21. Ownership of output, other attributes, and renewable energy certificates.**

18 ~~(a) Except as provided herein for residential small-scale solar projects, distributed~~
19 ~~generation projects participating in the renewable energy growth program shall transfer to the~~
20 ~~electric distribution company the rights and title to:~~

21 ~~(1) Those renewable energy certificates generated by the project during the term of the~~
22 ~~applicable, performance-based incentive tariff;~~

23 ~~(2) All energy produced by the generation that is not otherwise consumed on site under a~~
24 ~~net metering arrangement; and~~

25 ~~(3) Rights to any other environmental attributes or market products that are created or~~
26 ~~produced by the project; provided, however, that it shall be the election of the electric distribution~~
27 ~~company whether it chooses to acquire the capacity of the distributed generation projects under the~~
28 ~~tariffs set forth in this chapter and no ceiling prices recommended by the board and approved by~~
29 ~~the commission will be adjusted downward in light of the electric distribution company's election.~~
30 ~~The electric distribution company shall: (1) Sell any products acquired and credit them to the~~
31 ~~reconciliation account specified in § 39-26.6-25; and/or (2) Use the products to serve customers~~
32 ~~and establish a price to be credited by customers using the products based on recent and near-term~~
33 ~~projections of market prices. When a generator reverts to net metering after the end of the tariff~~
34 ~~term under the renewable energy growth program, the net metering generator shall retain title to~~

1 ~~the renewable energy certificates generated by the project. In the case of residential small scale~~
2 ~~projects, title to all energy and capacity produced from the solar generation shall remain with the~~
3 ~~residential customer; shall not be transferred to the electric distribution company; and shall be~~
4 ~~deemed consumed by the residential customer on-site during the applicable, distribution service~~
5 ~~billing period with no sale or purchase between the residential customer and the electric distribution~~
6 ~~company.~~

7 ~~(b) For the accounting purposes of the electric distribution company in treating the~~
8 ~~performance based incentives, the cost of the energy that is procured shall be the real time market~~
9 ~~price of energy and the balance of the performance based incentive shall be attributable to the~~
10 ~~purchase of environmental and any other attributes acquired. This accounting shall have no effect~~
11 ~~on the total, bundled performance based incentive to which the distributed generation project is~~
12 ~~entitled under the provisions of this chapter.~~

13 **39-26.6-22. Zonal and other incentive payments.**

14 ~~In order to provide the electric distribution company and the board with the flexibility to~~
15 ~~encourage distributed generation projects to be located in designated geographical areas within its~~
16 ~~load zone where there is an identifiable system benefit, reliability benefit, or cost savings to the~~
17 ~~distribution system in that geographical area, or conservation benefit, or climate resilience benefit~~
18 ~~in that geographical area, the electric distribution company, the board, or the office, shall propose~~
19 ~~to include an incentive payment adder to the bid price of any winning bidder that proposes a~~
20 ~~distributed generation project in the preferred sites that require remediation. The company, board,~~
21 ~~or office can also propose disincentive subtractors for projects outside of preferred sites. The~~
22 ~~electric distribution company also may propose other incentive payments to achieve other technical~~
23 ~~or public policy objectives that provide identifiable benefits to customers. Any incentive payment~~
24 ~~adders must be approved by the commission, and shall not be counted as part of the bid price when~~
25 ~~the bids are selected at an enrollment event.~~

26 **39-26.6-23. Intersection of distributed generation and net metering.**

27 ~~(a) Net metering credits for excess generation shall not be credited during the term of the~~
28 ~~tariff when the distributed generation project is receiving performance based incentive payments~~
29 ~~under the tariff. After the end of the term of the performance based incentive tariff applicable to a~~
30 ~~distributed generation project, net metering credits for excess generation in any given month shall~~
31 ~~be credited to the net metered account at the applicable rate allowed under the law.~~

32 ~~(b) All distributed generation projects that had begun development prior to the date the~~
33 ~~commission approves the first set of ceiling price recommendations from the board and that are in~~
34 ~~operation by no later than July 1, 2016, shall be eligible to continue operation under the net-~~

1 ~~metering rules that would have been applicable to that self-generation project absent the change in~~
2 ~~law set forth in this section, provided that the project does not otherwise participate in the~~
3 ~~performance-based incentive program set forth in this chapter.~~

4 **39-26.6-24. Rate design review by the commission.**

5 ~~(a) On or after July 1, 2015, the commission shall open a docket to consider rate design~~
6 ~~and distribution cost allocation among rate classes in light of net metering and the changing~~
7 ~~distribution system that is expected to include more distributed energy resources, including, but~~
8 ~~not limited to, distributed generation. The commission will determine the appropriate cost~~
9 ~~responsibility and contributions to the operation, maintenance, and investment in the distribution~~
10 ~~system that is relied upon by all customers, including, without limitation, non-net-metered and net-~~
11 ~~metered customers. In that docket, the commission shall require the electric distribution company~~
12 ~~to file a revenue neutral allocated cost of service study for all rate classes and a proposal for new~~
13 ~~rates for all customers in each rate class. The electric distribution company shall use the~~
14 ~~distribution revenue requirement upon which the then-current distribution rates were set. The~~
15 ~~electric distribution company may use the allocated cost of service that was filed with the~~
16 ~~compliance filing from the rate case when the then-current distribution rates were set. The~~
17 ~~commission may also address the rate design for the equitable recovery of costs associated with~~
18 ~~energy efficiency and any renewable energy programs that are recovered in rates.~~

19 ~~(b) In establishing any new rates the commission may deem appropriate, the commission~~
20 ~~shall take into account and balance the following factors:~~

21 ~~(1) The benefits of distributed energy resources;~~

22 ~~(2) The distribution services being provided to net-metered customers when the distributed~~
23 ~~generation is not producing electricity;~~

24 ~~(3) Simplicity, understandability, and transparency of rates to all customers, including non-~~
25 ~~net-metered and net-metered customers;~~

26 ~~(4) Equitable ratemaking principles regarding the allocation of the costs of the distribution~~
27 ~~system;~~

28 ~~(5) Cost causation principles;~~

29 ~~(6) The general assembly's legislative purposes in creating the distributed generation~~
30 ~~growth program; and~~

31 ~~(7) Any other factors the commission deems relevant and appropriate in establishing a fair~~
32 ~~rate structure. The rates shall be designed for each proposed rate class in accordance with industry-~~
33 ~~standard, cost allocation principles. The commission may consider any reasonable rate design~~
34 ~~options, including without limitation, fixed charges, minimum monthly charges, demand charges,~~

1 volumetric charges, or any combination thereof, with the purpose of assuring recovery of costs
2 fairly across all rate classes.

3 (c) ~~The commission shall issue an order in the docket by no later than March 1, 2016. Any~~
4 ~~new rates shall take effect for usage on and after April 1, 2016; provided, however, that the electric~~
5 ~~distribution company may seek an extension if necessary to make the billing system changes~~
6 ~~necessary to implement a new rate structure. After new, revenue neutral rates are set in the docket~~
7 ~~specified above, the commission may approve changes to the rate design in any future distribution-~~
8 ~~base rate cases when a fully allocated embedded cost of service study is being reviewed in the rate~~
9 ~~case, subject to the principles set forth in subsection (b) of this section.~~

10 **39-26.6-25. Forecasted rate and reconciliation.**

11 (a) ~~On or before November 15 of each year, the electric distribution company shall file a~~
12 ~~forecast of the total amount of payments that is likely to be paid out to distributed generation~~
13 ~~projects in the coming program year within the electric distribution company's load zone, along~~
14 ~~with any costs permitted for recovery pursuant to §§ 39-26.6-4, 39-26.6-13, and 39-26.6-18. The~~
15 ~~total of all forecasted payments and costs shall be aggregated, net of forecasted revenues from the~~
16 ~~sale of the energy, renewable energy certificates, and any other market products from the~~
17 ~~distributed generation projects participating in the performance-based incentive program. The~~
18 ~~forecasted net aggregate amount shall be used to design a fixed monthly charge per customer to~~
19 ~~recover the net forecast in rates charged to all distribution customers during the prospective~~
20 ~~calendar year, which fixed charge may be different by rate class in order to reasonably and equitably~~
21 ~~spread the program costs across all customer classes. The fixed rate shall stay in effect until changed~~
22 ~~after the first reconciliation filing set forth below and the rate reconciliation process shall be~~
23 ~~repeated annually, as set forth below. The commission, in its discretion, may move the~~
24 ~~reconciliation of costs and credits under § 39-26.1-5(f) into this reconciliation in order to have one~~
25 ~~reconciliation of all program costs and credits from the long-term contracting standard, distributed-~~
26 ~~generation standard contracting, and renewable energy growth program.~~

27 (b) ~~Within three (3) months after the end of each program year, the electric distribution~~
28 ~~company shall file a report with the public utilities commission that reconciles the total amount~~
29 ~~recovered from distribution customers against the total of net payments and costs for the prior~~
30 ~~program year for review and approval.~~

31 **39-26.6-26. Shared solar facilities.**

32 (a) ~~In order to facilitate the adoption of solar by customers in multifamily structures,~~
33 ~~campuses, multi-structure business parks, multi-tenant or multi-owner commercial facilities, and~~
34 ~~public entities with multiple accounts, the electric distribution company may establish rules and~~

1 ~~tariffs for program years starting on or after April 1, 2016. The rules and tariffs will set forth the~~
2 ~~requirements for eligible recipients, credit transfers, consumer protection, and other considerations~~
3 ~~and terms, with input from the office, for the commission's review and approval.~~

4 ~~(b) Shared solar facilities will receive the same ceiling price and enroll from the same~~
5 ~~classes of other projects of the same size and ownership as established by the board for a given~~
6 ~~program year.~~

7 ~~(c) All customer accounts receiving bill credits shall be in the same customer class and the~~
8 ~~bill credit value from the shared solar facility shall be determined by the recipients' rate class and~~
9 ~~not that of the facility owner. The credit value shall be the distribution, transition, transmission, and~~
10 ~~standard offer supply rates of the bill credit recipients.~~

11 ~~(d) Any value of bill credits not transferred from the shared solar facility shall be included~~
12 ~~in the total performance-based incentive, which shall be paid in accordance with the tariffs~~
13 ~~established by the electric distribution company.~~

14 ~~**39-26.6-27. Community remote distributed generation system.**~~

15 ~~(a) In order to facilitate the adoption of participation in renewable energy projects by~~
16 ~~eligible customers, the board may allocate a portion of the annual MW goal to a separate class, or~~
17 ~~classes, of community remote distributed generation systems, which may compete under separate~~
18 ~~ceiling prices from non-community remote distributed generation systems, for program years~~
19 ~~starting on or after April 1, 2016.~~

20 ~~(b) Upon such allocation by the board, the electric distribution company shall establish~~
21 ~~rules and tariffs for program years starting on or after April 1, 2016, which rules and tariffs will set~~
22 ~~forth the requirements for eligible recipients, credit transfers, consumer protection, and other~~
23 ~~considerations and terms, with input from the office, for the commission's review and approval.~~

24 ~~(c) The value of credits to be allocated to credit recipients may be a fixed rate provided by~~
25 ~~the system owner, but shall not be greater than the sum of the standard offer service, less the~~
26 ~~renewable energy standard charge or credit, and the transmission and transition rates, of the credit~~
27 ~~recipient as offered by the electric distribution company in effect at the time of establishing the~~
28 ~~transfer. If a fixed credit rate is not provided, the default credit will be the sum of the standard offer~~
29 ~~service, less the renewable energy standard charge or credit, and the transmission and transition~~
30 ~~rates, of the credit recipient as offered by the electric distribution company in effect at the time of~~
31 ~~the transfer.~~

32 ~~(d) Any credits not allocated in any month will be valued at the then-current default credit~~
33 ~~rate, and deducted from the total performance-based incentive of the enrolled system.~~

34 ~~(e) Community remote distributed generation systems shall not:~~

1 ~~(1) Comprise more than thirty percent (30%) of the annual total of capacity available under~~
2 ~~the renewable energy growth program in each year;~~

3 ~~(2) Be subject to a ceiling price that is more than fifteen percent (15%) higher than the~~
4 ~~then in effect ceiling price for the same technology of the same size as recommended by the board~~
5 ~~and approved by the commission; or~~

6 ~~(3) Transfer credits to any account in an amount that in KWh exceeds the prior three year~~
7 ~~(3) annual average usage.~~

8 SECTION 2. This act shall take effect on January 1, 2026.

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LC002551
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- THE RENEWABLE ENERGY
GROWTH PROGRAM

- 1 This act would repeal the Renewable Energy Growth Program.
- 2 This act would take effect on January 1, 2026.

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LC002551
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