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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - NET METERING

Introduced By: Representatives Potter, Solomon, Baginski, Handy, McGaw, Felix,
Morales, and Ruggiero

Date Introduced: February 04, 2022

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-26.4-2 of the General Laws in Chapter 39-26.4 entitled "Net
2 Metering" is hereby amended to read as follows:

3 **39-26.4-2. Definitions.**

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

6 (1) "Community remote net-metering system" means a facility generating electricity using
7 an eligible net-metering resource that allocates net-metering credits to a minimum of one account
8 for a system associated with low- or moderate-income housing eligible credit recipients, or three
9 (3) eligible credit-recipient customer accounts, provided that no more than fifty percent (50%) of
10 the credits produced by the system are allocated to one eligible credit recipient, and provided further
11 at least fifty percent (50%) of the credits produced by the system are allocated to the remaining
12 eligible credit recipients in an amount not to exceed that which is produced annually by twenty-
13 five kilowatt (25 KW) AC capacity. The community remote net-metering system may transfer
14 credits to eligible credit recipients in an amount that is equal to or less than the sum of the usage of
15 the eligible credit recipient accounts measured by the three-year (3) average annual consumption
16 of energy over the previous three (3) years. A projected annual consumption of energy may be used
17 until the actual three-year (3) average annual consumption of energy over the previous three (3)
18 years at the eligible credit recipient accounts becomes available for use in determining eligibility
19 of the generating system. The community remote net-metering system may be owned by the same

1 entity that is the customer of record on the net-metered account or may be owned by a third party.

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

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

11 (i) Residential accounts in good standing.

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

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

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

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

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

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

33 (4) "Eligible net-metering resource" means eligible renewable energy resource, as defined
34 in § 39-26-5 including biogas created as a result of anaerobic digestion, but, specifically excluding

1 all other listed eligible biomass fuels.

2 (5) "Eligible net-metering system" means a facility generating electricity using an eligible
3 net-metering resource that is reasonably designed and sized to ~~annually~~ produce electricity ~~in an~~
4 ~~amount that is equal to, or less than, the renewable self-generator's usage at the eligible net-metering~~
5 ~~system site measured by the three-year (3) average annual consumption of energy over the previous~~
6 ~~three (3) years at the electric distribution account(s) located at the eligible net-metering system site.~~
7 ~~A projected annual consumption of energy may be used until the actual three-year (3) average~~
8 ~~annual consumption of energy over the previous three (3) years at the electric distribution~~
9 ~~account(s) located at the eligible net-metering system site becomes available for use in determining~~
10 ~~eligibility of the generating system.~~ No utility shall limit the eligibility of a net metering site based
11 on prior consumption. Any excess of energy not consumed under a net metering system shall be
12 credited to the consumer on a cost rate basis. The eligible net-metering system may be owned by
13 the same entity that is the customer of record on the net-metered accounts or may be owned by a
14 third party that is not the customer of record at the eligible net-metering system site and which may
15 offer a third-party, net-metering financing arrangement or net-metering financing arrangement, as
16 applicable. Notwithstanding any other provisions of this chapter, any eligible net-metering
17 resource: (i) Owned by a public entity, educational institution, hospital, nonprofit, or multi-
18 municipal collaborative or (ii) Owned and operated by a renewable-generation developer on behalf
19 of a public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative
20 through a net-metering financing arrangement shall be treated as an eligible net-metering system
21 and all accounts designated by the public entity, educational institution, hospital, nonprofit, or
22 multi-municipal collaborative for net metering shall be treated as accounts eligible for net metering
23 within an eligible net-metering system site.

24 (6) "Eligible net-metering system site" means the site where the eligible net-metering
25 system or community remote net-metering system is located or is part of the same campus or
26 complex of sites contiguous to one another and the site where the eligible net-metering system or
27 community remote net-meterin system is located or a farm in which the eligible net-metering
28 system or community remote net-metering system is located. Except for an eligible net-metering
29 system owned by or operated on behalf of a public entity, educational institution, hospital,
30 nonprofit, or multi-municipal collaborative through a net-metering financing arrangement, the
31 purpose of this definition is to reasonably assure that energy generated by the eligible net-metering
32 system is consumed by net-metered electric service account(s) that are actually located in the same
33 geographical location as the eligible net-metering system. All energy generated from any eligible
34 net-metering system is, and will be considered, consumed at the meter where the renewable energy

1 resource is interconnected for valuation purposes. Except for an eligible net-metering system
2 owned by, or operated on behalf of, a public entity, educational institution, hospital, nonprofit, or
3 multi-municipal collaborative through a net-metering financing arrangement, or except for a
4 community remote net-metering system, all of the net-metered accounts at the eligible net-metering
5 system site must be the accounts of the same customer of record and customers are not permitted
6 to enter into agreements or arrangements to change the name on accounts for the purpose of
7 artificially expanding the eligible net-metering system site to contiguous sites in an attempt to avoid
8 this restriction. However, a property owner may change the nature of the metered service at the
9 accounts at the site to be master metered in the owner's name, or become the customer of record
10 for each of the accounts, provided that the owner becoming the customer of record actually owns
11 the property at which the account is located. As long as the net-metered accounts meet the
12 requirements set forth in this definition, there is no limit on the number of accounts that may be net
13 metered within the eligible net-metering system site.

14 (7) "Excess renewable net-metering credit" means a credit that applies to an eligible net-
15 metering system or community remote net-metering system for that portion of the production of
16 electrical energy beyond one hundred percent (100%) and no greater than one hundred twenty-five
17 percent (125%) of the renewable self-generator's own consumption at the eligible net-metering
18 system site or the sum of the usage of the eligible credit recipient accounts associated with the
19 community remote net-metering system during the applicable billing period. Such excess
20 renewable net-metering credit shall be equal to the electric distribution company's avoided cost
21 rate, which is hereby declared to be the electric distribution company's standard-offer service
22 kilowatt hour (KWh) charge for the rate class and time-of-use billing period (if applicable)
23 applicable to the customer of record for the eligible net-metering system or applicable to the
24 customer of record for the community remote net-metering system. The commission shall have the
25 authority to make determinations as to the applicability of this credit to specific generation facilities
26 to the extent there is any uncertainty or disagreement.

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

32 (9) "Hospital" means and shall be defined and established as set forth in chapter 17 of title
33 23.

34 (10) "Multi-municipal collaborative" means a group of towns and/or cities that enter into

1 an agreement for the purpose of co-owning a renewable-generation facility or entering into a
2 financing arrangement pursuant to subsection (14).

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

5 (12) "Net metering" means using electrical energy generated by an eligible net-metering
6 system for the purpose of self-supplying electrical energy and power at the eligible net-metering
7 system site, or with respect to a community remote net-metering system, for the purpose of
8 generating net-metering credits to be applied to the electric bills of the eligible credit recipients
9 associated with the community net-metering system. The amount so generated will thereby offset
10 consumption at the eligible net-metering system site through the netting process established in this
11 chapter, or with respect to a community remote net-metering system, the amounts generated in
12 excess of that amount will result in credits being applied to the eligible credit-recipient accounts
13 associated with the community remote net-metering system.

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

17 (14) "Net-metering financing arrangement" means arrangements entered into by a public
18 entity, educational institution, hospital, nonprofit, or multi-municipal collaborative with a private
19 entity to facilitate the financing and operation of a net-metering resource, in which the private entity
20 owns and operates an eligible net-metering resource on behalf of a public entity, educational
21 institution, hospital, nonprofit, or multi-municipal collaborative, where: (i) The eligible net-
22 metering resource is located on property owned or controlled by the public entity, educational
23 institution, hospital, or one of the municipalities, as applicable; and (ii) The production from the
24 eligible net-metering resource and primary compensation paid by the public entity, educational
25 institution, hospital, nonprofit, or multi-municipal collaborative to the private entity for such
26 production is directly tied to the consumption of electricity occurring at the designated net-metered
27 accounts.

28 (15) "Nonprofit" means a nonprofit corporation as defined and established through chapter
29 6 of title 7, and shall include religious organizations that are tax exempt pursuant to 26 U.S.C. §
30 501(d).

31 (16) "Person" means an individual, firm, corporation, association, partnership, farm, town
32 or city of the state of Rhode Island, multi-municipal collaborative, or the state of Rhode Island or
33 any department of the state government, governmental agency, or public instrumentality of the
34 state.

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

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

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

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

21 (ii) Distribution kilowatt-hour charge;

22 (iii) Transmission kilowatt-hour charge; and

23 (iv) Transition kilowatt-hour charge.

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

30 (20) "Renewable self-generator" means an electric distribution service customer of record
31 for the eligible net-metering system or community remote net-metering system at the eligible net-
32 metering system site which system is primarily designed to produce electrical energy for
33 consumption by that same customer at its distribution service account(s), and/or, with respect to
34 community remote net-metering systems, electrical energy which generates net-metering credits to

1 be applied to offset the eligible credit-recipient account usage.

2 (21) "Third party" means and includes any person or entity, other than the renewable self-
3 generator, who or that owns or operates the eligible net-metering system or community remote net-
4 metering system on the eligible net-metering system site for the benefit of the renewable self-
5 generator.

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

12 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS - NET METERING

1 This act would not limit the installation of a net-metering system based on prior
2 consumption of energy used in the last three (3) years. Additionally this act would allow the
3 consumer using a net metering system to be credited by the utility on a cost basis for the excess of
4 energy not consumed.

5 This act would take effect upon passage.

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