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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - RENEWABLE ENERGY
STANDARD

Introduced By: Senator Maryellen Goodwin

Date Introduced: March 10, 2011

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-26-2, 39-26-5 and 39-26-6 of the General Laws in Chapter 39-
2 26 entitled "Renewable Energy Standard" are hereby amended to read as follows:

3 **39-26-2. Definitions.** – When used in this chapter:

4 (1) "Alternative compliance payment" means a payment to the Renewable Energy
5 Development Fund of fifty dollars (\$50.00) per megawatt-hour of renewable energy obligation, in
6 2003 dollars, adjusted annually up or down by the consumer price index, which may be made in
7 lieu of standard means of compliance with this statute;

8 (2) "Commission" means the Rhode Island public utilities commission;

9 (3) "Compliance year" means a calendar year beginning January 1 and ending December
10 31, for which an obligated entity must demonstrate that it has met the requirements of this statute;

11 (4) "Customer-sited generation facility" means a generation unit that is interconnected on
12 the end-use customer's side of the retail electricity meter in such a manner that it displaces all or
13 part of the metered consumption of the end-use customer;

14 (5) "Educational institution" means any public school, approved private non-profit
15 school, or institution of higher education as defined in 20 U.S.C. Chapter 28, Subchapter 1, Part
16 A section 1001 (a).

17 (6) "Electrical energy product" means an electrical energy offering, including, but not
18 limited to, last resort and standard offer service, that can be distinguished by its generation

1 attributes or other characteristics, and that is offered for sale by an obligated entity to end-use
2 customers;

3 (7) "Eligible biomass fuel" means fuel sources including brush, stumps, lumber ends and
4 trimmings, wood pallets, bark, wood chips, shavings, slash and other clean wood that is not
5 mixed with other solid wastes; agricultural waste, food and vegetative material; energy crops;
6 landfill methane; biogas; or neat bio-diesel and other neat liquid fuels that are derived from such
7 fuel sources;

8 (8) "Eligible renewable energy resource" means resources as defined in section 39-26-5;

9 (9) "End-use customer" means a person or entity in Rhode Island that purchases
10 electrical energy at retail from an obligated entity;

11 (10) "Existing renewable energy resources" means generation units using eligible
12 renewable energy resources and first going into commercial operation before December 31, 1997;

13 (11) "Excess generation credit" means a credit that applies to eligible renewable energy
14 resource generation facilities that are designed to produce or actually produce more electricity
15 than will be consumed annually at the customer account behind-the-meter where the generation
16 facility is located, measured by the three (3) year average annual consumption of energy at the
17 electric distribution account meter over the previous three (3) years. Such credit shall be equal to
18 the excess kWhs not consumed on site by the time of use billing period (if applicable) multiplied
19 by the sum of the distribution company's standard offer service kWh charge for the rate class
20 applicable to the distribution customer account on site. The electric distribution company has the
21 option to use the energy received from such excess generation to serve standard offer load. The
22 division shall have the authority to make determinations as to the applicability of this credit to
23 specific generation facilities to the extent there is any uncertainty or disagreement.

24 (12)~~(11)~~ "Farm" shall be defined in accordance with section 44-27-2, except that all
25 buildings associated with the farm shall be eligible for net metering credits as long as: (i) the
26 buildings are owned by the same entity operating the farm or persons associated with operating
27 the farm; and (ii) the buildings are on the same farmland as the renewable generation on either a
28 tract of land contiguous with such farmland or across a public way from such farmland.

29 (13)~~(12)~~ "Generation attributes" means the nonprice characteristics of the electrical
30 energy output of a generation unit including, but not limited to, the unit's fuel type, emissions,
31 vintage and policy eligibility;

32 (14)~~(13)~~ "Generation unit" means a facility that converts a fuel or an energy resource
33 into electrical energy;

34 (15) "Government entity" means towns and cities, a state authority, state agency, or

1 [federal governmental authority.](#)

2 ~~(16)~~(14) "NE-GIS" means the generation information system operated by NEPOOL, its
3 designee or successor entity, which includes a generation information database and certificate
4 system, and that accounts for the generation attributes of electrical energy consumed within
5 NEPOOL;

6 ~~(17)~~(15) "NE-GIS certificate" means an electronic record produced by the NE-GIS that
7 identifies the relevant generation attributes of each megawatt-hour accounted for in the NE-GIS;

8 ~~(18)~~(16) "NEPOOL" means the New England Power Pool or its successor;

9 ~~(19)~~(17) "Net metering" means the process of measuring the difference between
10 electricity delivered by an electrical distribution company and electricity generated by a solar-net-
11 metering facility or wind-net-metering facility, and fed back to the distribution company;

12 ~~(20)~~(18) "New renewable energy resources" means generation units using eligible
13 renewable energy resources and first going into commercial operation after December 31, 1997;
14 or the incremental output of generation units using eligible renewable energy resources that have
15 demonstrably increased generation in excess of ten percent (10%) using eligible renewable
16 energy resources through capital investments made after December 31, 1997; but in no case
17 involve any new impoundment or diversion of water with an average salinity of twenty (20) parts
18 per thousand or less;

19 ~~(21)~~(19) "Non-profit affordable housing" shall mean a housing development or housing
20 project as defined by section 42-55-3 undertaken by a non-profit entity where the residential units
21 taking electric service are either in the same building in close proximity to the renewable energy
22 source or, if not within the same building, are within one-half (1/2) of a mile radius from the
23 renewable energy source; provided, however, that the application has been filed with and
24 reviewed by the division of public utilities and carriers and the division has certified the
25 development or project as eligible. The division shall promulgate regulations setting forth an
26 application process and eligibility criteria to assure that the net metering allowed will benefit the
27 low income affordable housing residents only. The renewable ~~generation~~ [net-metering](#) credit [or](#)
28 [excess generation credit](#) applicable for nonprofit affordable housing shall be calculated based on
29 the rate class applicable to residential units.

30 ~~(22)~~(20) "Obligated entity" means a person or entity that sells electrical energy to end-
31 use customers in Rhode Island, including, but not limited to: nonregulated power producers and
32 electric utility distribution companies, as defined in section 39-1-2, supplying standard offer
33 service, last resort service, or any successor service to end-use customers; including Narragansett
34 Electric, but not to include Block Island Power Company as described in section 39-26-7 or

1 Pascoag Utility District;

2 ~~(23)(21)~~ "Off-grid generation facility" means a generation unit that is not connected to a
3 utility transmission or distribution system;

4 ~~(24)(22)~~ "Renewable net-metering generation credit" means a credit that applies only to
5 a net-metered eligible renewable resource generation facility that is reasonably designed and
6 sized to annually produce electricity to be consumed only on site at the electric account to which
7 the facility provides electricity behind the meter, measured by the three (3) year average annual
8 consumption of energy at the electric distribution account meter over the previous three (3) years.
9 If the generation facility has a nameplate capacity of ten kilowatts (10kWhs) or less, the annual
10 electricity production may be one hundred twenty-five percent (125%) of the total annual
11 consumption at the site in a given year and still remain eligible for this credit. The division shall
12 have the authority to make eligibility determinations under this paragraph to the extent there is
13 any uncertainty or disagreement. The credit shall be equal to the excess kWhs not consumed on
14 site by the time of use billing period (if applicable) multiplied by the sum of the distribution
15 company's:

- 16 (i) standard offer service kWh charge for the rate class applicable to the net metering
17 customer;
- 18 (ii) distribution kWh charge;
- 19 (iii) transmission kWh charge; and
- 20 (iv) transition kWh charge. This does not include any charges relating to conservation
21 and load management, demand side management, and renewable energy.

22 ~~(25)(23)~~ "Reserved certificate" means a NE-GIS certificate sold independent of a
23 transaction involving electrical energy, pursuant to Rule 3.4 or a successor rule of the operating
24 rules of the NE-GIS;

25 ~~(26)(24)~~ "Reserved certificate account" means a specially designated account established
26 by an obligated entity, pursuant to Rule 3.4 or a successor rule of the operating rules of the NE-
27 GIS, for transfer and retirement of reserved certificated from the NE-GIS;

28 ~~(27)(25)~~ "Self-generator" means an end-use customer in Rhode Island that displaces all
29 or part of its retail electricity consumption, as metered by the distribution utility to which it
30 interconnects, through the use of a customer-sited generation facility, the ownership of any such
31 facility shall not be considered an obligated entity as a result of any such ownership arrangement;

32 ~~(28)(26)~~ "Small hydro facility" means a facility employing one or more hydroelectric
33 turbine generators and with an aggregate capacity not exceeding thirty (30) megawatts. For
34 purposes of this definition, "facility" shall be defined in a manner consistent with Title 18 of the

1 Code of Federal Regulations, section 92.201 et seq.; provided, however, that the size of the
2 facility is limited to thirty (30) megawatts, rather than eighty (80) megawatts.

3 ~~(29)(27)~~ "Towns and cities" means any Rhode Island town or city with the powers set
4 forth in title 45 of the general laws, which may exercise all such powers, including those set forth
5 in chapter 45-40.1, in developing, owning, operating or maintaining energy generation units
6 utilizing eligible renewable energy resources.

7 **39-26-5. Eligible renewable energy resources.** -- (a) For the purposes of the regulations
8 promulgated under this chapter, eligible renewable energy resources are generation units in the
9 NEPOOL control area using:

- 10 (1) Direct solar radiation;
- 11 (2) The wind;
- 12 (3) Movement or the latent heat of the ocean;
- 13 (4) The heat of the earth;
- 14 (5) Small hydro facilities;
- 15 (6) Biomass facilities using eligible biomass fuels and maintaining compliance with
16 current air permits; eligible biomass fuels may be co-fired with fossil fuel, provided that only the
17 renewable energy fraction of production from multi-fuel facilities shall be considered eligible;
- 18 (7) Fuel cells using the renewable resources referenced above in this section;
- 19 (8) Waste-to-energy combustion of any sort or manner shall in no instance be considered
20 eligible except for fuels identified in section 39-26-2(6).

21 (b) A generation unit located in an adjacent control area outside of the NEPOOL may
22 qualify as an eligible renewable energy resource, but the associated generation attributes shall be
23 applied to the renewable energy standard only to the extent that the energy produced by the
24 generation unit is actually delivered into NEPOOL for consumption by New England customers.
25 The delivery of such energy from the generation unit into NEPOOL must be generated by:

- 26 (1) A unit-specific bilateral contract for the sale and delivery of such energy into
27 NEPOOL; and
- 28 (2) Confirmation from ISO-New England that the renewable energy was actually settled
29 in the NEPOOL system; and
- 30 (3) Confirmation through the North American Reliability Council tagging system that
31 the import of the energy into NEPOOL actually occurred; or
- 32 (4) Any such other requirements as the commission deems appropriate.

33 (c) NE-GIS certificates associated with energy production from off-grid generation and
34 customer-sited generation facilities certified by the commission as eligible renewable energy

1 resources may also be used to demonstrate compliance, provided that the facilities are physically
2 located in Rhode Island.

3 (d) Each NE-GIS certificate purchased by an obligated entity from an eligible renewable
4 resource generating facility owned by a government entity or non-profit affordable housing
5 authority shall be counted as two (2) NE-GIS certificates for purposes of obligated entities
6 meeting their requirements set forth in section 39-26-4.

7 **39-26-6. Duties of the commission.** -- The commission shall:

8 (a) Develop and adopt regulations on or before December 31, 2005, for implementing a
9 renewable energy standard, which regulations shall include, but be limited to, provisions for:

10 (1) Verifying the eligibility of renewable energy generators and the production of energy
11 from such generators, including requirements to notify the commission in the event of a change in
12 a generator's eligibility status.

13 (2) Standards for contracts and procurement plans for renewable energy resources, to
14 achieve the purposes of this chapter.

15 (3) Flexibility mechanisms for the purposes of easing compliance burdens, facilitating
16 bringing new renewable resources on-line, and avoiding and/or mitigating conflicts with state
17 level source disclosure requirements and green marketing claims throughout the region; which
18 flexibility mechanisms shall allow obligated entities to: (i) demonstrate compliance over a
19 compliance year; (ii) bank excess compliance for two (2) subsequent compliance years, capped at
20 thirty percent (30%) of the current year's obligation; and (iii) allow renewable energy generated
21 during 2006 to be banked by an obligated entity as early compliance, usable towards meeting an
22 obligated entity's 2007 requirement. Generation used for early compliance must result in the
23 retirement of NE-GIS certificate in a reserved certificate account designated for such purposes.

24 (4) Annual compliance filings to be made by all obligated entities within one month after
25 NE-GIS reports are available for the fourth (4th) quarter of each calendar year. All electric utility
26 distribution companies shall cooperate with the commission in providing data necessary to assess
27 the magnitude of obligation and verify the compliance of all obligated entities.

28 (b) Authorize rate recovery by electric utility distribution companies of all prudent
29 incremental costs arising from the implementation of this chapter, including, without limitation,
30 the purchase of NE-GIS certificates, the payment of alternative compliance payments, required
31 payments to support the NE-GIS, assessments made pursuant to section 39-26-7(c) and the
32 incremental costs of complying with energy source disclosure requirements.

33 (c) Certify eligible renewable energy resources by issuing statements of qualification
34 within ninety (90) days of application. The commission shall provide prospective reviews for

1 applicants seeking to determine whether a facility would be eligible.

2 (d) Determine, on or before January 1, 2010, the adequacy, or potential adequacy, of
3 renewable energy supplies to meet the increase in the percentage requirement of energy from
4 renewable energy resources to go into effect in 2011 and determine on or before January 1, 2014,
5 the adequacy or potential adequacy, of renewable energy supplies to meet the increase in the
6 percentage requirement of energy from renewable energy resources to go into effect in 2015. In
7 making such determinations the commission shall consider among other factors the historical use
8 of alternative compliance payments in Rhode Island and other states in the NEPOOL region. In
9 the event that the commission determines an inadequacy or potential inadequacy of supplies for
10 scheduled percentage increases, the commission shall delay the implementation of the scheduled
11 percentage increase for a period of one year or recommend to the general assembly a revised
12 schedule of percentage increases, if any, to achieve the purposes of this chapter.

13 (e) Establish sanctions for those obligated entities that after investigation have been
14 found to fail to reasonably comply with the commission's regulations. No sanction or penalty
15 shall relieve or diminish an obligated entity from liability for fulfilling any shortfall in its
16 compliance obligation; provided, however, that no sanction shall be imposed if compliance is
17 achieved through alternative compliance payments. The commission may suspend or revoke the
18 certification of generation units, certified in accordance with subsection (c) above, that are found
19 to provide false information, or that fail to notify the commission in the event of a change in
20 eligibility status or otherwise comply with its rules. Financial penalties resulting from sanctions
21 from obligated entities shall not be recoverable in rates.

22 (f) Report, by February 15, 2006, and by February 15 each year thereafter, to the
23 governor, the speaker of the house and the president of the senate on the status of the
24 implementation of the renewable energy standards in Rhode Island and other states, and which
25 report shall include in 2009, and each year thereafter, the level of use of renewable energy
26 certificates by eligible renewable energy resources and the portion of renewable energy standards
27 met through alternative compliance payments, and the amount of rate increases authorized
28 pursuant to subsection (b) above.

29 (g) Implement the following changes regarding distributed generation from renewable
30 energy systems by June 1, 2009.

31 (1) Increase the maximum allowable distributed generation capacity for eligible net-
32 metered energy systems to 1.65 megawatts (MW); except that for eligible net-metered renewable
33 energy systems developed but not owned by cities and towns, located on city or town owned land,
34 and providing power solely to the city or town that the project is located in, increase said

1 maximum to 2.25 megawatts; and except that for eligible net-metered renewable energy systems
2 owned by cities and towns of Rhode Island, the Narragansett Bay Commission and state agencies,
3 increase said maximum to 3.5 megawatts (MW).

4 (2) Increase the aggregate amount of net metering to a maximum of ~~two percent (2%)~~
5 three percent (3%) of peak load, provided that at least ~~one two megawatt is~~ megawatts are
6 reserved for projects less than twenty-five (25) kW.

7 (3) (i) With the exception of those customers described in subsection (ii), if the
8 electricity generated by the renewable generation facility during a billing period exceeds the
9 customer's kilowatt-hour usage during the billing period, the customer shall upon a request of the
10 customer be billed for zero kilowatt-hour usage and the excess ~~renewable~~ generation credits or
11 renewable net-metering credits, as applicable, shall be credited to the customer's account for the
12 following billing period. Unless otherwise requested by the customer, the customer shall be
13 compensated monthly by a check from the electric distribution company for the excess ~~renewable~~
14 generation credits or renewable net-metering credits, as applicable pursuant to the rate specified
15 in subdivision 39-26-2(11) and (22).

16 (ii) If the electricity generated by the renewable generation facility owned by a Rhode
17 Island city or town, educational institution, nonprofit affordable housing, farm, the state or the
18 Narragansett Bay Commission, during a billing period exceeds the customer's kilowatt-hour
19 usage during the billing period, the customer shall be billed for zero-kilowatt-hour usage, and:

20 (A) Upon request of the customer, the excess ~~renewable~~ generation credits or renewable
21 net-metering credits, as applicable, shall be credited to the customer's account for the following
22 billing period; or

23 (B) Upon request of the customer, the excess ~~renewable~~ generation credits or renewable
24 net-metering credits, as applicable, shall be applied to no more than ten (10) other accounts
25 owned by the customer during the billing period; or

26 (C) Unless otherwise requested by the customer, the customer shall be compensated
27 monthly by a check from the distribution company for the excess ~~renewable~~ generation credits
28 and renewable net-metering credits pursuant to the rates specified in subdivisions 39-26-2(11),
29 39-26-2(19) and 39-26-2(22), as applicable.

30 (iii) Nonprofit affordable housing shall use said compensation, pursuant to paragraph
31 (ii), to benefit the residents of the housing development.

32 (4) If the customer's kilowatt-hour usage exceeds the electricity generated by the
33 renewable generation facility during the billing period, the customer shall be billed for the net
34 kilowatt-hour usage at the applicable rate. Any excess credits may be carried forward month to

1 month for twelve (12) month periods as established by the commission. At the end of the
2 applicable twelve (12) month period, if there are unused excess generation credits or renewable
3 net-metering credits, as applicable, on the net metering customer accounts, ~~such credits shall be~~
4 ~~used to offset recoverable utility costs.~~ the electric distribution company will issue a check to the
5 customer for the amount of the credits. Where compensation has been provided for ~~excess~~
6 renewable net-metering ~~generation~~ credits, no further charge may be made to the customer
7 against said credits.

8 (h) Any prudent and reasonable costs incurred by the electric distribution company
9 pursuant to achieving compliance with subsection (g) and the annual amount of the distribution
10 component of any renewable ~~generation~~ net-metering credits or excess generation credits
11 provided to ~~net-metering~~ customers shall be aggregated by the distribution company and billed to
12 all customers on an annual basis through a uniform per kilowatt-hour surcharge embedded in the
13 distribution component of the rates reflected on customer bills.

14 ~~(i) Report, by July 1, 2010 to the governor, the speaker of the house and the president of~~
15 ~~the senate on the status of the implementation of subsection (g) and (h), including if said~~
16 ~~provisions are optimally cost effective, reliable, prudent and environmentally responsible.~~

17 (i) Consistent with the public policy objective of developing renewable generation as
18 an option in Rhode Island, the electric distribution company is authorized to propose and
19 implement pilot programs to own and operate no more than fifteen megawatts (1 W) of
20 renewable generation demonstration projects in Rhode Island and include the costs and benefits
21 in rates to distribution customers. At least two (2) demonstration projects shall include renewable
22 generation installed at or in the vicinity of nonprofit affordable housing projects where energy
23 savings benefits are provided to reduce electric bills of the customers at the nonprofit affordable
24 housing projects. Any renewable generation proposals shall be subject to the review and approval
25 of the commission. The commission shall annually make an adjustment to the minimum amounts
26 required under the renewable energy standard under chapter 39-26 in an amount equal to the
27 kilowatt hours generated by such units owned by the electric distribution company. The electric
28 and gas distribution company shall also be authorized to propose and implement smart metering
29 and smart grid demonstration projects in Rhode Island, subject to the review and approval of the
30 commission, in order to determine the effectiveness of such new technologies for reducing and
31 managing energy consumption, and include the costs of such demonstration projects in
32 distribution rates to electric customers to the extent the project pertains to electricity usage and in
33 distribution rates to gas customers to the extent the project pertains to gas usage.

1 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 - RENEWABLE ENERGY
STANDARD

- 1 This act would raise the cap on net-metering, provide further definition to net-metering
- 2 facilities and related crediting mechanisms, and would also provide incentives for municipal and
- 3 other governmental authorities to invest in renewable generation facilities.
- 4 This act would take effect upon passage.

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