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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - DUTIES OF UTILITIES AND
CARRIERS

Introduced By: Senators Pearson, Murray, Seveney, Cano, and DiPalma

Date Introduced: April 01, 2021

Referred To: Senate Finance

(General Treasurer)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-2-1.2 of the General Laws in Chapter 39-2 entitled "Duties of
2 Utilities and Carriers" is hereby amended to read as follows:

3 **39-2-1.2. Utility base rate -- Advertising, demand-side management, and renewables.**

4 (a) In addition to costs prohibited in § 39-1-27.4(b), no public utility distributing or
5 providing heat, electricity, or water to or for the public shall include as part of its base rate any
6 expenses for advertising, either direct or indirect, that promotes the use of its product or service, or
7 is designed to promote the public image of the industry. No public utility may furnish support of
8 any kind, direct or indirect, to any subsidiary, group, association, or individual for advertising and
9 include the expense as part of its base rate. Nothing contained in this section shall be deemed as
10 prohibiting the inclusion in the base rate of expenses incurred for advertising, informational or
11 educational in nature, that is designed to promote public safety conservation of the public utility's
12 product or service. The public utilities commission shall promulgate such rules and regulations as
13 are necessary to require public disclosure of all advertising expenses of any kind, direct or indirect,
14 and to otherwise effectuate the provisions of this section.

15 (b) Effective as of January 1, 2008, and for a period of fifteen (15) years thereafter, each
16 electric distribution company shall include a charge per kilowatt-hour delivered to fund demand-
17 side management programs. The 0.3 mills per kilowatt-hour delivered to fund renewable energy
18 programs shall remain in effect until December 31, 2022. The electric distribution company shall

1 establish and, after July 1, 2007, maintain, two (2) separate accounts, one for demand-side
2 management programs (the "demand-side account"), which shall be funded by the electric demand-
3 side charge and administered and implemented by the distribution company, subject to the
4 regulatory reviewing authority of the commission, and one for renewable energy programs, which
5 shall be administered by the Rhode Island commerce corporation pursuant to § 42-64-13.2 and shall
6 be held and disbursed by the distribution company as directed by the Rhode Island commerce
7 corporation for the purposes of developing, promoting, and supporting renewable energy programs.

8 During the time periods established in this subsection, the commission may, in its
9 discretion, after notice and public hearing, increase the sums for demand-side management and
10 renewable resources. In addition, the commission shall, after notice and public hearing, determine
11 the appropriate charge for these programs. The office of energy resources, and/or the administrator
12 of the renewable energy programs, may seek to secure for the state an equitable and reasonable
13 portion of renewable energy credits or certificates created by private projects funded through those
14 programs. As used in this section, "renewable energy resources" shall mean: (1) Power generation
15 technologies, as defined in § 39-26-5, "eligible renewable energy resources," including off-grid and
16 on-grid generating technologies located in Rhode Island, as a priority; (2) Research and
17 development activities in Rhode Island pertaining to eligible renewable energy resources and to
18 other renewable energy technologies for electrical generation; or (3) Projects and activities directly
19 related to implementing eligible renewable energy resources projects in Rhode Island.
20 Technologies for converting solar energy for space heating or generating domestic hot water may
21 also be funded through the renewable energy programs. Fuel cells may be considered an energy
22 efficiency technology to be included in demand-side management programs. Special rates for low-
23 income customers in effect as of August 7, 1996, shall be continued, and the costs of all of these
24 discounts shall be included in the distribution rates charged to all other customers. Nothing in this
25 section shall be construed as prohibiting an electric distribution company from offering any special
26 rates or programs for low-income customers which are not in effect as of August 7, 1996, subject
27 to the approval by the commission.

28 (1) The renewable energy investment programs shall be administered pursuant to rules
29 established by the Rhode Island commerce corporation. Said rules shall provide transparent criteria
30 to rank qualified renewable energy projects, giving consideration to:

- 31 (i) The feasibility of project completion;
- 32 (ii) The anticipated amount of renewable energy the project will produce;
- 33 (iii) The potential of the project to mitigate energy costs over the life of the project; and
- 34 (iv) The estimated cost per kilowatt-hour (KWh) of the energy produced from the project.

1 (c) [Deleted by P.L. 2012, ch. 241, art. 4, § 14.]

2 (d) The chief executive officer of the commerce corporation is authorized and may enter
3 into a contract with a contractor for the cost-effective administration of the renewable energy
4 programs funded by this section. A competitive bid and contract award for administration of the
5 renewable energy programs may occur every three (3) years and shall include, as a condition, that
6 after July 1, 2008, the account for the renewable energy programs shall be maintained and
7 administered by the commerce corporation as provided for in subsection (b) of this section.

8 (e) Effective January 1, 2007, and for a period of sixteen (16) years thereafter, each gas
9 distribution company shall include, with the approval of the commission, a charge per deca therm
10 delivered to fund demand-side management programs (the "gas demand-side charge"), including,
11 but not limited to, programs for cost-effective energy efficiency, energy conservation, combined
12 heat and power systems, and weatherization services for low-income households.

13 (f) Each gas company shall establish a separate account for demand-side management
14 programs (the "gas demand-side account") that shall be funded by the gas demand-side charge and
15 administered and implemented by the distribution company, subject to the regulatory reviewing
16 authority of the commission. The commission may establish administrative mechanisms and
17 procedures that are similar to those for electric demand-side management programs administered
18 under the jurisdiction of the commission and that are designed to achieve cost-effectiveness and
19 high, life-time savings of efficiency measures supported by the program.

20 (g) The commission may, if reasonable and feasible, except from this demand-side
21 management charge:

22 (1) Gas used for distribution generation; and

23 (2) Gas used for the manufacturing processes, where the customer has established a self-
24 directed program to invest in and achieve best-effective energy efficiency in accordance with a plan
25 approved by the commission and subject to periodic review and approval by the commission, which
26 plan shall require annual reporting of the amount invested and the return on investments in terms
27 of gas savings.

28 (h) The commission may provide for the coordinated and/or integrated administration of
29 electric and gas demand-side management programs in order to enhance the effectiveness of the
30 programs. Such coordinated and/or integrated administration may after March 1, 2009, upon the
31 recommendation of the office of energy resources, be through one or more third-party entities
32 designated by the commission pursuant to a competitive selection process.

33 (i) Effective January 1, 2007, the commission shall allocate from demand-side management
34 gas and electric funds authorized pursuant to this section, an amount not to exceed two percent

1 (2%) of such funds on an annual basis for the retention of expert consultants, and reasonable
2 administration costs of the energy efficiency and resources management council associated with
3 planning, management, and evaluation of energy-efficiency programs, renewable energy programs,
4 system reliability least-cost procurement, and with regulatory proceedings, contested cases, and
5 other actions pertaining to the purposes, powers, and duties of the council, which allocation may
6 by mutual agreement, be used in coordination with the office of energy resources to support such
7 activities.

8 (j) Effective January 1, 2016, the commission shall annually allocate from the
9 administrative funding amount allocated in subsection (i) from the demand-side management
10 program as described in subsection (i) as follows: fifty percent (50%) for the purposes identified in
11 subsection (i) and fifty percent (50%) annually to the office of energy resources for activities
12 associated with planning, management, and evaluation of energy-efficiency programs, renewable
13 energy programs, system reliability, least-cost procurement, and with regulatory proceedings,
14 contested cases, and other actions pertaining to the purposes, powers, and duties of the office of
15 energy resources.

16 (k) On April 15, of each year, the office and the council shall submit to the governor, the
17 president of the senate, and the speaker of the house of representatives, separate financial and
18 performance reports regarding the demand-side management programs, including the specific level
19 of funds that were contributed by the residential, municipal, and commercial and industrial sectors
20 to the overall programs; the businesses, vendors, and institutions that received funding from
21 demand-side management gas and electric funds used for the purposes in this section; and the
22 businesses, vendors, and institutions that received the administrative funds for the purposes in
23 subsections (i) and (j). These reports shall be posted electronically on the websites of the office of
24 energy resources and the energy efficiency and resources management council.

25 (l) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank, each
26 electric distribution company, except for the Pascoag Utility District and Block Island Power
27 Company, shall remit two percent (2%) of the amount of the 2014 electric demand-side charge
28 collections to the Rhode Island infrastructure bank.

29 (m) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank, each
30 gas distribution company shall remit two percent (2%) of the amount of the 2014 gas demand-side
31 charge collections to the Rhode Island infrastructure bank.

32 (n) Effective January 1, 2022, the commission shall allocate from demand-side
33 management gas and electric funds authorized pursuant to this section, five million dollars
34 (\$5,000,000) of such funds on an annual basis to the Rhode Island infrastructure bank. Gas and

1 electric demand-side funds transferred to the Rhode Island infrastructure bank pursuant to this
2 section shall be eligible to be used in any energy efficiency, renewable energy, or demand-side
3 management project financing program administered by the Rhode Island infrastructure bank,
4 notwithstanding any other restrictions on the use of such collections set forth in this chapter. The
5 infrastructure bank shall report annually to the commission within ninety (90) days of the end of
6 each calendar year how collections transferred under this section were utilized.

7 SECTION 2. Chapter 46-12.2 of the General Laws entitled "Rhode Island Infrastructure
8 Bank" is hereby amended by adding thereto the following section:

9 **46-12.2-4.3. Establishment of the clean energy fund.**

10 (a)(1) There is hereby authorized and created within the Rhode Island infrastructure bank
11 a clean energy fund for the purpose of providing technical, administrative and financial assistance
12 to a local governmental unit, corporation, or person for energy efficient, renewable energy, and
13 demand-side management projects. The Rhode Island infrastructure bank shall review and approve
14 all applications for projects to be financed through the clean energy fund.

15 (2) The Rhode Island infrastructure bank shall promulgate rules and regulations to
16 effectuate the provisions of this section which may include, without limitation, forms for financial
17 assistance applications, loan agreements, and other instruments and establishing the process
18 through which a local governmental unit, corporation or person may submit an application for
19 financial assistance from the clean energy fund. All rules and regulations promulgated pursuant to
20 this chapter shall be promulgated in accordance with the provisions of chapter 35 of title 42.

21 (b) The Rhode Island infrastructure bank shall have all the powers necessary and
22 convenient to carry out and effectuate the purposes and provisions of this section including, without
23 limiting the generality of the preceding statement, the authority:

24 (1) To receive and disburse such funds as may be available for the purpose of the fund
25 subject to the provisions of this section;

26 (2) To make and enter into binding commitments to provide financial assistance to eligible
27 borrowers from amounts on deposit in the fund;

28 (3) To levy administrative fees on eligible borrowers as necessary to effectuate the
29 provisions of this section; provided, the fees have been previously authorized by an agreement
30 between the Rhode Island infrastructure bank and the eligible borrower;

31 (4) To engage the services of third-party vendors to provide professional services;

32 (5) To establish one or more accounts within the fund; and

33 (6) Such other authority as granted to the Rhode Island infrastructure bank under this
34 chapter.

1 (c) Subject to the provisions of this section and to any agreements with the holders of any
2 bonds of the Rhode Island infrastructure bank or any trustee therefor, amounts held by the Rhode
3 Island infrastructure bank for the account of the fund shall be applied by the Rhode Island
4 infrastructure bank, either by direct expenditure, disbursement, or transfer to one or more other
5 funds and accounts held by the Rhode Island infrastructure bank or maintained under any trust
6 agreement pertaining to bonds, either alone or with other funds of the Rhode Island infrastructure
7 bank, to the following purposes:

8 (1) To provide financial assistance to local governmental units, corporations or persons to
9 finance costs of approved projects, as set forth in subsection (a) of this section, and to refinance the
10 costs of the projects, subject to such terms and conditions, if any, as are determined by the Rhode
11 Island infrastructure bank;

12 (2) To fund reserves for bonds of the Rhode Island infrastructure bank and to purchase
13 insurance and pay the premiums therefor, and pay fees and expenses of letters or lines of credit and
14 costs of reimbursement to the issuers thereof for any payments made thereon or on any insurance,
15 and to otherwise provide security for, and a source of payment for obligations of the Rhode Island
16 infrastructure bank, by pledge, lien, assignment, or otherwise as provided in this chapter;

17 (3) To pay expenses of the Rhode Island infrastructure bank in administering the clean
18 energy fund;

19 (4) To provide a reserve for, or to otherwise secure, amounts payable by borrowers on loans
20 and obligations outstanding in the event of default thereof; amounts in any account in the fund may
21 be applied to defaults on loans outstanding to the borrower for which the account was established
22 and, on a parity basis with all other accounts, to defaults on any loans or obligations outstanding;
23 and

24 (5) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or
25 otherwise as provided in this chapter, any bonds of the Rhode Island infrastructure bank.

26 (d) In addition to other remedies of the Rhode Island infrastructure bank under any loan
27 agreement or otherwise provided by law, the Rhode Island infrastructure bank may also recover
28 from a borrower, in an action in superior court, any amount due the Rhode Island infrastructure
29 bank together with any other actual damages the Rhode Island infrastructure bank shall have
30 sustained from the failure or refusal of the borrower to make the payments or abide by the terms of
31 the loan agreement.

32 (e) The Rhode Island infrastructure bank may create one or more loan loss reserve funds
33 to serve as further security for any loans made by the Rhode Island infrastructure bank or any bonds
34 of the Rhode Island infrastructure bank issued to fund projects in accordance with this section.

1 (f) To the extent possible, and in accordance with law, the Rhode Island infrastructure bank
2 shall encourage the use of project labor agreements for projects by local governmental units over
3 ten million dollars (\$10,000,000) and local hiring on projects funded under this section.

4 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO PUBLIC UTILITIES AND CARRIERS - DUTIES OF UTILITIES AND
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1 This act would create and establish the clean energy fund within the Rhode Island
2 infrastructure bank for its review and approval of all applications for projects to be financed through
3 demand-side management gas and electric funds up to five million dollars (\$5,000,000) per year to
4 be allocated by the public utilities commission, commencing January 1, 2022.

5 This act would take effect upon passage.

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