

2018 -- S 2175

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- NET METERING

Introduced By: Senators DiPalma, Sosnowski, Miller, Conley, and Coyne

Date Introduced: February 01, 2018

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-26.4-2 and 39-26.4-3 of the General Laws in Chapter 39-26.4
2 entitled "Net Metering" are 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 title 39 of the general laws. When used in this chapter:

6 (1) "Community remote-net-metering system" means a facility generating electricity
7 using an eligible net-metering resource that allocates net-metering credits to a minimum of one
8 account for system associated with low or moderate housing eligible credit recipients, or three (3)
9 eligible credit-recipient customer accounts, provided that no more than fifty percent (50%) of the
10 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
15 of the eligible credit recipient accounts measured by the three-year (3) average annual
16 consumption of energy over the previous three (3) years. A projected annual consumption of
17 energy may be used until the actual three-year (3) average annual consumption of energy over the
18 previous three (3) years at the eligible credit recipient accounts becomes available for use in
19 determining eligibility of the generating system. The community remote-net-metering system

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

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

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

13 (i) Residential accounts in good standing.

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

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

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

29 (C) That has an original term of not less than thirty (30) years from initial occupancy.

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

34 (iii) "Educational institutions" means public and private schools at the primary,

1 secondary, and postsecondary levels.

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

5 (5) "Eligible net-metering system" means a facility generating electricity using an eligible
6 net-metering resource that is reasonably designed and sized to annually produce electricity in an
7 amount that is equal to, or less than, the renewable self-generator's usage at the eligible net-
8 metering-system site measured by the three-year (3) average annual consumption of energy over
9 the previous three (3) years at the electric-distribution account(s) located at the eligible net-
10 metering-system site. A projected annual consumption of energy may be used until the actual
11 three-year (3) average annual consumption of energy over the previous three (3) years at the
12 electric-distribution account(s) located at the eligible net-metering-system site becomes available
13 for use in determining eligibility of the generating system. The eligible net-metering system may
14 be owned by the same entity that is the customer of record on the net-metered accounts or may be
15 owned by a third party that is not the customer of record at the eligible net-metering system site
16 and which may offer a third-party, net-metering financing arrangement or net-metering financing
17 arrangement, as applicable. Notwithstanding any other provisions of this chapter, any eligible net-
18 metering resource: (i) Owned by a public entity, educational institution, hospital, nonprofit, or
19 multi-municipal collaborative or (ii) Owned and operated by a renewable-generation developer
20 on behalf of a public entity, educational institution, hospital, nonprofit, or multi-municipal
21 collaborative through net-metering financing arrangement shall be treated as an eligible net-
22 metering system and all accounts designated by the public entity, educational institution, hospital,
23 nonprofit, or multi-municipal collaborative for net metering shall be treated as accounts eligible
24 for net metering within an eligible net-metering-system site.

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

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

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

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

34 (9) "Hospital" means and shall be defined and established as set forth in chapter 17 of

1 title 23.

2 (10) "Multi-municipal collaborative" means a group of towns and/or cities that enter into
3 an agreement for the purpose of co-owning a renewable-generation facility or entering into a
4 financing arrangement pursuant to subdivision (14).

5 (11) "Municipality" means any Rhode Island town or city, including any agency or
6 instrumentality thereof, with the powers set forth in title 45 of the general laws.

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

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

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

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

33 (16) "Person" means an individual, firm, corporation, association, partnership, farm, town
34 or city of the State of Rhode Island, multi-municipal collaborative, or the State of Rhode Island or

1 any department of the state government, governmental agency, or public instrumentality of the
2 state.

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

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

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

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

24 (ii) Distribution kilowatt-hour charge;

25 (iii) Transmission kilowatt-hour charge; and

26 (iv) Transition kilowatt-hour charge.

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

33 (20) "Renewable self-generator" means an electric distribution service customer of record
34 for the eligible net-metering system or community remote-net-metering system at the eligible net-

1 metering-system site which system is primarily designed to produce electrical energy for
2 consumption by that same customer at its distribution service account(s), and/or, with respect to
3 community remote-net-metering systems, electrical energy which generates net-metering credits
4 to be applied to offset the eligible credit-recipient account usage.

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

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

15 **39-26.4-3. Net metering.**

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

19 (1) (i) The maximum, allowable capacity for eligible net-metering systems, based on
20 nameplate capacity, shall be ten megawatts (10 MW), effective sixty (60) days after passage. The
21 aggregate amount of net metering in the Block Island Power Company and the Pascoag Utility
22 District shall not exceed three percent (3%) of peak load for each utility district; and

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

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

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

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

24 (3) If the electricity generated by an eligible net-metering system or community remote-
25 net-metering system during a billing period is equal to, or less than, the net-metering customer's
26 usage at the eligible net-metering-system site or the sum of the usage of the eligible credit-
27 recipient accounts associated with the community remote-net-metering system during the billing
28 period, the customer shall receive renewable net-metering credits, that shall be applied to offset
29 the net-metering customer's usage on accounts at the eligible net-metering-system site, or shall be
30 used to credit the eligible credit-recipient's electric account.

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

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

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

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

15 (c) Any prudent and reasonable costs incurred by the electric-distribution company
16 pursuant to achieving compliance with subsection (a) and the annual amount of any renewable
17 net-metering credits or excess, renewable net-metering credits provided to accounts associated
18 with eligible net-metering systems or community remote-net-metering systems, shall be
19 aggregated by the distribution company and billed to all distribution customers on an annual basis
20 through a uniform, per-kilowatt-hour (kwh) surcharge embedded in the distribution component of
21 the rates reflected on customer bills.

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

24 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 change the definition of a net-metering financing arrangement and would
- 2 change the crediting of net-metered accounts.
- 3 This act would take effect upon passage.

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