

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- AFFORDABLE CLEAN ENERGY SECURITY ACT

Introduced By: Senators de la Cruz, Rogers, and DeLuca

Date Introduced: March 01, 2024

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-31-2, 39-31-3, 39-31-4, 39-31-5 and 39-31-7 of the General  
2 Laws in Chapter 39-31 entitled "Affordable Clean Energy Security Act" are hereby amended to  
3 read as follows:

4 **39-31-2. Purpose.**

5 The purpose of this chapter is to:

6 (1) Secure the future of the Rhode Island and New England economies, and their shared  
7 environment, by making state and/or coordinated, cost-effective, strategic investments in energy  
8 resources and infrastructure such that the New England states improve energy system reliability  
9 and security; enhance economic competitiveness by reducing energy costs to attract new  
10 investment and job growth opportunities; and protect the quality of life and environment for all  
11 residents and businesses;

12 (2) Utilize state and/or coordinated competitive processes, in collaboration with other New  
13 England states and their instrumentalities, to advance strategic investment in energy infrastructure  
14 and energy resources, provided that the total energy security, reliability, environmental, and  
15 economic benefits to the state of Rhode Island and its ratepayers exceed the costs of the projects,  
16 and ensure that the benefits and costs of the energy infrastructure investments are shared  
17 appropriately among the New England States; and

18 (3) Encourage ~~an~~ a [balanced](#) approach to energy policy that advances the objectives of

1 achieving a reliable, clean-energy future that is consistent with meeting greenhouse gas reduction  
2 goals as established by chapter 6.2 of title 42 (the “2021 act on climate”) ~~at reasonable cost~~  
3 affordable to ratepayers. If any provision of this chapter conflicts with the provisions of chapter 6.2  
4 of title 42 (the "2021 act on climate") the provisions of this chapter shall prevail.

5 **39-31-3. Commercially reasonable defined. Definitions.**

6 ~~When used in this chapter, “commercially reasonable”~~ (a) “Commercially reasonable”  
7 means terms and pricing that are reasonably consistent with what an experienced power market  
8 analyst would expect to see in transactions involving regional energy resources and regional energy  
9 infrastructure. Commercially reasonable shall include having a credible project operation date, as  
10 determined by the commission, but a project need not have completed the requisite permitting  
11 process to be considered commercially reasonable. Commercially reasonable shall require a  
12 determination by the commission that the benefits to Rhode Island exceed the cost of the project.  
13 The commission shall determine, based on the preponderance of the evidence, that the total energy  
14 security, reliability, environmental, and economic benefits to the state of Rhode Island and its  
15 ratepayers exceed the costs of such projects. If there is a dispute about whether any terms or pricing  
16 are commercially reasonable, the commission shall make the final determination after evidentiary  
17 hearings.

18 (b) Emission reduction mitigation means a technology, process, or method of carbon  
19 sequestration, that is recognized by the U.S. Environmental Protection Agency or as identified by  
20 the office of energy resources that results in the reduction of greenhouse gas emissions from natural  
21 gas transmission or electric generation.

22 **39-31-4. Regional energy planning.**

23 (a) Consistent with the purposes of this chapter, and utilizing regional stakeholder  
24 processes where appropriate, the office of energy resources, in consultation and coordination with  
25 the division of public utilities and carriers and the public utility company that provides electric  
26 distribution as defined in § 39-1-2(a)(12) as well as natural gas as defined in § 39-1-2(a)(17), is  
27 authorized to:

28 (1) Participate in the development and issuance of state, regional, or multistate competitive  
29 solicitation(s) for the development and construction of regional electric-transmission projects that  
30 would allow for the reliable transmission of large- or small-scale domestic or international  
31 hydroelectric power to New England load centers that will benefit the state of Rhode Island and its  
32 ratepayers, and such solicitations may be issued by the New England States Committee on  
33 Electricity or the electric or natural gas distribution company to further the purposes of this chapter;

34 (2) Participate in the development and issuance of state, regional, or multistate competitive

1 solicitation(s) for the development and construction of regional electric-transmission projects that  
2 would allow for the reliable transmission of eligible renewable energy resources, including offshore  
3 wind, as defined by § 39-26-5(a), to New England load centers that will benefit the state of Rhode  
4 Island and its ratepayers, and the solicitations may be issued by the New England States Committee  
5 on Electricity or the electric or natural gas distribution company to further the purposes of this  
6 chapter; and

7 (3) Participate in the development and issuance of regional or multistate competitive  
8 solicitation(s) for the development and construction of regional natural-gas-pipeline infrastructure  
9 and capacity that will benefit the state of Rhode Island and its ratepayers by strengthening energy  
10 system reliability and security and, in doing so, potentially mitigate energy price volatility that  
11 threatens the economic vitality and competitiveness of Rhode Island residents and businesses. The  
12 solicitations may be issued by the New England States Committee on Electricity or the electric or  
13 natural gas distribution company to further the purposes of this chapter; and the solicitations may  
14 request proposals that are priced in increments to allow for the evaluation of project costs and  
15 benefits associated with adding various levels of additional, natural gas pipeline capacity into New  
16 England and assist with the optimization of energy system reliability, economic, and other benefits  
17 consistent with the purposes of this chapter.

18 (4) As part of any such state, regional, or multistate competitive solicitation processes  
19 conducted pursuant to this chapter, the office of energy resources shall work jointly with the  
20 division of public utilities and carriers, and with the electric distribution company as appropriate,  
21 to identify incremental, natural-gas-pipeline infrastructure and capacity and/or electric-  
22 transmission projects that optimize energy reliability, economic, environmental, and ratepayer  
23 impacts for Rhode Island, consistent with the legislative findings and purpose of this chapter. The  
24 office of energy resources and division of public utilities and carriers shall be authorized to utilize  
25 expert consultants, as needed, to assist in any state, regional, multistate, or state-level determination  
26 related to the procurement activities identified in § 39-31-5.

27 (5) Identify and participate in the development of regional or multistate emissions  
28 reduction mitigation strategies to reduce emissions from natural gas transmission and generated  
29 electricity. The office of energy resources shall participate in the identification, development, and  
30 promote the use of emission mitigations for natural gas transmission and electric generation with  
31 the New England States Committee on Electricity or the electric or natural gas distribution  
32 company.

33 (b) Prior to any binding commitments being made by any agencies of the state, the electric  
34 distribution company, or any other entity that would result in costs being incurred directly, or

1 indirectly, by Rhode Island electric and/or gas consumers through distribution or commodity rates,  
2 the office of energy resources and division of public utilities and carriers shall jointly file any  
3 energy infrastructure project recommendation(s) with the public utilities commission and may  
4 make such filing jointly with the electric or natural gas distribution company as appropriate. The  
5 public utilities commission shall consider any such recommendation(s) as specified under § 39-31-  
6 7.

7 (c) A copy of the filing made under subsection (b) of this section shall be provided to the  
8 governor, the president of the senate, the speaker of the house, the department of environmental  
9 management, and the commerce corporation.

10 (d) The electric distribution company shall be provided with a copy of any filing made  
11 under this section at least ten (10) business days in advance of its filing with the public utilities  
12 commission and the electric or gas distribution utility may file separate comments when the filing  
13 is made.

14 (e) As part of any office of energy resources and division of public utilities and carriers  
15 filing made pursuant to this chapter, the agencies shall identify the expected energy reliability,  
16 energy security, and ratepayer impacts that are expected to result from commitments being made  
17 in connection with the proposed project(s).

18 (f) The office of energy resources and division of public utilities and carriers reserve the  
19 right to determine that energy infrastructure projects submitted in any state, regional, or multistate  
20 competitive solicitation process are not in Rhode Island's energy reliability, energy security, and/or  
21 ratepayer interests, and shall make such findings available to the governor, the president of the  
22 senate, and the speaker of the house. The electric or gas distribution utility may attach a separate  
23 opinion to those findings, at its election.

24 **39-31-5. State and regional energy procurement.**

25 (a) Consistent with the purposes of this chapter, the public utility company that provides  
26 electric distribution as defined in § 39-1-2(a)(12), as well as natural gas as defined in § 39-1-  
27 2(a)(17), in consultation with the office of energy resources and the division of public utilities and  
28 carriers is authorized ~~to voluntarily~~ and encouraged to participate in state, multistate, or regional  
29 efforts to:

30 (1) Procure domestic or international large- or small-scale hydroelectric power and eligible  
31 renewable energy resources, including wind, as defined by § 39-26-5(a), that seek to meet the  
32 renewable energy standard goals of chapter 26 of this title but shall not be mandatory if such  
33 renewable sources are not found to be commercially reasonable and affordable to ratepayers under  
34 this chapter on behalf of electric ratepayers; provided, however, that large-scale hydroelectric

1 power shall ~~not~~ be eligible under the renewable energy standard established by chapter 26 of this  
2 title. If the provisions of this section conflict with the provisions of chapter 26 of this title, the  
3 provisions of this section shall prevail;

4 (2) Procure ~~incremental~~, natural-gas-pipeline infrastructure and capacity into New England  
5 to help strengthen energy system reliability and facilitate the economic interests of the state and its  
6 ratepayers. Provided that, any natural gas infrastructure or capacity procured that utilizes emissions  
7 reduction mitigation shall be counted towards the statewide greenhouse gas emission reduction  
8 mandate goals as defined by § 42-6.2-9. The office of energy resources shall determine the amount  
9 of emissions reduction to attribute to each emission reduction mitigation identified;

10 (3) Support the development and filing of necessary tariffs and other appropriate cost-  
11 recovery mechanisms, as proposed by the office of energy resources or the division of public  
12 utilities and carriers, that allocate the costs of new, electric-transmission and natural-gas-pipeline  
13 infrastructure and capacity projects selected pursuant to the provisions of this chapter to ratepayers,  
14 such that costs are shared among participating states in an equitable manner; and

15 (4) To the extent that the public utility company that provides electric distribution as  
16 defined in § 39-1-2(a)(12), as well as natural gas as defined in § 39-1-2(a)(17), pursues the  
17 objectives identified above, the public utility company shall utilize all appropriate, competitive  
18 processes, and maintain compliance with applicable federal and state siting laws.

19 (b) Any procurement authorized under this section shall be commercially reasonable.

20 (c) If any part of this chapter conflicts with chapter 26 or chapter 6.2 of title 42 (the "2021  
21 act on climate") the provisions of this chapter shall prevail.

22 **39-31-7. Duties of the commission.**

23 (a) The commission shall approve any proposals made by the electric and gas distribution  
24 company that are commercially reasonable, affordable to ratepayers, and advance the purposes of  
25 this chapter. The commission's authority shall include, without limitation, the authority to:

26 (1) Approve long-term contracts entered into pursuant to the goals and provisions of this  
27 chapter for large- or small-scale hydroelectric power and renewable energy resources that are  
28 eligible under the renewable energy standard established by chapter 26 of this title; ~~provided,~~  
29 ~~however, that large scale hydroelectric power shall not be eligible under the renewable energy~~  
30 ~~standard established by chapter 26 of this title;~~

31 (2) Annually determine the adequacy of renewable energy supplies to meet the increase in  
32 the percentage requirement of energy from renewable energy resources effective for the following  
33 year. The commission shall annually publish the commission's determination of adequacy on the  
34 agency's website;

1           ~~(2)~~(3) Approve long-term contracts for natural-gas-pipeline infrastructure and capacity  
2 consistent with the purposes of this chapter;

3           ~~(3)~~(4) Approve rate-recovery mechanisms proposed by the electric and gas distribution  
4 companies relating to costs incurred under this chapter by the electric and gas distribution company  
5 that facilitate the multistate or regional sharing of costs necessary to implement electric  
6 transmission and natural-gas-pipeline infrastructure projects pursued under this chapter, including  
7 any costs incurred through the Federal Energy Regulatory Commission approved tariffs related to  
8 such multistate or regional energy infrastructure procurements;

9           ~~(4)~~(5) Address any proposed changes to standard-offer procurements, standard-offer  
10 pricing, and retail-choice rules;

11           ~~(5)~~(6) Provide for the recovery of reasonable net costs from all distribution customers  
12 incurred by the electric and gas distribution company in furtherance of the purposes of this chapter  
13 that may include, but are not limited to, costs to solicit, evaluate, and seek approval of such  
14 contracts as well as net costs incurred under any contracts approved by the commission under this  
15 section and costs associated with the management of incremental capacity resulting from interstate  
16 gas-pipeline-expansion projects pursued pursuant to this chapter and costs associated with  
17 investments in local gas-distribution-network assets necessary to implement such interstate gas-  
18 pipeline-expansion projects;

19           ~~(6)~~(7) Nothing herein is intended to prohibit the commission from allowing the electric  
20 distribution company to use the energy, capacity, and other attributes purchased for resale to  
21 customers and approve tariffs that charge those customers for the energy, capacity, and other  
22 attributes from the resale to those customers; and/or to use the NE-GIS certificates for purposes of  
23 meeting the obligations set forth in chapter 26 of this title (“renewable energy standard”);

24           ~~(7)~~(8) Approve cost allocation proposals filed by the gas distribution company and/or the  
25 electric distribution company that appropriately allocate offshore wind costs incurred under § 39-  
26 31-10, natural gas infrastructure and capacity costs incurred under § 39-31-6 between electric and  
27 gas distribution customers of the electric and gas distribution company in a manner proportional to  
28 the energy benefits accrued by Rhode Island’s gas and electric customers from making such  
29 investments. In making its determination, the commission shall consider projected reductions in  
30 regional, wholesale electric prices as a benefit that accrues to electric ratepayers. The allocation of  
31 costs shall include all distribution customers, regardless from whom they are purchasing their  
32 commodity service; and

33           ~~(8)~~(9) Approve any other proposed regulatory or ratemaking changes that reasonably  
34 advance the goals set forth herein.

1 (b) The grant of authorizations under this chapter shall not be construed as creating a  
2 mandate or obligation on the part of the electric and gas distribution company to enter into any  
3 contracts or file any proposals pursuant to this chapter.

4 (c) The public utilities commission shall docket any proposals made by the office of energy  
5 resources and division of public utilities and carriers pursuant to § 39-31-4. Docket materials shall  
6 be posted and maintained on the commission's website. The commission shall conduct  
7 proceedings, as provided below, solely for the purpose of determining whether the proposed  
8 infrastructure projects, if implemented, are in the public interest and no commitments shall be valid  
9 or authorized without such finding being made by the commission. The validity and approval of  
10 any commitments made by the electric or gas distribution company in furtherance of the purposes  
11 of this chapter shall be separate and subject to § 39-31-5. The docket opened pursuant to this  
12 subsection shall proceed as follows:

13 (1) The following state agencies shall provide advisory opinions to the commission on the  
14 topics specified below within sixty (60) days from the docketing date:

15 (i) The department of environmental management (DEM) shall provide an advisory  
16 opinion on the expected greenhouse gas emissions and statewide environmental impacts, including  
17 on forests and the ocean, resulting from the proposed project(s), including a determination as to  
18 whether the proposed project(s) advance the goals of chapter 6.2 of title 42 (the "2021 Act on  
19 Climate").

20 (ii) The commerce corporation shall provide an advisory opinion on the expected statewide  
21 economic impacts resulting from the proposed project(s).

22 (2) The commission shall notify the aforementioned agencies upon the filing of any  
23 proposal made under this section, and notify them of any related hearings and/or proceedings.

24 (3) Advisory opinions issued by agencies designated under subsection (c)(1) of this section  
25 shall not be considered as final decisions of the agencies making the opinions and shall not be  
26 subject to judicial review under § 42-35-15 or any other provision of the general laws.

27 (4) Upon completion of the sixty-day (60) advisory-opinion period, the commission shall  
28 provide for a thirty-day (30) public comment period on any energy ~~infrastructure~~ project(s) selected  
29 pursuant to this chapter and hold evidentiary hearings. In addition to evidentiary hearings, the  
30 commission shall also hold at least one public hearing to accept public comment on the proposal(s)  
31 prior to an open meeting held pursuant to this section. The commission shall also seek input from  
32 the ratepayers advisory board established under § 39-1-37.1 before the end of the thirty (30) day  
33 public comment period.

34 (5) The commission shall hold an open meeting no later than one hundred twenty (120)

1 days from the date of filing by the office of energy resources and division of public utilities and  
2 carriers and shall certify that the proposed project(s) are in the public interest if, in the commission’s  
3 determination, and in consideration of filed advisory opinions and the opinion of the electric or gas  
4 distribution utility, the proposed ~~infrastructure~~ project(s):

- 5 (i) Are consistent with the findings and purposes of this chapter;
- 6 (ii) Will benefit Rhode Island by improving local and regional energy system reliability  
7 and security;
- 8 (iii) Will benefit Rhode Island ratepayers by offering the potential for reduced energy price  
9 volatility and reduction of energy supply costs in the context of an integrated regional energy  
10 system;
- 11 (iv) Will not cause unacceptable harm to the environment ~~and are consistent with~~, seeks to  
12 reasonably meet the greenhouse gas reduction goals established in chapter 6.2 of title 42 (the “2021  
13 Act on Climate”) and does not conflict with this chapter; and
- 14 (v) Will ~~enhance~~ not harm the economic ~~facile~~ growth of the state.

15 (6) The commission shall issue a written determination of its findings within ten (10)  
16 business days of its open-meeting decision and provide copies of that determination, along with  
17 copies of all advisory opinions, public comment, and any other materials deemed relevant to the  
18 commission determination, to the governor, the president of the senate, the speaker of the house,  
19 the commissioner of the office of energy resources, and the administrator of the division of public  
20 utilities and carriers.

21 (d) A determination issued by the commission shall constitute the sole, final, binding, and  
22 determinative regulatory decision within the state for the purpose of authorizing the state to support  
23 a proposed, regional energy-infrastructure project(s) that is funded through the Federal Energy  
24 Regulatory Commission approved tariffs on a regional and/or multistate basis pursuant to this  
25 chapter. Appeals shall be governed by § 39-5-1.

26 (e) Upon issuance of a written determination by the commission finding that the proposed  
27 project(s) is in the public interest, the office of energy resources and division of public utilities and  
28 carriers shall, on behalf of the state, be authorized to support any state, regional, and/or multistate  
29 process necessary to implement the project(s), including, without limitation, supporting any  
30 necessary and related Federal Energy Regulatory Commission filings; provided, however, that any  
31 commitments made by the electric or gas distribution company to implement the proposals remain  
32 voluntary and subject to § 39-31-5.

33 (f) Nothing in this section shall be construed to preclude the electric or gas distribution  
34 company from making a filing under § 39-31-6, simultaneous with a filing under this section by



1 the office of energy resources and the division of public utilities and carriers, in which case the  
2 filings made under §§ 39-31-6 and 39-31-7 shall be consolidated.

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

=====  
LC005247  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- AFFORDABLE CLEAN ENERGY  
SECURITY ACT

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1           This act would make several amendments relative to the affordable clean energy security  
2 act establishing the act's priority over chapter 6.2 of title 42 (the "2021 act on climate") and  
3 providing for the participation and development of regional or multistate emissions reduction  
4 mitigation strategies.

5           This act would take effect upon passage.

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