

2008 -- S 2849

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LC01688
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS

Introduced By: Senators J Montalbano, Moura, Algiere, Sosnowski, and Raptakis

Date Introduced: March 12, 2008

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 26.1

4 LONG-TERM CONTRACTING STANDARD FOR RENEWABLE ENERGY

5 **39-26.1-1. Purpose.** – The purpose of this chapter is to encourage and facilitate the
6 creation of long-term contracts between electric distribution companies and developers or
7 sponsors of newly developed renewable energy resources with the goals of stabilizing long-term
8 energy prices, enhancing environmental quality, and creating jobs in Rhode Island in the
9 renewable energy sector.

10 **39-26.1-2. Definitions.** – Terms not defined in this chapter shall have the same meaning
11 as contained in chapter 26 of title 39 of the general laws. When used in this chapter:

12 (1) "Commercially reasonable" means terms and pricing that are reasonably consistent
13 with what an experienced power market analyst would expect to see in transactions of a similar
14 nature. If there is a dispute about whether any terms or pricing are commercially reasonable, the
15 commission shall make the final determination after evidentiary hearings;

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

17 (3) "Electric distribution company" means a company defined in subsection 39-1-2(12),
18 supplying standard offer service, last resort service, or any successor service to end-use
19 customers, but not including the Block Island Power Company or the Pascoag Utility District;

1 (4) "Eligible renewable energy resource" means resources as defined in section 39-26-5
2 and any references therein;

3 (5) "Long-term contract" means a contract of not less than ten (10) years;

4 (6) "Newly developed renewable energy resources" means electrical generation units that
5 use exclusively an eligible renewable energy resource, and that have neither begun operation, nor
6 have the developers of the units implemented investment or lending agreements necessary to
7 finance the construction of the unit;

8 (7) "Minimum long-term contract capacity" means seventy (70) megawatts. In
9 determining whether the minimum long-term contract capacity has been reached, compliance
10 shall be measured by the capacity factor of each renewable generator as determined by the ISO-
11 NE rules, as they may change from time to time.

12 **39-26.1-3. Long-term contract standard.** – (a) Commencing on July 1, 2009, each
13 electric distribution company shall be required to annually solicit proposals from renewable
14 energy developers and, provided commercially reasonable proposals have been received, enter
15 into long-term contracts with terms of up to fifteen (15) years for the purchase of capacity, energy
16 and attributes from such solicitations to facilitate the financing of newly developed renewable
17 energy resources. The electric distribution company, at its sole discretion, may, but not be
18 required to, enter into contracts of term lengths longer than fifteen (15) years, subject to
19 commission approval.

20 (b) The timetable and method for solicitation and execution of such contracts shall be
21 proposed by the electric distribution company, and shall be subject to review and approval by the
22 commission; provided that the timetable is reasonably designed to result in the electric
23 distribution company having long-term contracts for projects to reach the minimum long-term
24 contract capacity within four (4) years of the date of the first solicitation. The electric distribution
25 company shall select a reasonable method of soliciting proposals from renewable energy
26 developers, which shall include, at a minimum, an annual public solicitation, but may also include
27 individual negotiations, or other methods. The solicitation process shall permit a reasonable
28 amount of negotiating discretion for the parties to engage in commercially reasonable arms-length
29 negotiation over final contract terms. A report on such solicitation shall be filed with the
30 commission each year within a reasonable time after decisions are made by the electric
31 distribution company regarding the solicitation results.

32 (c)(1) No electric distribution company shall be obligated to enter into long-term
33 contracts for newly developed renewable energy resources on terms which the electric
34 distribution company reasonably believes to be commercially unreasonable. The electric

1 distribution company shall not be obligated to enter into long-term contracts pursuant to this
2 section that would, in the aggregate, exceed the minimum long-term contract capacity, but may
3 do so voluntarily subject to commission approval. As long as the electric distribution company
4 has entered into long-term contracts in compliance with this section, the electric distribution
5 company shall not be required by regulation or order to enter into contracts with terms of more
6 than three (3) years in meeting its applicable annual renewable portfolio standard requirements
7 set forth in section 39-26-4.

8 (2) An electric distribution company shall not be required to enter into long-term
9 contracts for eligible renewable energy resources that exceed the following four (4) year phased
10 schedule:

- 11 By end of year 1: twenty-five percent (25%) of the minimum long-term contract capacity
 - 12 By end of year 2: fifty percent (50%) of the minimum long-term contract capacity
 - 13 By end of year 3: seventy-five percent (75%) of the minimum long-term contract capacity
 - 14 By end of year 4: one hundred percent (100%) of the minimum long-term contract capacity
- 15 but may do so voluntarily, subject to commission approval.

16 (d) Compliance with the long-term contract standard shall be demonstrated through
17 procurement pursuant to the provisions of a long-term contract of energy, capacity and attributes
18 reflected in NE-GIS certificates relating to generating units certified by the commission as using
19 eligible renewable energy sources, as evidenced by reports issued by the NE-GIS administrator
20 and the terms of the contract; provided, however, that the NE-GIS certificates were procured
21 pursuant to the provisions of a long-term contract. The electric distribution company also may
22 purchase other attributes from the generator as part of the long-term contract.

23 (e) An electric distribution company may, at its sole election, procure additional long-
24 term contracts for newly developed renewable energy resources above the minimum long-term
25 contract capacity, subject to commission approval.

26 **39-26.1-4. Financial remuneration and incentives.** – In order to achieve the purposes
27 of this chapter, electric distribution companies shall be entitled to financial remuneration and
28 incentives for long-term contracts for newly developed renewable energy resources, which are
29 over and above the base rate revenue requirement established in its cost of service for distribution
30 ratemaking. Such remuneration and incentives shall compensate the electric distribution
31 company for accepting the financial obligation of the long-term contracts. The financial
32 remuneration and incentives described in this subsection shall apply only to long-term contracts
33 for newly developed renewable energy resources. The financial remuneration and incentives
34 shall be in the form of annual compensation, equal to four percent (4%) of the actual annual

1 payments made under the contracts for those projects that are commercially operating.

2 **39-26.1-5. Commission approvals and regulations.** – (a) Electric distribution
3 companies shall submit to the commission for review and approval all long-term contracts for
4 newly developed renewable energy resources entered into in accordance with this chapter.

5 (b) Unless the commission approves otherwise, any energy and capacity purchased by an
6 electric distribution company pursuant to this chapter shall be immediately sold by the electric
7 distribution company into the wholesale spot market.

8 (c) Unless the commission approves otherwise, any NE-GIS certificates purchased by an
9 electric distribution company pursuant to this chapter shall be sold through a competitive bidding
10 process in a commercially reasonable manner.

11 (d) Subject to commission approval, electric distribution companies shall be permitted,
12 but shall not be required: (1) to use the energy, capacity and other attributes purchased for resale
13 to customers; and/or (2) to use the NE-GIS certificates for purposes of meeting the obligations set
14 forth in chapter 26 of title 39; provided, however, that the commission finds that such action(s)
15 would not have a detrimental impact on energy markets, on the market for NE-GIS certificates,
16 and is otherwise in the interest of utility customers.

17 (e) The commission shall promulgate regulations by April 1, 2009, that provide for due
18 consideration and appropriate weighting by the electric distribution company for project
19 proposals that are substantially likely to provide other direct or indirect economic benefits to
20 Rhode Island, such as job creation, increased property tax or similar revenues, or other similar
21 direct or indirect economic benefits to Rhode Island communities.

22 (f) The electric distribution company shall file tariffs with the commission for
23 commission review and approval that net the cost of payments made to projects under the long-
24 term contracts against the proceeds obtained from the sale of energy, capacity, RECs or other
25 attributes. The difference shall be credited or charged to all distribution customers through a
26 uniform fully reconciling annual factor in distribution rates, subject to review and approval of the
27 commission. The reconciliation shall be designed so that customers are credited with any net
28 savings resulting from the long-term contracts and the electric distribution company recovers all
29 costs incurred under such contracts, as well as, recovery of the financial remuneration and
30 incentives specified in section 39-26.1-4.

31 **39-26.1-6. Interaction with other laws.** – The long-term contract standard set forth in
32 this chapter shall be separate and distinct from the renewable energy standard set forth in chapter
33 26 of title 39.

1 SECTION 2. 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

1 This act would create long-term contracting standards for the development of renewable
2 energy.

3 This act would take effect upon passage.

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