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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- RENEWABLE ENERGY  
STANDARD

Introduced By: Senators J Montalbano, Miller, Algieri, Sosnowski, and Raptakis

Date Introduced: March 12, 2008

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-26-2 and 39-26-6 of the General Laws in Chapter 39-26  
2 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 or private educational institution, no part  
15 of the net earnings of which inures to the benefit of any private shareholder or individual which:

16 (i) provides an educational program for which it awards a degree, or provides for not less  
17 than a two (2) year program which is acceptable for full credit towards a degree, or is a graduate  
18 or professional school, or

1 (ii) is accredited by a nationally recognized accrediting agency or association or, if not so  
2 accredited, is an institution whose credits are accepted, on transfer by not less than three (3)  
3 accredited educational institutions for credit on the same basis as if transferred from an institution  
4 so accredited.

5 ~~(5)~~ (6) "Electrical energy product" means an electrical energy offering, including, but not  
6 limited to, last resort and standard offer service, that can be distinguished by its generation  
7 attributes or other characteristics, and that is offered for sale by an obligated entity to end-use  
8 customers;

9 ~~(6)~~ (7) "Eligible biomass fuel" means fuel sources including brush, stumps, lumber ends  
10 and trimmings, wood pallets, bark, wood chips, shavings, slash and other clean wood that is not  
11 mixed with other solid wastes; agricultural waste, food and vegetative material; energy crops;  
12 landfill methane; biogas; or neat bio-diesel and other neat liquid fuels that are derived from such  
13 fuel sources;

14 ~~(7)~~ (8) "Eligible renewable energy resource" means resources as defined in section 39-  
15 26-4;

16 ~~(8)~~ (9) "End-use customer" means a person or entity in Rhode Island that purchases  
17 electrical energy at retail from an obligated entity;

18 ~~(9)~~ (10) "Existing renewable energy resources" means generation units using eligible  
19 renewable energy resources and first going into commercial operation before December 31, 1997;

20 ~~(10)~~ (11) "Generation attributes" means the nonprice characteristics of the electrical  
21 energy output of a generation unit including, but not limited to, the unit's fuel type, emissions,  
22 vintage and policy eligibility;

23 ~~(11)~~ (12) "Generation unit" means a facility that converts a fuel or an energy resource  
24 into electrical energy;

25 ~~(12)~~ (13) "NE-GIS" means the generation information system operated by NEPOOL, its  
26 designee or successor entity, which includes a generation information database and certificate  
27 system, and that accounts for the generation attributes of electrical energy consumed within  
28 NEPOOL;

29 ~~(13)~~ (14) "NE-GIS certificate" means an electronic record produced by the NE-GIS that  
30 identifies the relevant generation attributes of each megawatt-hour accounted for in the NE-GIS;

31 ~~(14)~~ (15) "NEPOOL" means the New England Power Pool or its successor;

32 (16) "Net metering" means the process of measuring the difference between electricity  
33 delivered by an electrical distribution company and electricity generated by a solar-net-metering  
34 facility or wind-net-metering facility and fed back to the distribution company;

1           ~~(15)~~ (17) "New renewable energy resources" means generation units using eligible  
2 renewable energy resources and first going into commercial operation after December 31, 1997;  
3 or the incremental output of generation units using eligible renewable energy resources that have  
4 demonstrably increased generation in excess of ten percent (10%) using eligible renewable  
5 energy resources through capital investments made after December 31, 1997; but in no case  
6 involve any new impoundment or diversion of water with an average salinity of twenty (20) parts  
7 per thousand or less;

8           ~~(16)~~ (18) "Obligated entity" means a person or entity that sells electrical energy to end-  
9 use customers in Rhode Island, including, but not limited to: nonregulated power producers and  
10 electric utility distribution companies, as defined in section 39-1-2, supplying standard offer  
11 service, last resort service, or any successor service to end-use customers; including Narragansett  
12 Electric, but not to include Block Island Power Company as described in section 39-26-7 or  
13 Pascoag Utility District;

14           ~~(17)~~ (19) "Off-grid generation facility" means a generation unit that is not connected to a  
15 utility transmission or distribution system;

16           (20) "Renewable generation credit" means credit equal to the excess kWhs by the time of  
17 use billing period (if applicable) multiplies by the sum of the distribution company's:

18           (i) standard offer service kWh charge for the rate class applicable to the net metering  
19 customer;

20           (ii) distribution kWh charge;

21           (iii) transmission kWh; and

22           (iv) transition kWh charge. This does not include any charges relating to conservation  
23 and load management, demand side management, and renewable energy.

24           ~~(18)~~ (21) "Reserved certificate" means a NE-GIS certificate sold independent of a  
25 transaction involving electrical energy, pursuant to Rule 3.4 or a successor rule of the operating  
26 rules of the NE-GIS;

27           ~~(19)~~ (22) "Reserved certificate account" means a specially designated account  
28 established by an obligated entity, pursuant to Rule 3.4 or a successor rule of the operating rules  
29 of the NE-GIS, for transfer and retirement of reserved certificated from the NE-GIS;

30           ~~(20)~~ (23) "Self-generator" means an end-use customer in Rhode Island that displaces all  
31 or part of its retail electricity consumption, as metered by the distribution utility to which it  
32 interconnects, through the use of a customer-sited generation facility;

33           ~~(21)~~ (24) "Small hydro facility" means a facility employing one or more hydroelectric  
34 turbine generators and with an aggregate capacity not exceeding thirty (30) megawatts. For

1 purposes of this definition, "facility" shall be defined in a manner consistent with Title 18 of the  
2 Code of Federal Regulations, section 92.201 et seq.; provided, however, that the size of the  
3 facility is limited to thirty (30) megawatts, rather than eighty (80) megawatts.

4 **39-26-6. Duties of the commission.** -- The commission shall:

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

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

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

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

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

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

30 (c) Certify eligible renewable energy resources by issuing statements of qualification  
31 within ninety (90) days of application. The commission shall provide prospective reviews for  
32 applicants seeking to determine whether a facility would be eligible.

33 (d) Determine, on or before January 1, 2010, the adequacy, or potential adequacy, of  
34 renewable energy supplies to meet the increase in the percentage requirement of energy from

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

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

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

26 (g) Implement the following changes regarding distributed generation from renewable  
27 energy systems by January 1, ~~2008 and until January 1, 2010~~ 2009.

28 (1) Increase the maximum allowable distributed generation capacity for eligible net-  
29 metered energy systems to one megawatt (MW); except that for eligible net-metered renewable  
30 energy systems owned by cities and towns of Rhode Island and the Narragansett Bay  
31 Commission, increase said maximum to ~~1.65 MW~~ 3.5 megawatts (MW).

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

1           (3) If the electricity generated by the renewable generation facility during a billing period  
2 exceeds the customer's kilowatt-hour usage during the billing period, the customer shall be billed  
3 for zero kilowatt-hour usage and the excess renewable generation credits shall be credited to the  
4 customer's account for the following billing period. Any Rhode Island city or town, educational  
5 institution, or the Narragansett Bay Commission may elect to apply any such credits earned to  
6 another account owned by it.

7           (4) If the customer's kilowatt-hour usage exceeds the electricity generated by the  
8 renewable generation facility during the billing period, the customer shall be billed for the net  
9 kilowatt-hour usage at the applicable rate. Any excess credits may be carried forward month to  
10 month for twelve (12) month periods as established by the commission. At the end of the  
11 applicable twelve (12) month period, if there are unused excess credits on the net metering  
12 customer accounts, such credits shall be transferred to the renewable energy low income fund set  
13 forth in section 39-26-6(j).

14           ~~(h) The distribution portion of any small or large renewable credits and the distribution~~  
15 ~~portion of any distribution company delivery charges displaced by renewable energy systems~~  
16 ~~subject to subsection (g) above~~ Any prudent and reasonable costs incurred by an electric supplier  
17 or any electric distribution company pursuant to achieving compliance with subsection (g) shall  
18 be aggregated by the distribution company and billed to all customers on an annual basis through  
19 either a uniform per kilowatt-hour surcharge or ~~surcharges~~ through a rate base case.

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

23           (j) The commission shall establish a renewable energy low income fund to which unused  
24 excess renewable credits shall be transferred, as provided in section 39-26-6(g)(4). The  
25 commission shall direct the electrical distribution utility to apply the credits to reduce the electric  
26 bills of customers in the low income rate class, by such method as determined by the commission.  
27 The electric distribution company shall file an annual report disclosing the amount of unused  
28 credits and propose a method of allocating the credits to the low income rate class. The  
29 commission shall, after conducting a public hearing, retain discretion to accept the proposal,  
30 modify it, or direct a different method of allocating the credits to the low income rate class.

31           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

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1           This act would establish net metering to measure the difference between electricity  
2 delivered by an electrical distribution company and electricity generated by a solar or wind net  
3 metering facility. It would also establish renewable generation energy whereby if the electricity  
4 so generated exceeds the customer's usage during the billing period, the customer may receive  
5 billing credits or donate it to a renewable energy low-income fund.

6           This act would take effect upon passage.

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