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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- NET METERING

Introduced By: Representatives Potter, Solomon, Knight, Carson, and Cortvriend

Date Introduced: January 11, 2023

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-26.4-2 of the General Laws in Chapter 39-26.4 entitled "Net
2 Metering" is 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 this title. When used in this chapter:

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

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

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

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

11 (i) Residential accounts in good standing.

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

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

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

26 (C) Has an original term of not less than thirty (30) years from initial occupancy.

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

31 (iii) "Educational institutions" means public and private schools at the primary, secondary,
32 and postsecondary levels.

33 (4) "Eligible net-metering resource" means eligible renewable energy resource, as defined
34 in § 39-26-5 including biogas created as a result of anaerobic digestion, but, specifically excluding

1 all other listed eligible biomass fuels.

2 (5) “Eligible net-metering system” means a facility generating electricity using an eligible
3 net-metering resource that is reasonably designed and sized to annually produce electricity in an
4 amount that is equal to, or less than, the renewable self-generator’s usage at the eligible net-
5 metering system site. No utility shall limit the eligibility of a net metering site based on prior
6 consumption. Any excess of energy not consumed under a net metering system within a calendar
7 year shall be credited to the consumer at the wholesale electricity rate ~~measured by the three year~~
8 ~~(3) average annual consumption of energy over the previous three (3) years at the electric~~
9 ~~distribution account(s) located at the eligible net metering system site. A projected annual~~
10 ~~consumption of energy may be used until the actual three year (3) average annual consumption of~~
11 ~~energy over the previous three (3) years at the electric distribution account(s) located at the eligible~~
12 ~~net metering system site becomes available for use in determining eligibility of the generating~~
13 ~~system.~~ The eligible net-metering system may be owned by the same entity that is the customer of
14 record on the net-metered accounts or may be owned by a third party that is not the customer of
15 record at the eligible net-metering system site and which may offer a third-party, net-metering
16 financing arrangement or net-metering financing arrangement, as applicable. Notwithstanding any
17 other provisions of this chapter, any eligible net-metering resource: (i) Owned by a public entity,
18 educational institution, hospital, nonprofit, or multi-municipal collaborative or (ii) Owned and
19 operated by a renewable-generation developer on behalf of a public entity, educational institution,
20 hospital, nonprofit, or multi-municipal collaborative through a net-metering financing arrangement
21 shall be treated as an eligible net-metering system and all accounts designated by the public entity,
22 educational institution, hospital, nonprofit, or multi-municipal collaborative for net metering shall
23 be treated as accounts eligible for net metering within an eligible net-metering system site.

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

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

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

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

33 (9) "Hospital" means and shall be defined and established as set forth in chapter 17 of title
34 23.

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

4 (11) “Municipality” means any Rhode Island town or city, including any agency or
5 instrumentality thereof, with the powers set forth in title 45.

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

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

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

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

32 (16) “Person” means an individual, firm, corporation, association, partnership, farm, town
33 or city of the state of Rhode Island, multi-municipal collaborative, or the state of Rhode Island or
34 any department of the state government, governmental agency, or public instrumentality of the

1 state.

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

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

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

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

22 (ii) Distribution kilowatt-hour charge;

23 (iii) Transmission kilowatt-hour charge; and

24 (iv) Transition kilowatt-hour charge.

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

31 (20) "Renewable self-generator" means an electric distribution service customer of record
32 for the eligible net-metering system or community remote net-metering system at the eligible net-
33 metering system site which system is primarily designed to produce electrical energy for
34 consumption by that same customer at its distribution service account(s), and/or, with respect to

1 community remote net-metering systems, electrical energy which generates net-metering credits to
2 be applied to offset the eligible credit-recipient account usage.

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

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

13 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 prohibit utility companies from limiting the eligibility of a net metering site
2 based on prior consumption and require excess energy not consumed under the net metering system
3 to be credited to the consumer. It would also amend the definition of excess renewable net-metering
4 credit.

5 This act would take effect upon passage.

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