

2023 -- H 5033 SUBSTITUTE A AS AMENDED

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LC000403/SUB A
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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, Cortvriend, and Boylan

Date Introduced: January 11, 2023

Referred To: House Corporations

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 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 measured by the three year (3) average annual consumption of energy over~~
6 ~~the previous three (3) years at the electric distribution account(s) located at the eligible net metering~~
7 ~~system site. A projected annual consumption of energy may be used until the actual three year (3)~~
8 ~~average annual consumption of energy over the previous three (3) years at the electric distribution~~
9 ~~account(s) located at the eligible net-metering system site becomes available for use in determining~~
10 ~~eligibility of the generating system~~ to self-supply electrical energy and power for an eligible net-
11 metering customer. No electric distribution company shall limit the eligibility of a net-metering site
12 based on prior consumption. The eligible net-metering system may be owned by the same entity
13 that is the customer of record on the net-metered accounts or may be owned by a third party that is
14 not the customer of record at the eligible net-metering system site and which may offer a third-
15 party, net-metering financing arrangement or net-metering financing arrangement, as applicable.
16 Notwithstanding any other provisions of this chapter, any eligible net-metering resource: (i) Owned
17 by a public entity, educational institution, hospital, nonprofit, or multi-municipal collaborative or
18 (ii) Owned and operated by a renewable-generation developer on behalf of a public entity,
19 educational institution, hospital, nonprofit, or multi-municipal collaborative through a net-metering
20 financing arrangement shall be treated as an eligible net-metering system and all accounts
21 designated by the public entity, educational institution, hospital, nonprofit, or multi-municipal
22 collaborative for net metering shall be treated as accounts eligible for net metering within an
23 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, which is hereby declared to be the electric distribution company's standard offer service~~
22 ~~kilowatt hour (KWh) charge for the rate class and time of use billing period (if applicable)~~
23 ~~applicable to the customer of record for the eligible net metering system or applicable to the~~
24 ~~customer of record for the community remote net metering system. The commission shall have the~~
25 ~~authority to make determinations as to the applicability of this credit to specific generation facilities~~
26 ~~to the extent there is any uncertainty or disagreement.~~

27 (i) For electrical energy produced greater than one hundred percent (100%) but less than
28 one hundred and ten percent (110%) of the renewable self-generator's own electricity consumption
29 at the eligible net-metering system site or the sum of the usage of the eligible credit recipient
30 accounts associated with the community remote net-metering system during the applicable billing
31 period, excess renewable net-metering credits shall be equal to the electric distribution company's
32 avoided cost rate, which is hereby declared to be the electric distribution company's last resort
33 service kilowatt hour (KWh) charge for the rate class and time-of-use billing period (if applicable)
34 applicable to the customer of record for the eligible net-metering system or applicable to the

1 customer of record for the community remote net-metering system. The commission shall have the
2 authority to make determinations as to the applicability of this credit to specific generation facilities
3 to the extent there is any uncertainty or disagreement.

4 (ii) For electrical energy produced at or greater than one hundred and ten percent (110%)
5 of the renewable self-generator's own electricity consumption at the eligible net-metering system
6 site or the sum of the usage of the eligible credit recipient accounts associated with the community
7 remote net-metering system during the applicable billing period, excess renewable net-metering
8 credits shall be equal to one hundred and three percent (103%) of the wholesale electricity rate,
9 which is hereby declared to be the average ISO-NE clearing price. The commission shall have the
10 authority to make determinations as to the applicability of this credit to specific generation facilities
11 to the extent there is any uncertainty or disagreement.

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

17 (9) "Hospital" means and shall be defined and established as set forth in chapter 17 of title
18 23.

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

22 (11) "Municipality" means any Rhode Island town or city, including any agency or
23 instrumentality thereof, with the powers set forth in title 45.

24 (12) "Net metering" means using electrical energy generated by an eligible net-metering
25 system for the purpose of self-supplying electrical energy and power at the eligible net-metering
26 system site, or with respect to a community remote net-metering system, for the purpose of
27 generating net-metering credits to be applied to the electric bills of the eligible credit recipients
28 associated with the community net-metering system. The amount so generated will thereby offset
29 consumption at the eligible net-metering system site through the netting process established in this
30 chapter, or with respect to a community remote net-metering system, the amounts generated in
31 excess of that amount will result in credits being applied to the eligible credit-recipient accounts
32 associated with the community remote net-metering system.

33 (13) "Net-metering customer" means a customer of the electric distribution company
34 receiving and being billed for distribution service whose distribution account(s) are being net

1 metered.

2 (14) “Net-metering financing arrangement” means arrangements entered into by a public
3 entity, educational institution, hospital, nonprofit, or multi-municipal collaborative with a private
4 entity to facilitate the financing and operation of a net-metering resource, in which the private entity
5 owns and operates an eligible net-metering resource on behalf of a public entity, educational
6 institution, hospital, nonprofit, or multi-municipal collaborative, where: (i) The eligible net-
7 metering resource is located on property owned or controlled by the public entity, educational
8 institution, hospital, or one of the municipalities, as applicable; and (ii) The production from the
9 eligible net-metering resource and primary compensation paid by the public entity, educational
10 institution, hospital, nonprofit, or multi-municipal collaborative to the private entity for such
11 production is directly tied to the consumption of electricity occurring at the designated net-metered
12 accounts.

13 (15) “Nonprofit” means a nonprofit corporation as defined and established through chapter
14 6 of title 7, and shall include religious organizations that are tax exempt pursuant to 26 U.S.C. §
15 501(d).

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

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

23 (18) “Public entity” means the federal government, the state of Rhode Island,
24 municipalities, wastewater treatment facilities, public transit agencies, or any water distributing
25 plant or system employed for the distribution of water to the consuming public within this state
26 including the water supply board of the city of Providence.

27 (19) “Renewable net-metering credit” means a credit that applies to an eligible net-
28 metering system or a community remote net-metering system up to one hundred percent (100%) of
29 either the renewable self-generator’s usage at the eligible net-metering system site or the sum of
30 the usage of the eligible credit-recipient accounts associated with the community remote net-
31 metering system over the applicable billing period. This credit shall be equal to the total kilowatt
32 hours of electrical energy generated up to the amount consumed on-site, and/or generated up to the
33 sum of the eligible credit-recipient account usage during the billing period multiplied by the sum
34 of the distribution company’s:

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

6 (ii) Distribution kilowatt-hour charge;

7 (iii) Transmission kilowatt-hour charge; and

8 (iv) Transition kilowatt-hour charge.

9 Notwithstanding the foregoing, except for systems that have requested an interconnection
10 study for which payment has been received by the distribution company, or if an interconnection
11 study is not required, a completed and paid interconnection application, by December 31, 2018, the
12 renewable net-metering credit for all remote public entity and multi-municipal collaborative net-
13 metering systems shall not include the distribution kilowatt-hour charge commencing on January
14 1, 2050.

15 (20) “Renewable self-generator” means an electric distribution service customer of record
16 for the eligible net-metering system or community remote net-metering system at the eligible net-
17 metering system site which system is primarily designed to produce electrical energy for
18 consumption by that same customer at its distribution service account(s), and/or, with respect to
19 community remote net-metering systems, electrical energy which generates net-metering credits to
20 be applied to offset the eligible credit-recipient account usage.

21 (21) “Third party” means and includes any person or entity, other than the renewable self-
22 generator, who or that owns or operates the eligible net-metering system or community remote net-
23 metering system on the eligible net-metering system site for the benefit of the renewable self-
24 generator.

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

31 **39-26.4-3. Net metering.**

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

1 (1)(i) The maximum allowable capacity for eligible net-metering systems, based on
2 nameplate capacity, shall be ten megawatts (10 MW), effective sixty (60) days after passage. The
3 aggregate amount of net metering in the Block Island Utility District doing business as Block Island
4 Power Company and the Pascoag Utility District shall not exceed a maximum percentage of peak
5 load for each utility district as set by the utility district based on its operational characteristics,
6 subject to commission approval; and

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

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

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

24 (ii) Aggregate consumption of the net-metered accounts at the eligible net-metering system
25 site or the sum of the consumption of the eligible credit-recipient accounts associated with the
26 community remote net-metering system, and establish a monthly billing plan that reflects the
27 expected credits that would be applied to the net-metered accounts over twelve (12) months. The
28 billing plan would be designed to even out monthly billings over twelve (12) months, regardless of
29 actual production and usage. If such election is made by the electric distribution company, the
30 electric distribution company would reconcile payments and credits under the billing plan to actual
31 production and consumption at the end of the twelve-month (12) period and apply any credits or
32 charges to the net-metered accounts for any positive or negative difference, as applicable. Should
33 there be a material change in circumstances at the eligible net-metering system site or associated
34 accounts during the twelve-month (12) period, the estimates and credits may be adjusted by the

1 electric distribution company during the reconciliation period. The electric distribution company
2 also may elect (but is not required) to issue checks to any net-metering customer in lieu of billing
3 credits or carry-forward credits or charges to the next billing period. For residential-eligible net-
4 metering systems and community remote net-metering systems twenty-five kilowatts (25 KW) or
5 smaller, the electric distribution company, at its option, may administer renewable net-metering
6 credits month to month allowing unused credits to carry forward into the following billing period.

7 (3) If the electricity generated by an eligible net-metering system or community remote
8 net-metering system during a billing period is equal to, or less than, the net-metering customer's
9 usage at the eligible net-metering system site or the sum of the usage of the eligible credit-recipient
10 accounts associated with the community remote net-metering system during the billing period, the
11 customer shall receive renewable net-metering credits, that shall be applied to offset the net-
12 metering customer's usage on accounts at the eligible net-metering system site, or shall be used to
13 credit the eligible credit-recipient's electric account. [The electric distribution company shall issue](#)
14 [checks to any net-metering customer for excess net-metering credits for requested by a net-metering](#)
15 [customer.](#)

16 (4) If the electricity generated by an eligible net-metering system or community remote
17 net-metering system during a billing period is greater than the net-metering customer's usage on
18 accounts at the eligible net-metering system site or the sum of the usage of the eligible credit-
19 recipient accounts associated with the community remote net-metering system during the billing
20 period, the customer shall be paid by excess renewable net-metering credits ~~for the excess~~
21 ~~electricity generated up to an additional twenty five percent (25%) beyond the net metering~~
22 ~~customer's usage~~ at the eligible net-metering system site, or the sum of the usage of the eligible
23 credit-recipient accounts associated with the community remote net-metering system during the
24 billing period; unless the electric distribution company and net-metering customer have agreed to
25 a billing plan pursuant to subsection (a)(2).

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

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

34 (c) Any prudent and reasonable costs incurred by the electric distribution company

1 pursuant to achieving compliance with subsection (a) and the annual amount of any renewable net-
2 metering credits or excess renewable net-metering credits provided to accounts associated with
3 eligible net-metering systems or community remote net-metering systems, shall be aggregated by
4 the distribution company and billed to all distribution customers on an annual basis through a
5 uniform, per-kilowatt-hour (KWh) surcharge embedded in the distribution component of the rates
6 reflected on customer bills.

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

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

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LC000403/SUB A
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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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