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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- PUBLIC UTILITIES COMMISSION

Introduced By: Representatives Handy, E Coderre, Slater, Diaz, and Cimini

Date Introduced: February 16, 2011

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 39-1-1 of the General Laws in Chapter 39-1 entitled "Public  
2 Utilities Commission" is hereby amended to read as follows:

3           **39-1-1. Declaration of policy -- Purposes.** -- (a) The general assembly finds and  
4 therefore declares that:

5           (1) The businesses of distributing electrical energy, producing and transporting  
6 manufactured and natural gas, operating water works and furnishing supplies of water for  
7 domestic, industrial, and commercial use, offering to the public transportation of persons and  
8 property, furnishing and servicing telephonic and wireless audio and visual communication  
9 systems, and operation of community antenna television systems are affected with a public  
10 interest;

11           (2) Supervision and reasonable regulation by the state of the manner in which such  
12 businesses construct their systems and carry on their operations within the state are necessary to  
13 protect and promote the convenience, health, comfort, safety, accommodation, and welfare of the  
14 people, and are a proper exercise of the police power of the state;

15           (3) Preservation of the state's resources, commerce, and industry requires the assurance  
16 of adequate public transportation and communication facilities, water supplies, and an abundance  
17 of energy, all supplied to the people with reliability, at economical cost, and with due regard for  
18 the preservation and enhancement of the environment, the conservation of natural resources,  
19 including scenic, historic, and recreational assets, and the strengthening of long-range, land-use

1 planning.

2 (b) It is hereby declared to be the policy of the state to provide fair regulation of public  
3 utilities and carriers in the interest of the public, to promote availability of adequate, efficient and  
4 economical energy, communication, and transportation services and water supplies to the  
5 inhabitants of the state, to provide just and reasonable rates and charges for such services and  
6 supplies, without unjust discrimination, undue preferences or advantages, or unfair or destructive  
7 competitive practices, and to co-operate with other states and agencies of the federal government  
8 in promoting and coordinating efforts to achieve realization of this policy.

9 (c) To this end, there is hereby vested in the public utilities commission and the division  
10 of public utilities and carriers the exclusive power and authority to supervise, regulate, and make  
11 orders governing the conduct of companies offering to the public in intrastate commerce energy,  
12 communication, and transportation services and water supplies for the purpose of increasing and  
13 maintaining the efficiency of the companies, according desirable safeguards and convenience to  
14 their employees and to the public, and protecting them and the public against improper and  
15 unreasonable rates, tolls and charges by providing full, fair, and adequate administrative  
16 procedures and remedies, and by securing a judicial review to any party aggrieved by such an  
17 administrative proceeding or ruling.

18 (d) The legislature also finds and declares, as of 1996, the following:

19 (1) That lower retail electricity rates would promote the state's economy and the health  
20 and general welfare of the citizens of Rhode Island;

21 (2) That current research and experience indicates that greater competition in the  
22 electricity industry would result in a decrease in electricity rates over time;

23 (3) That greater competition in the electricity industry would stimulate economic growth;

24 (4) That it is in the public interest to promote competition in the electricity industry and  
25 to establish performance based ratemaking for regulated utilities;

26 (5) That in connection with the transition to a more competitive electric utility industry,  
27 public utilities should have a reasonable opportunity to recover transitional costs associated with  
28 commitments prudently incurred in the past pursuant to their legal obligations to provide reliable  
29 electric service at reasonable costs;

30 (6) That it shall be the policy of the state to encourage, through all feasible means and  
31 measures, states where fossil-fueled electric generating units producing air emissions affecting  
32 Rhode Island air quality are located to reduce such emissions over time to levels that enable cost  
33 effective attainment of environmental standards within Rhode Island;

34 (7) That in a restructured electrical industry the same protections currently afforded to

1 low income customers shall continue.

2 (e) The legislature further finds and declares as of 2006:

3 (1) That prices of energy, including especially fossil-fuels and electricity, are rising  
4 faster than the cost of living and are subject to sharp fluctuations, which conditions create  
5 hardships for many households, institutions, organizations, and businesses in the state;

6 (2) That while utility restructuring has brought some benefits, notably in transmission  
7 and distribution costs and more efficient use of generating capacities, it has not resulted in  
8 competitive markets for residential and small commercial industrial customers, lower overall  
9 prices, or greater diversification of energy resources used for electrical generation;

10 (3) That the state's economy and the health and general welfare of the people of Rhode  
11 Island benefit when energy supplies are reliable and least-cost; and

12 (4) That it is a necessary move beyond basic utility restructuring in order to secure for  
13 Rhode Island, to the maximum extent reasonably feasible, the benefits of reasonable and stable  
14 rates, least-cost procurement, and system reliability that includes energy resource diversification,  
15 distributed generation, and load management.

16 (f) The legislature further finds and declares that there will be established a non-lapsing  
17 fund to be known as the "Universal Service Fund," heretofore called USF, which shall be  
18 remitted to the commissioner of the office of energy resources for the exclusive purposes of  
19 providing funding for the percent of income payment plan for low-income consumers of  
20 regulated utilities.

21 (1) The public utilities commission, with input from the office of energy resources, shall  
22 annually determine a reasonable volumetric charge on electric and gas meters to be assumed by  
23 all residential, commercial and industrial ratepayers to be deposited into the USF. For each  
24 electric and natural gas utility company whose rates are approved by the commission, said  
25 volumetric charge shall be set to produce a funding stream of not less than one percent of total  
26 billed distribution and commodity revenues from the preceding calendar year.

27 (2) The USF may be used to pay annual administrative costs incurred by the utility, the  
28 office of energy resources, the public utilities commission and participating agencies, as long as  
29 those costs do not exceed eight percent (8%) of the annual amount collected to the USF.

30 (3) The utilities shall report annually to the public utilities commission including, but not  
31 limited to, the amount of funds collected to the USF, the amount allocated to administrative costs  
32 of the USF collection and percent of income payment plan program administration.

33 SECTION 2. Section 39-2-1 of the General Laws in Chapter 39-2 entitled "Duties of  
34 Utilities and Carriers" is hereby amended to read as follows:

1           **39-2-1. Reasonable and adequate services -- Reasonable and just charges. --** (a)

2 Every public utility is required to furnish safe, reasonable, and adequate services and facilities.  
3 The rate, toll, or charge, or any joint rate made, exacted, demanded, or collected by any public  
4 utility for the conveyance or transportation of any persons or property, including sewage, between  
5 points within the state, or for any heat, light, water, or power produced, transmitted, distributed,  
6 delivered, or furnished, or for any telephone or telegraph message conveyed or for any service  
7 rendered or to be rendered in connection therewith, shall be reasonable and just, and every unjust  
8 or unreasonable charge for the service is prohibited and declared unlawful, and no public utility  
9 providing heat, light, water, or power produced, transmitted, distributed, delivered, or furnished  
10 shall terminate the service or deprive any home or building, or whatsoever, of service if the  
11 reason therefor is nonpayment of the service without first notifying the user of the service, or the  
12 owner or owners of the building as recorded with the utility of the impending service termination  
13 by written notice at least ten (10) days prior to the effective date of the proposed termination of  
14 service.

15           (1) Effective October 1, 2011, the utility shall collect funds form all utility customers for  
16 the funding of the universal service fund. All funds collected shall be remitted as restricted  
17 receipts to the office of energy resources pursuant to subsection 39-1-1(f).

18           (b) Any existing rules and regulations dealing with the termination of utility service and  
19 establishing reasonable methods of debt collection promulgated by the commission pursuant to  
20 this chapter and the provisions of section 39-1.1-3, including but not limited to, any rules and  
21 regulations dealing with deposit and deferred payment arrangements, winter moratorium and  
22 medical emergency protections, and customer dispute resolution procedures, shall be applicable  
23 to any public utility which distributes electricity.

24           (c) The commission shall promulgate such further rules and regulations as are necessary  
25 to protect consumers following the introduction of competition in the electric industry and which  
26 are consistent with this chapter and the provisions of section 39-1.1-3. In promulgating such rules  
27 and regulations, the commission shall confer with the Retail Electric Licensing Commission and  
28 shall give reasonable consideration to any and all recommendations of the Retail Electric  
29 Licensing Commission.

30           (d) On or before May 1, 2007, the commission shall administer such rules and  
31 regulations as may be necessary to implement the purpose of this section and to provide for  
32 restoration of electric and/or gas service to very low income households as defined by section 42-  
33 141-2.

34           (1) Effective July 1, 2007, notwithstanding the provisions of part V sections 4(E)(1)(B)

1 and (C) of the public utilities commission rules and regulations governing the termination of  
2 residential electric, gas, and water utility service, a very low income customer who is terminated  
3 from gas and/or electric service or is recognized pursuant to a rule or decision by the division as  
4 being scheduled for actual shut-off of service on a date specified, shall be eligible one time to  
5 have electric and/or gas utility service restored providing the following conditions are met:

6 (i) the customer pays twenty-five percent (25%) of the customer's unpaid balance;

7 (ii) the customer agrees to pay one thirty-sixth (1/36) of one half (1/2) of the customer's  
8 remaining balance per month for thirty-six (36) months;

9 (iii) the customer agrees to remain current with payments for current usage. For purposes  
10 of this subsection remaining current with payments shall mean that the customer: (a) misses no  
11 more than a total of three (3) payments in the thirty-six (36) month period covered by the  
12 agreement; (b) misses more than two (2) payments in any one calendar year, provided that such  
13 missed payments in a calendar year are not consecutive and that payments for the year are up-to-  
14 date by October 31st; and (c) that the amount due under that agreement is paid in full by the  
15 conclusion of the period of the agreement; and

16 (iv) the customer has shown, to the satisfaction of the division, that the customer is  
17 reasonably capable of meeting the payment schedule provided for by the provisions of  
18 subdivision 39-2-1(d)(1)(i) and (ii) in this section. The restoration of service provided for by this  
19 subsection shall be a one-time right; failure to comply with the payment provisions set forth in  
20 this subsection shall be grounds for the customer to be dropped from the repayment program  
21 established by this subsection, and the balance due on the unpaid balance shall be due in full and  
22 shall be payable in accordance with the rules of the commission governing the termination of  
23 residential electric, gas, and water utility service. A customer who completes the schedule of  
24 payments pursuant to this subsection, shall have the balance of any arrearage forgiven, and the  
25 customer's obligation to the gas and/or electric company for such balance shall be deemed to be  
26 fully satisfied. The amount of the arrearage so forgiven shall be treated as bad debt for purposes  
27 of cost recovery by the gas or the electric company.

28 (2) A customer terminated from service under the provisions of subdivision 39-2-1(d)(1)  
29 shall be eligible for restoration of service in accordance with the applicable provisions of part V  
30 section 4(E)(1)(C), or its successor provision, of the public utilities commission rules and  
31 regulations governing the termination of residential electric, gas, and water service.

32 SECTION 3. Section 42-140-3 of the General Laws in Chapter 42-140 entitled "Rhode  
33 Island Energy Resources Act" is hereby amended to read as follows:

34 **42-140-3. Purposes.** -- The purposes of the office shall be to:

1 (1) Develop and put into effect plans and programs to promote, encourage, and assist the  
2 provision of energy resources for Rhode Island in a manner that enhances economic well-being,  
3 social equity, and environmental quality;

4 (2) Monitor, forecast, and report on energy use, energy prices, and energy demand and  
5 supply forecasts, and make findings and recommendations with regard to energy supply diversity,  
6 reliability, and procurement, including least-cost procurement;

7 (3) Develop and to put into effect plans and programs to promote, encourage and assist  
8 the efficient and productive use of energy resources in Rhode Island, and to coordinate energy  
9 programs for natural gas, electricity, and heating oil to maximize the aggregate benefits of  
10 conservation and efficiency of investments;

11 (4) Monitor and report technological developments that may result in new and/or  
12 improved sources of energy supply, increased energy efficiency, and reduced environmental  
13 impacts from energy supply, transmission and distribution;

14 (5) Administer the programs, duties, and responsibilities heretofore exercised by the state  
15 energy office, except as these may be assigned by executive order to other departments and  
16 agencies of state government;

17 (6) Develop, recommend and, as appropriate, implement integrated and/or  
18 comprehensive strategies, including at regional and federal levels, to secure Rhode Island's  
19 interest in energy resources, their supply and efficient use, and as necessary to interact with  
20 persons, private sector, non-profit, regional, federal entities and departments and agencies of  
21 other states to effectuate this purpose;

22 (7) Cooperate with agencies, departments, corporations, and entities of the state and of  
23 political subdivisions of the state in achieving its purposes;

24 (8) Cooperate with and assist the state planning council and the division of state planning  
25 in developing, maintaining, and implementing state guide plan elements pertaining to energy and  
26 renewable energy;

27 (9) Administer, as assigned by law or executive order, state and federally funded or  
28 authorized energy programs, which may include, but not be limited to:

29 (i) The federal low-income home energy assistance program which provides heating  
30 assistance to eligible low-income persons and any state funded or privately funded heating  
31 assistance program of a similar nature assigned to it for administration;

32 (ii) The weatherization assistance program which offers home weatherization grants and  
33 heating system upgrades to eligible persons of low-income;

34 (iii) The emergency fuel program which provides oil deliveries to families experiencing

1 a heating emergency;

2 (iv) The energy conservation program, which offers service and programs to all sectors;  
3 and

4 (v) [Deleted by P.L. 2008, ch. 228, section 2, and P.L. 2008, ch. 422, section 2.]

5 (vi) The percent of income payment plan pursuant to subsection 39-1-1(f).

6 (10) Advise the economic development corporation in the development of standards and  
7 rules for the solicitation and award of renewable energy program investment funds in accordance  
8 with section 42-64-13.2;

9 (11) Develop, recommend, and evaluate energy programs for state facilities and  
10 operations in order to achieve and demonstrate the benefits of energy-efficiency, diversification  
11 of energy supplies, energy conservation, and demand management; and

12 (12) Advise the governor and the general assembly with regard to energy resources and  
13 all matters relevant to achieving the purposes of the office.

14 SECTION 4. Title 42 of the General Laws entitled "STATE AFFAIRS AND  
15 GOVERNMENT" is hereby amended by adding thereto the following chapter:

16 CHAPTER 141.1

17 PERCENT OF INCOME PAYMENT PLAN FOR REGULATED UTILITIES

18 **42-141.1-1. Program creation.** – The Percent of Income Payment Plan (PIPP) is hereby  
19 created as a mandatory utility bill payment assistance program for low-income residential  
20 customers of regulated utilities. The PIPP will:

21 (1) Bring participants' gas and electric bills into the range of affordability; and

22 (2) Provide incentives for timely payments through an arrearage reduction program.

23 **42-141.1-2. Definitions.** – As used in this chapter, unless the context shall otherwise  
24 require:

25 (1) "Commission" means the public utilities commission.

26 (2) "Energy Office" means the governor's office of energy resources.

27 (3) "Home Energy" means retail electric and natural gas service provided for end-use  
28 consumption by residential customers.

29 (4) "Home Energy Burden" means a customer's current home energy bill minus any  
30 grant of LIHEAP assistance divided by the customer's household income.

31 (5) "LIHEAP" means the federal Low Income Household Energy Assistance Program or  
32 its successor.

33 (6) "Participating Agency" includes any community action program or other community  
34 based agency which administers LIHEAP benefits.

1           **42-141.1-3. Program eligibility.** – All utility customers who are eligible for LIHEAP.  
2 For the purposes of determining eligibility, “household income” includes all sources of monthly  
3 income.

4           **42-141.1-4. Program credits.** – (a) The amount of PIPP participant billing credit shall be  
5 that amount necessary, up to a maximum of one hundred fifty dollars (\$150) per household per  
6 month, to reduce the household’s home energy burden to an affordable percentage of income.

7           (b) The affordable home energy burden for each eligible household that uses both gas and  
8 electric service and each household that uses electric service for heating purposes shall be tiered  
9 as follows:

10           (1) Six percent (6%) of gross annual income for households with income of fifty percent  
11 (50%) of the federal poverty level or less;

12           (2) Seven percent (7%) of gross annual income for households with income between  
13 fifty-one percent (51%) of the federal poverty level and one hundred percent (100%) of the  
14 federal poverty level;

15           (3) Eight percent (8%) of gross annual income for households with income between one  
16 hundred and one percent (101%) of the federal poverty level and the maximum amount of income  
17 eligible for LIHEAP assistance as established by the energy office.

18           (c) If a household uses electricity only for non-heating purposes, the affordable home  
19 energy burden of each eligible household shall be tiered as follows:

20           (1) Two percent (2%) of gross annual income for households with income of fifty percent  
21 (50%) of the federal poverty level or less;

22           (2) Three percent (3%) of gross annual income for households with income between  
23 fifty-one percent (51%) of the federal poverty level and one hundred percent (100%) of the  
24 federal poverty level;

25           (3) Four percent (4%) of gross annual income for households with income between one  
26 hundred and one percent (101%) of the federal poverty level and the maximum amount of income  
27 eligible for LIHEAP assistance, as established by the energy office.

28           (d) The energy office shall establish the percent of income formula to determine the  
29 amount of monthly credit, not to exceed one hundred fifty dollars (\$150) per month per  
30 household for households enrolled in PIPP.

31           (e) The energy office may allocate credits as it deems appropriate for crisis intervention.

32           **42-141.1-5. Arrearage management.** – If a household has paid in full all bills incurred  
33 during three (3) years of program participation, the household shall not be required to pay any  
34 arrearage incurred prior to entry in the program. The energy office shall prescribe the mechanism

1 for providing arrearage credits pursuant to this section.

2 **42-141.1-6. Evaluation.** – The energy office shall on an annual basis prepare an  
3 evaluation report of the impact of the PIPP on low-income home energy affordability and  
4 participant payment behaviors of PIPP participants. The annual evaluation report shall be  
5 delivered to the general court and made available to the public on March 31 of each calendar  
6 year. The annual evaluation report shall cover the period of the calendar preceding the one in  
7 which the report is submitted and shall include, but not be limited to, from each utility company  
8 the following information and data:

9 (1) Number of eligible of low-income residential customers who participated in PIPP;

10 (2) Number of customers newly enrolled in PIPP;

11 (3) Number of LIHEAP eligible residential customers who did not participate in PIPP;

12 (4) Number of general residential customers who did not participate in PIPP;

13 (5) Number of PIPP participants who were removed from the program due to  
14 nonpayment;

15 (6) Aggregate amount billed to PIPP participants;

16 (7) Aggregate revenue from PIPP participants;

17 (8) Aggregate amount billed to general residential customers; and

18 (9) Aggregate revenue from general residential customers.

19 Each utility company shall, in the manner and timeframe prescribed by the energy office  
20 provide to the energy office information for use in the annual evaluation report.

21 **42-141.1-7. Obligations of participants.** -- Participating households shall agree to the  
22 following obligations in order to participate in this program:

23 (1) The household shall report, within a time period prescribed by the energy office,  
24 changes in income or financial condition that affect the household's eligibility or need for energy  
25 assistance to a responsible administrator in the energy office or in a participating agency;

26 (2) Household participation in this program shall be terminated if the household fails to  
27 make three (3) or more consecutive monthly gas and/or electric bill payments in full unless the  
28 household has reported a change in income or financial status in accordance with subdivision (1)  
29 above and has been determined eligible on account of that change for additional assistance or for  
30 emergency assistance. Upon termination from the program, all of the participant's outstanding  
31 arrearsages will become due and payable, and the household, upon re-application, will be treated  
32 as a new applicant.

1 SECTION 5. 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 -- PUBLIC UTILITIES COMMISSION

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1           This act would create a mandatory utility bill payment assistant program for low-income  
2 residential customers of regulated utilities.

3           This act would take effect upon passage.

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