

2023 -- H 6048

LC001558

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- PUBLIC UTILITIES COMMISSION

Introduced By: Representatives Place, Rea, Nardone, Quattrocchi, Roberts, Newberry,
and Chippendale

Date Introduced: March 03, 2023

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-1-27.3 of the General Laws in Chapter 39-1 entitled "Public
2 Utilities Commission" is hereby amended to read as follows:

3 **39-1-27.3. Electric distribution companies required to provide retail access, standard**
4 **offer and last-resort service.**

5 (a) To promote economic development and the creation and preservation of employment
6 opportunities within the state, each electric distribution company, except Pascoag Utility District,
7 a quasi-municipal corporation, district, and subdivision of the state ("electric distribution
8 company"), shall offer retail access from nonregulated power producers to all customers.

9 (b) Through year 2009, and effective July 1, 2007, through year 2020, each electric
10 distribution company shall arrange for a standard power-supply offer ("standard offer") to
11 customers that have not elected to enter into power-supply arrangements with other nonregulated
12 power suppliers. The rates that are charged by the electric distribution company to customers for
13 standard-offer service shall be approved by the commission and shall be designed to recover the
14 electric distribution company's costs and no more than the electric distribution company's costs;
15 provided, that the commission may establish and/or implement a rate that averages the costs over
16 periods of time. The electric distribution company shall not be entitled to recover any profit margin
17 on the sale of standard-offer power, except with approval of the commission as may be necessary
18 to implement, fairly and effectively, system reliability and least-cost procurement. The electric
19 distribution company will be entitled to recover its costs incurred from providing the standard offer

1 arising out of: (1) Wholesale standard-offer supply agreements with power suppliers in effect prior
2 to January 1, 2002; (2) Power-supply arrangements that are approved by the commission after
3 January 1, 2002; (3) Power-supply arrangements made pursuant to §§ 39-1-27.3.1 and 39-1-27.8;
4 and (4) Any other power-supply-related arrangements prudently made after January 1, 2002, to
5 provide standard-offer supply or to mitigate standard-offer supply costs, including costs for system
6 reliability, procurement, and least-cost procurement, as provided for in § 39-1-27.7. Subject to
7 commission approval, the electric distribution company may enter into financial contracts designed
8 to hedge fuel-related or other variable costs associated with power-supply arrangements and the
9 costs of any such financial contracts shall be recoverable in standard-offer rates. The electric
10 distribution company's standard-offer revenues and its standard-offer costs shall be accounted for
11 and reconciled with interest at least annually. Except as otherwise may be directed by the
12 commission in order to accomplish purposes established by law, any over recoveries shall be
13 refunded to customers in a manner directed by the commission, and any under recoveries shall be
14 recovered by the electric distribution company through a uniform adjustment factor approved by
15 the commission. The commission shall have the discretion to apply such adjustment factor in any
16 given instance to all customers or to such specific class of customers that the commission deems
17 equitable under the circumstances provided that the distribution company recovers any under
18 recovery in its entirety. Once a customer has elected to enter into a power-supply arrangement with
19 a nonregulated power producer, the electric distribution company shall not be required to arrange
20 for the standard offer to such customer except as provided in § 39-1-27.3.1. No customer who
21 initially elects the standard offer and then chooses an alternative supplier shall be required to pay
22 any withdrawal fee or penalty to the provider of the standard offer unless such a penalty or
23 withdrawal fee was agreed to as part of a contract; however, no residential customer shall be
24 required to pay a penalty or withdrawal fee for choosing an alternative supplier. Nothing in this
25 subsection shall be construed to restrict the right of any nonregulated power producer to offer to
26 sell power to customers at a price comparable to that of the standard offer specified pursuant to this
27 subsection. The electric distribution company may not terminate an existing standard-offer
28 wholesale supply agreement without the written consent of the division.

29 (c) In recognition that electricity is an essential service, each electric distribution company
30 shall arrange for a last-resort power supply for customers who have left the standard offer for any
31 reason and are not otherwise receiving electric service from nonregulated power producers. The
32 electric distribution company shall procure last-resort service supply from wholesale power
33 suppliers. Prior to acquiring last-resort supply, the electric distribution company will file with the
34 commission a supply acquisition plan or plans that include the acquisition procedure, the pricing

1 options being sought, and a proposed term of service for which last-resort service will be acquired.
2 The term of service may be short- or long-term and acquisitions may ~~occur from time to time and~~
3 be staggered for more than one supplier for segments of last-resort service load over different terms,
4 ~~if appropriate~~ to lower prospective ratepayer charges. All the components of the acquisition plans,
5 however, shall be subject to commission review and approval. Once an acquisition plan is approved
6 by the commission, the electric distribution company shall be authorized to acquire last-resort
7 service supply consistent with the approved acquisition plan and recover its costs incurred from
8 providing last-resort service pursuant to the approved acquisition plan. The commission ~~may~~
9 ~~periodically~~ shall, as appropriate, review the acquisition plan to determine whether it should be
10 prospectively modified due to changed market conditions. The commission shall have the authority
11 and discretion to approve special tariff conditions and rates proposed by the electric distribution
12 company that the commission finds are in the public interest, including without limitation: (1)
13 Short- or long-term optional service at different rates; (2) Term commitments or notice provisions
14 before individual customers leave last-resort service; (3) Last-resort service rates for residential or
15 any other special class of customers that are different than the rates for other last-resort customers;
16 and/or (4) Last-resort service rates that are designed to encourage any class of customers to return
17 to the market. The electric distribution company's last-resort service revenues and its last-resort
18 service costs shall be accounted for and reconciled ~~with interest~~ at least annually. Any over
19 recoveries shall be refunded and any under recoveries shall be recovered by the electric distribution
20 company through a uniform adjustment factor approved by the commission. The commission shall
21 have the discretion to apply such adjustment factor in any given instance to all customers or to such
22 specific class of customers that the commission deems equitable under the circumstances provided
23 that the distribution company recovers any under recovery in its entirety. Nothing in this section
24 shall be construed to prohibit an electric distribution company from terminating service provided
25 hereunder in accordance with commission rules and regulations in the event of nonpayment of this
26 service. The commission ~~may~~ shall promulgate regulations to implement this section including the
27 terms and conditions upon which last-resort service is offered and provided to customers and the
28 required annual review of the acquisition plan.

29 (d) If a customer being served by a nonregulated power producer pays any taxes assessed
30 for electric service to the electric distribution company and the electric distribution company
31 forwards such tax payment for the power portion of the bill to a nonregulated power producer for
32 payment by the nonregulated power producer to the state, neither the customer nor the electric
33 distribution company shall be liable for such taxes forwarded if the nonregulated power producer
34 fails to remit such taxes to the state for any reason.

1 (e) Except for this section, after December 31, 2020, references in this title to "standard
2 offer service" shall mean "last resort service."

3 SECTION 2. Sections 39-1-27.3.1 and 39-1-27.8 of the General Laws in Chapter 39-1
4 entitled "Public Utilities Commission" are hereby repealed.

5 **39-1-27.3.1. Option to return to standard offer.**

6 ~~(a) The commission may, notwithstanding the provisions of § 39-1-27.3, allow customers~~
7 ~~no longer eligible for standard offer service to return to standard offer service, subject to the~~
8 ~~process set forth in this section. The process shall be as follows: The commission shall hold~~
9 ~~hearings to determine whether there is a sufficient presence of nonregulated power producers~~
10 ~~offering reasonably priced power supply service to customers in Rhode Island. If the commission~~
11 ~~determines that these market conditions are not present, the commission shall direct the electric~~
12 ~~distribution company to prepare and file a plan that creates an option for customers to return to the~~
13 ~~standard offer, including terms and conditions for customers returning and the manner in which the~~
14 ~~power supply will be procured. This plan may include term commitments or notice provisions~~
15 ~~before nonresidential customers are permitted to leave standard offer service once they return. The~~
16 ~~commission shall conduct a hearing to review the electric distribution company's plan and issue an~~
17 ~~order approving the plan, including any modifications the commission deems appropriate.~~

18 ~~(b) Once the plan is approved by the commission, the electric distribution company and~~
19 ~~the division shall jointly prepare a request for power supply proposals ("RFP") consistent with the~~
20 ~~commission's order, develop reasonable bidder qualifications, issue the RFP, review the bids, and~~
21 ~~jointly select a winning bidder or bidders to supply power. If the electric distribution company and~~
22 ~~the division mutually agree that the bids are unreasonably high, they shall have the discretion to~~
23 ~~reject all bids and re-issue an RFP at a later date that they deem appropriate. If the electric~~
24 ~~distribution company and the division cannot agree on any matter, the dispute shall be submitted~~
25 ~~to the commission for resolution. Once the winning bidder or bidders are selected, a supply contract~~
26 ~~or contracts on terms reasonably acceptable to the distribution company and the division will be~~
27 ~~executed by the electric distribution company and no further regulatory approval shall be required.~~
28 ~~However, the results of the bidding process shall be filed with the commission.~~

29 ~~(c) All of the costs associated with the new supply contract(s) will be recovered through~~
30 ~~standard offer rates and the electric distribution company's fully reconciling adjustment provision.~~

31 ~~(d) The standard offer rates for the residential customers returning to the standard offer~~
32 ~~shall be the same as the standard offer rate paid by all other standard offer customers. The standard~~
33 ~~offer rates for the nonresidential customers returning to the standard offer shall be determined by~~
34 ~~the commission after the commission reviews the costs of the power supply resulting from the bid~~

1 process. The rate for nonresidential customers returning to the standard offer may differ from those
2 of other customers, if the commission deems the rate differential to be appropriate.

3 (e) Any customer returning to the standard offer may not enter into any agreement to use
4 standard offer service to arbitrage the market with any supplier while the customer is on the
5 standard offer and it shall be unlawful for any nonregulated power producer to enter into such an
6 agreement.

7 (f) Nothing in this section shall be construed to create a legally enforceable entitlement for
8 any supplier to require the electric distribution company to select any particular bid and/or sign a
9 contract with the supplier.

10 (g) The requirements set forth in this section shall not apply to Pascoag Fire District or
11 Block Island Power Company.

12 **39-1-27.8. Supply procurement portfolio.**

13 Each electric distribution company shall submit a proposed supply procurement plan or
14 plans to the commission not later than March 1, 2009, and each March 1 thereafter through March
15 1, 2018. The supply procurement plan or plans shall be consistent with the purposes of least cost
16 procurement and shall, as appropriate, take into account plans and orders with regard to system
17 reliability and energy efficiency and conservation procurement. The supply procurement plan or
18 plans will include the acquisition procedure, the pricing options being sought, and a proposed term
19 of service for which standard offer service will be acquired. The term of service may be of various,
20 staggered term lengths and acquisitions may occur from time to time and for more than one supplier
21 for segments of standard offer load over different terms, if appropriate. There also may be separate
22 procurement plans for residential and nonresidential classes or separate plans among nonresidential
23 classes. All the components of the procurement plans shall be subject to commission review and
24 approval. Once a procurement plan is approved by the commission, the electric distribution
25 company shall be authorized to acquire standard offer service supply consistent with the approved
26 procurement plan and recover its costs incurred from providing standard offer service pursuant to
27 the approved procurement plan. The commission may periodically review the procurement plan to
28 determine whether it should be prospectively modified due to changed market conditions. The
29 commission shall have the authority and discretion to establish eligibility criteria by rate class, and
30 approve special tariff conditions and rates proposed by the electric distribution company that the
31 commission finds are in the public interest, including, without limitation: (1) Short and long term
32 optional service at different rates; (2) Term commitments or notice provisions before individual
33 customers leave standard offer service; (3) Standard offer service rates for residential or any other
34 special class of customers that are different than the rates for other standard offer customers; (4)

1 ~~Time of use commodity pricing for specified classes of customers, except residential customers;~~
2 ~~provided, however, that the commission may establish pilot programs for time of use commodity~~
3 ~~pricing for residential customers; and/or (5) Standard offer service rates that are designed to~~
4 ~~encourage any class of customers to purchase supply directly from the market.~~

5 SECTION 3. 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

1 This act would replace the time to time requirement with staggered as it relates to
2 acquisitions for one or more supplier. Additionally, the commission would, as appropriate, review
3 the acquisition plan to determine if it should be modified. Also, the commission would require
4 annual review of the acquisition. Also, this act would repeal §§ 39-1-27.3.1 and 39-1-27.8.

5 This act would take effect upon passage.

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