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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS

Introduced By: Senators P Fogarty, and Nesselbush

Date Introduced: May 07, 2015

Referred To: Senate Commerce

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,~~
4 ~~standard offer and last resort service.---~~ Electric Distribution Companies required to
5 provide retail access, standard offer and last resort service. -- (a) To promote economic
6 development and the creation and preservation of employment opportunities within the state, each
7 ~~electric distribution company~~ Electric Distribution Company, except Pascoag utility district, a
8 quasi-municipal corporation, district and subdivision of the state ("Electric Distribution
9 Company"), shall offer retail access from nonregulated power producers to all customers.

10 (b) Through year 2009, and effective July 1, 2007, through year 2020, each ~~electric~~
11 ~~distribution company~~ Electric Distribution Company shall arrange for a standard power supply
12 offer ("standard offer") to customers that have not elected to enter into power supply
13 arrangements with other nonregulated power suppliers. The rates that are charged by the ~~electric~~
14 ~~distribution company~~ Electric Distribution Company to customers for standard offer service shall
15 be approved by the commission and shall be designed to recover the ~~electric distribution~~
16 ~~company's~~ Electric Distribution Company's costs and no more than the ~~electric distribution~~
17 ~~company's~~ Electric Distribution Company's costs; provided, that the commission may establish
18 and/or implement a rate that averages the costs over periods of time. The ~~electric distribution~~
19 ~~company~~ Electric Distribution Company shall not be entitled to recover any profit margin on the

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

1 (c) In recognition that electricity is an essential service, each ~~electric distribution~~
2 ~~company~~ Electric Distribution Company shall arrange for a last resort power supply for
3 customers who have left the standard offer for any reason and are not otherwise receiving electric
4 service from nonregulated power producers. The ~~electric distribution company~~ Electric
5 Distribution Company shall procure last resort service supply from wholesale power suppliers.
6 Prior to acquiring last resort supply, the ~~electric distribution company~~ Electric Distribution
7 Company will file with the commission a supply acquisition plan or plans that include the
8 acquisition procedure, the pricing options being sought, and a proposed term of service for which
9 last resort service will be acquired. The term of service may be short or long term and
10 acquisitions may occur from time to time and for more than one supplier for segments of last
11 resort service load over different terms, if appropriate. All the components of the acquisition
12 plans, however, shall be subject to commission review and approval. Once an acquisition plan is
13 approved by the commission, the ~~electric distribution company~~ Electric Distribution Company
14 shall be authorized to acquire last resort service supply consistent with the approved acquisition
15 plan and recover its costs incurred from providing last resort service pursuant to the approved
16 acquisition plan. The commission may periodically review the acquisition plan to determine
17 whether it should be prospectively modified due to changed market conditions. The commission
18 shall have the authority and discretion to approve special tariff conditions and rates proposed by
19 the ~~electric distribution company~~ Electric Distribution Company that the commission finds are in
20 the public interest, including without limitation: (1) short and long term optional service at
21 different rates; (2) term commitments or notice provisions before individual customers leave last
22 resort service; (3) last resort service rates for residential or any other special class of customers
23 that are different than the rates for other last resort customers; and/or (4) last resort service rates
24 that are designed to encourage any class of customers to return to the market. The ~~electric~~
25 ~~distribution company's~~ Electric Distribution Company's last resort service revenues and its last
26 resort service costs shall be accounted for and reconciled with interest at least annually. Any over
27 recoveries shall be refunded and any under recoveries shall be recovered by the ~~electric~~
28 ~~distribution company~~ Electric Distribution Company through a uniform adjustment factor
29 approved by the commission. The commission shall have the discretion to apply such adjustment
30 factor in any given instance to all customers or to such specific class of customers that the
31 commission deems equitable under the circumstances provided that the distribution company
32 recovers any under recovery in its entirety. Nothing in this section shall be construed to prohibit
33 an ~~electric distribution company~~ Electric Distribution Company from terminating service
34 provided hereunder in accordance with commission rules and regulations in the event of

1 nonpayment of this service. The commission may promulgate regulations to implement this
2 section including the terms and conditions upon which last resort service is offered and provided
3 to customers.

4 (d) If a customer being served by a nonregulated power producer pays any taxes assessed
5 for electric service to the ~~electric distribution company~~ Electric Distribution Company and the
6 ~~electric distribution company~~ Electric Distribution Company forwards such tax payment for the
7 power portion of the bill to a nonregulated power producer for payment by the nonregulated
8 power producer to the state, neither the customer nor the ~~electric distribution company~~ Electric
9 Distribution Company shall be liable for such taxes forwarded if the nonregulated power
10 producer fails to remit such taxes to the state for any reason.

11 SECTION 2. Sections 45-58-3 and 45-58-8 of the General Laws in Chapter 45-58
12 entitled "Pascoag Utility District" are hereby amended to read as follows:

13 **45-58-3. Statement of purpose.** -- This chapter is intended to: (1) establish the Pascoag
14 utility district as the successor to the utility functions fulfilled prior to April 4, 2001 by the
15 Pascoag fire district; (2) provide for the orderly separation and transfer of those utility functions
16 and related utility assets and utility bond obligations (without impairment thereof) from the
17 Pascoag fire district to the utility district; (3) provide for the retention and fulfillment of the fire
18 protection functions and fire protection assets of the Pascoag fire district by the fire district; and
19 (4) authorize and enable the utility district ~~to provide additional utility services, function as a~~
20 ~~nonregulated power producer and otherwise to contribute to the development of effective~~
21 ~~competition in the state's electricity and communications industries, in accordance with the~~
22 ~~legislature's findings as to the efficacy of competition in the Utility Restructuring Act of 1996, as~~
23 ~~amended, and~~ to provide such other utility products and services as may be authorized from time
24 to time by the utility district's board of utility commissioners.

25 **45-58-8. Powers of the Utility District.** -- The utility district shall have the power:

26 (1) To acquire real or personal property and tangible or intangible personal property by
27 voluntary purchase from the owner or owners of the property, and to the extent that the board of
28 utility commissioners deems it advisable, to acquire property held by a corporation through
29 acquisition of the stock of the corporation and dissolution of the corporation;

30 (2) To acquire real property, fixtures and rights and interests in real property within its
31 utility service area by eminent domain, subject to the supervision of the public utilities
32 commission in the manner prescribed in § 39-1-31;

33 (3) To own, operate, maintain, repair, improve, enlarge and extend, in accordance with
34 the provisions of this chapter, any property acquired under this section all of which, together with

1 the acquisition of the property, are hereby declared to be public purposes;

2 (4) To produce, purchase, acquire, distribute and sell water and electricity at wholesale
3 or retail within or without its utility service area subject to franchise rights of other utilities; to lay
4 down, construct, own, operate, maintain, repair and improve mains, pipes, wells, towers and other
5 equipment and facilities necessary, appropriate or useful for those purposes; and to contract with
6 others for any or all of the foregoing purposes;

7 (5) To produce, buy, sell and trade electric capability, power or energy products or
8 services at wholesale or retail; to purchase for its own use or for resale electric transmission
9 service and ancillary services; and to engage in any other transaction with respect to electricity or
10 electricity products that was heretofore authorized for the Pascoag fire district or investor-owned
11 electric companies operating as domestic electric utilities with within the state (including
12 participation in generating facilities as authorized by chapter 20 of title 39); provided, that the
13 utility district shall operate and be subject to regulation of its retail rates for electricity under title
14 39 of the general laws when operating within its utility service area;

15 ~~(6) To operate as a nonregulated power producer within the meaning and contemplation~~
16 ~~of § 39-1-2(19) when engaging in the sale of electricity at retail outside of its utility service area;~~

17 ~~(7)~~(6) To acquire, own, lease, operate, maintain, repair and expand facilities and
18 equipment necessary, appropriate or useful to the operation of other utilities, including, but not
19 limited to, communications services such as internet service, high speed data transfer, local and
20 long distance telephone service, community antenna television service, and to engage in the
21 operation of such utilities;

22 ~~(8)~~(7) To sue and be sued;

23 ~~(9)~~(8) To adopt and alter a corporate seal;

24 ~~(10)~~(9) To acquire, hold, use, lease, sell, transfer, assign or otherwise dispose of any
25 property, real, personal or mixed, or any interest therein for its corporate purposes, and to
26 mortgage, pledge or lease any such property;

27 ~~(11)~~(10) To make and adopt bylaws for the management and regulation of its affairs;

28 ~~(12)~~(11) To borrow money for any of the purposes or powers granted to it under or by
29 operation of this chapter, including the creation and maintenance of working capital, and to issue
30 negotiable bonds, notes or other obligations, to fund or refund the same, and to secure the
31 obligation of such bond, notes or other obligations in any case by pledge of or security interest in
32 the revenues and property of the utility district.

33 ~~(13)~~(12) To fix rates (subject to the requirements of title 39 of the general laws in the
34 case of retail electric rates within its utility service area) and collect charges for the use of the

1 facilities or services rendered by or any commodities furnished by the utility district;
2 ~~(14)~~(13) To contract in its own name for any lawful purpose which would effectuate the
3 purposes and provisions of this chapter; to execute all instruments necessary to carry out the
4 purposes of this chapter; and to do all things necessary or convenient to carry into effect and
5 operation the powers granted by this chapter; and

6 ~~(15)~~(14) Until and only until such time as those utility bond obligations to which the
7 Pascoag utility district succeeds under or by operation of this chapter shall have been retired,
8 defeased or otherwise satisfied in their entirety, to levy property tax assessments upon property
9 owners within its utility service area for the purpose of supporting utility bond obligations of the
10 Pascoag fire district outstanding as of April 4, 2001 in the same manner and to the same extent as
11 the Pascoag fire district was authorized to do so under the act passed at the May session 1887,
12 entitled "An Act to Incorporate the Pascoag Fire District" as thereafter amended and
13 supplemented from time to time.

14 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would provide that the Pascoag utility district not be required to provide retail
2 access from nonregulated power producers, and not operate as a nonregulated power producer
3 when selling electricity at retail outside of its service area.

4 This act would take effect upon passage.

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