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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- PUBLIC UTILITIES COMMISSION

Introduced By: Senator Louis P. DiPalma

Date Introduced: March 23, 2016

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

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

3 **39-1-2. Definitions.** -- Terms used in this title shall be construed as follows, unless
4 another meaning is expressed or is clearly apparent from the language or context:

5 (1) "Administrator" means the administrator of the division of public utilities and
6 carriers;

7 (2) "Airport" and "landing field" mean and include all airports and landing fields other
8 than those owned by the state;

9 (3) "Chairperson" means the chairperson of the public utilities commission;

10 (4) "Charter carrier" means and includes all carriers for hire or compensation within this
11 state not included in the definition of common carrier;

12 (5) "Commission" means the public utilities commission;

13 (6) "Commissioner" means a member of the public utilities commission;

14 (7) "Common carrier", except when used in chapters 12, 13, and 14 of this title, means
15 and includes all carriers for hire or compensation including railroads, street railways, express,
16 freight and freight line companies, dining car companies, steam boat, motor boat, power boat,
17 hydrofoil, and ferry companies and all other companies operating any agency or facility for
18 public use in this conveyance over fixed routes, or between fixed termini within this state or
19 persons or property by or by a combination of land, air, or water;

1 (8) "Company" means and includes a person, firm, partnership, corporation, quasi-
2 municipal corporation, association, joint stock association or company, and his, her, its, or their
3 lessees, trustees, or receivers appointed by any court;

4 (9) "Customer" means a company taking service from an electric distribution company at
5 a single point of delivery or meter location;

6 (10) "Distribution facility" means plant or equipment used for the distribution of
7 electricity and which is not a transmission facility;

8 (11) "Division" means the division of public utilities and carriers;

9 (12) "Electric distribution company" means a company engaging in the distribution of
10 electricity or owning, operating, or controlling distribution facilities and shall be a public utility
11 pursuant to § 39-1-2(20);

12 (13) "Electric transmission company" means a company engaging in the transmission of
13 electricity or owning, operating, or controlling transmission facilities. An electric transmission
14 company shall not be subject to regulation as a public utility except as specifically provided in the
15 general laws, but shall be regulated by the federal energy regulatory commission and shall
16 provide transmission service to all nonregulated power producers and customers, whether
17 affiliated or not, on comparable, nondiscriminatory prices and terms. Electric transmission
18 companies shall have the power of eminent domain exercisable following a petition to the
19 commission pursuant to § 39-1-31;

20 (14) "Liquefied natural gas" means a fluid in the liquid state composed predominantly of
21 methane and which may contain minor quantities of ethane, propane, nitrogen, or other
22 components normally found in natural gas;

23 (15) "Manufacturing customers" means all customers that have on file with an electric
24 distribution company a valid certificate of exemption from the Rhode Island sales tax indicating
25 the customer's status as a manufacturer pursuant to section 44-18-30;

26 (16) "Motor carriers" means any carrier regulated by the administrator pursuant to
27 Chapters 3, 11, 12, 13 and 14 of this title;

28 (17) "Motor carrier intervenor" means any holder of a certificate of public convenience
29 and necessity issued pursuant to chapter 14 of this title, who files a timely motion to intervene,
30 pursuant to the division of public utilities and carriers rules of practice and procedure, in any
31 matter before the motor carriers section of the division arising under chapter 14 or 14.1 of this
32 title. A "motor carrier intervenor" shall be considered an intervenor by right conferred by statute.

33 ~~(17)~~(18) "Natural gas" means the combustible gaseous mixture of low-molecular-weight,
34 paraffin hydrocarbons, generated below the surface of the earth containing mostly methane and

1 ethane with small amounts of propane, butane, and hydrocarbons, and sometimes nitrogen,
2 carbon dioxide, hydrogen sulfide, and helium;

3 ~~(18)~~(19) "Nonprofit housing development corporation" means a nonprofit corporation,
4 which has been approved as a section 501(c)(3), 26 U.S.C. section 501(c)(3), corporation by the
5 internal revenue service, and which is organized and operated primarily for the purpose of
6 providing housing for low and moderate income persons;

7 ~~(19)~~(20) "Nonregulated power producer" means a company engaging in the business of
8 producing, manufacturing, generating, buying, aggregating, marketing or brokering electricity for
9 sale at wholesale or for retail sale to the public; provided however, that companies which
10 negotiate the purchase of electric generation services on behalf of customers and do not engage in
11 the purchase and resale of electric generation services shall be excluded from this definition. A
12 nonregulated power producer shall not be subject to regulation as a public utility except as
13 specifically provided in the general laws;

14 ~~(20)~~(21) "Public utility" means and includes every company that is an electric
15 distribution company and every company operating or doing business in intrastate commerce and
16 in this state as a railroad, street railway, common carrier, gas, liquefied natural gas, water,
17 telephone, telegraph, and pipeline company, and every company owning, leasing, maintaining,
18 managing, or controlling any plant or equipment or any part of any plant or equipment within this
19 state for manufacturing, producing, transmitting, distributing, delivering, or furnishing natural or
20 manufactured gas, directly or indirectly to or for the public, or any cars or equipment employed
21 on or in connection with any railroad or street railway for public or general use within this state,
22 or any pipes, mains, poles, wires, conduits, fixtures, through, over, across, under, or along any
23 public highways, parkways or streets, public lands, waters, or parks for the transmission,
24 transportation, or distribution of gas for sale to the public for light, heat, cooling, or power for
25 providing audio or visual telephonic or telegraphic communication service within this state or any
26 pond, lake, reservoir, stream, well, or distributing plant or system employed for the distribution of
27 water to the consuming public within this state including the water supply board of the city of
28 Providence; provided, that, except as provided in section 39-16-9 and in chapter 2072 of the
29 public laws, 1933, as amended, this definition shall not be construed to apply to any public
30 waterworks or water service owned and furnished by any city, town, water district, fire district, or
31 any other municipal or quasi-municipal corporation, excepting the water supply board of the city
32 of Providence, unless any city, town, water district, fire district, municipal, or quasi-municipal
33 corporation obtains water from a source owned or leased by the water resources board, either
34 directly or indirectly, or obtains a loan from the board pursuant to the provisions of chapter 15 of

1 title 46, or sells water, on a wholesale or retail basis, inside and outside the territorial limits of the
2 city or town, water district, fire district, municipal or quasi-municipal corporation, except,
3 however, that a public waterworks or water service owned and furnished by any city, town, water
4 district, fire district, or any other municipal or quasi-municipal corporation which sells water, on
5 a wholesale or retail basis, inside and outside its territorial limits shall not be construed as a
6 public utility if it has fewer than one-thousand five hundred (1500) total customer service
7 connections and provided outside sales do not exceed ten percent (10%) of the total water service
8 connections or volumetric sales and provided the price charged to outside customers, per unit of
9 water, is not greater than the price charged to inside customers for the same unit of water, nor to
10 the Rhode Island public transit authority, or to the production and/or distribution of steam, heat,
11 or water by Rhode Island port authority and economic development corporation in the town of
12 North Kingstown; and the term "public utility" shall also mean and include the Narragansett Bay
13 water quality management district commission; and provided that the ownership or operation of a
14 facility by a company which dispenses alternative fuel or energy sources at retail for use as a
15 motor vehicle fuel or energy source, and the dispensing of alternative fuel or energy sources at
16 retail from such a facility, does not make the company a public utility within the meaning of this
17 title solely because of that ownership, operation, or sale; and provided further that this exemption
18 shall not apply to presently regulated public utilities which sell natural gas or are dispensers of
19 other energy sources; and provided further, that the term "public utility" shall not include any
20 company; ~~;~~ :

21 (i) Producing or distributing steam or heat from a fossil fuel fired cogeneration plant
22 located at the university of Rhode Island, South Kingstown, Rhode Island;

23 (ii) Producing and/or distributing thermal energy and/or electricity to a state owned
24 facility from a plant located on an adjacent site regardless of whether steam lines cross a public
25 highway; and

26 (iii) Providing wireless service; ~~;~~ :

27 ~~(21)~~(22) "Purchasing cooperatives" shall mean any association of electricity consumers
28 which join for the purpose of negotiating the purchase of power from a nonregulated power
29 producer, provided however, that purchasing cooperatives shall not be required to be legal entities
30 and are prohibited from being engaged in the re-sale of electric power;

31 ~~(22)~~(23) "Railroad" means and includes every railroad other than a street railway, by
32 whatsoever power operated for public use in the conveyance in this state of persons or property
33 for compensation, with all bridges, ferries, tunnels, switches, spurs, tracks, stations, wharves, and
34 terminal facilities of every kind, used, operated, controlled, leased, or owned by or in connection

1 with any railroad;

2 ~~(23)~~(24) "Retail access" means the use of transmission and distribution facilities owned
3 by an electric transmission company or an electric distribution company to transport electricity
4 sold by a nonregulated power producer to retail customers pursuant to section 39-1-27.3;

5 ~~(24)~~(25) "Street railway" means and includes every railway by whatsoever power
6 operated or any extension or extensions, branch, or branches thereof, for public use in the
7 conveyance in this state of persons or property for compensation, being mainly upon, along,
8 above, or below any street, avenue, road, highway, bridge, or public place in any city or town,
9 and including all switches, spurs, tracks, rights of trackage, subways, tunnels, stations, terminals
10 and terminal facilities of every kind, used, operated, controlled, or owned by or in connection
11 with any street railway;

12 ~~(25)~~(26) "Transmission facility" means plant or equipment used for the transmission of
13 electricity as determined by the federal energy regulatory commission pursuant to federal law as
14 of the date of the property transfers pursuant to section 39-1-27(c);

15 ~~(26)~~(27) Notwithstanding any provision of this section or any provision of the act
16 entitled, "An Act Relating to the Utility Restructuring Act of 1996" (hereinafter "Utility
17 Restructuring Act"), upon request by the affected electric utility, the commission may exempt
18 from the Utility Restructuring Act or any provision(s) thereof, an electric utility which meets the
19 following requirements:

20 (i) the utility is not selling or distributing electricity outside of the service territory in
21 effect for that utility on the date of passage of the Utility Restructuring Act; and

22 (ii) the number of kilowatt hours sold or distributed annually by the utility to the public is
23 less than five percent (5%) of the total kilowatt hours consumed annually by the state. Provided
24 however that nothing contained in this section shall prevent the commission from allowing
25 competition in the generation of electricity in service territories of utilities exempted in whole or
26 in part from the Utility Restructuring Act pursuant to this section, as long as such allowance of
27 competition is conditioned upon payment to the exempted electric utility of a nonbypassable
28 transition charge calculated to recover the elements comparable in nature to the elements in
29 section 39-1-27.4(b) and (c) taking into consideration any unique circumstances applicable to the
30 exempted electric utility;

31 ~~(27)~~(28) "Wireless service" means communication services provided over spectrum
32 licensed by or subject to the jurisdiction of the federal communications commission.

1 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 -- PUBLIC UTILITIES COMMISSION

1 This act would define "motor carrier intervenor" as used in proceedings before the public
2 utilities commission.

3 This act would take effect upon passage.

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