

1 evidentiary hearings;

2 (2) "Commission" means the Rhode Island public utilities commission;

3 (3) "Electric distribution company" means a company defined in subsection 39-1-2(12),
4 supplying standard offer service, last resort service, or any successor service to end-use
5 customers, but not including the Block Island Power Company or the Pascoag Utility District;

6 (4) "Eligible renewable energy resource" means resources as defined in section 39-26-5
7 and any references therein;

8 (5) "Long-term contract" means a contract of not less than ten (10) years;

9 (6) "Newly developed renewable energy resources" means electrical generation units that
10 use exclusively an eligible renewable energy resource, and that have neither begun operation, nor
11 have the developers of the units implemented investment or lending agreements necessary to
12 finance the construction of the unit; provided, however, that any projects using eligible renewable
13 energy resources and located within the state of Rhode Island which obtain project financing on
14 or after January 1, 2009, shall qualify as newly developed renewable energy resources for
15 purposes of the first solicitation under this chapter;

16 (7) "Minimum long-term contract capacity" means ninety (90) megawatts of which five
17 (5) megawatts must be solar or photovoltaic projects located in the state of Rhode Island. In
18 determining whether the minimum long-term contract capacity has been reached, the capacity
19 under contract shall be adjusted by the capacity factor of each renewable generator as determined
20 by the ISO-NE rules, as they may change from time to time. By way of example, a contract with
21 a one hundred (100) megawatt facility with a thirty percent (30%) capacity factor would be
22 counted as providing thirty (30) megawatts to the minimum long-term capacity requirement.

23 **39-26.1-3. Long-term contract standard.** – (a) Beginning on or before July 1, 2009,
24 each electric distribution company shall be required to annually solicit proposals from renewable
25 energy developers and, provided commercially reasonable proposals have been received, enter
26 into long-term contracts with terms of up to fifteen (15) years for the purchase of capacity, energy
27 and attributes from newly developed renewable energy resources. Subject to commission
28 approval, the electric distribution company may enter into contracts for term lengths longer than
29 fifteen (15) years.

30 (b) The timetable and method for solicitation and execution of such contracts shall be
31 proposed by the electric distribution company, and shall be subject to review and approval by the
32 commission prior to issuance by the company; provided that the timetable is reasonably designed
33 to result in the electric distribution company having the minimum long-term contract capacity
34 under contract within four (4) years of the date of the first solicitation; it is not necessary that the

1 projects associated with these contracts be operational within these four (4) years, as the
2 operational dates shall be specified in the contract. The electric distribution company shall,
3 subject to review and approval of the commission, select a reasonable method of soliciting
4 proposals from renewable energy developers, which shall include, at a minimum, an annual
5 public solicitation, but may also include individual negotiations. The solicitation process shall
6 permit a reasonable amount of negotiating discretion for the parties to engage in commercially
7 reasonable arms-length negotiations over final contract terms. Each long-term contract entered
8 into pursuant to this section shall contain a condition that it shall not be effective without
9 commission review and approval. The electric distribution company shall file such contract,
10 along with a justification for its decision, within a reasonable time after it has executed the
11 contract following a solicitation or negotiation. The commission shall hold public hearings to
12 review the contract within forty-five (45) days of the filing and issue a written order approving or
13 rejecting the contract within sixty (60) days of the filing; in rejecting a contract the commission
14 may advise the parties of the reason for the contract being rejected and direct the parties to
15 attempt to address the reasons for rejection in a revised contract within a specified period not to
16 exceed ninety (90) days. The commission shall approve the contract if it determines that: (i) the
17 contract is commercially reasonable; (ii) the requirements for the annual solicitation have been
18 met; and (iii) the contract is consistent with the purposes of this section. A report on each
19 solicitation shall be filed with the commission each year within a reasonable time after decisions
20 are made by the electric distribution company regarding the solicitation results, even if no
21 contracts are executed following the solicitation.

22 (c)(1) No electric distribution company shall be obligated to enter into long-term
23 contracts for newly developed renewable energy resources on terms which the electric
24 distribution company reasonably believes to be commercially unreasonable; provided, however if
25 there is a dispute about whether these terms are commercially unreasonable, the commission shall
26 make the final determination after an evidentiary hearing. The electric distribution company shall
27 not be obligated to enter into long-term contracts pursuant to this section that would, in the
28 aggregate, exceed the minimum long-term contract capacity, but may do so voluntarily subject to
29 commission approval. As long as the electric distribution company has entered into long-term
30 contracts in compliance with this section, the electric distribution company shall not be required
31 by regulation or order to enter into contracts with terms of more than three (3) years in meeting its
32 applicable annual renewable portfolio standard requirements set forth in section 39-26-4.

33 (2) An electric distribution company shall not be required to enter into long-term
34 contracts for newly developed renewable energy resources that exceed the following four (4) year

1 phased schedule:
2 By June 30, 2010: twenty-five percent (25%) of the minimum long-term contract capacity
3 By June 30, 2011: fifty percent (50%) of the minimum long-term contract capacity
4 By June 30, 2012: seventy-five percent (75%) of the minimum long-term contract capacity
5 By June 30, 2013: one hundred percent (100%) of the minimum long-term contract capacity
6 but may do so earlier voluntarily, subject to commission approval.

7 (d) Compliance with the long-term contract standard shall be demonstrated through
8 procurement pursuant to the provisions of a long-term contract of energy, capacity and attributes
9 reflected in NE-GIS certificates relating to generating units certified by the commission as using
10 newly developed renewable energy resources, as evidenced by reports issued by the NE-GIS
11 administrator and the terms of the contract; provided, however, that the NE-GIS certificates were
12 procured pursuant to the provisions of a long-term contract. The electric distribution company
13 also may purchase other attributes from the generator as part of the long-term contract.

14 (e) After the adoption of the rules and regulations an electric distribution company may,
15 at its sole election, immediately and from time to time, procure additional commercially
16 reasonable long-term contracts for newly developed renewable energy resources on an earlier
17 timetable or above the minimum long-term contract capacity, subject to commission approval.

18 **39-26.1-4. Financial remuneration and incentives.** – In order to achieve the purposes
19 of this chapter, electric distribution companies shall be entitled to financial remuneration and
20 incentives for long-term contracts for newly developed renewable energy resources, which are
21 over and above the base rate revenue requirement established in its cost of service for distribution
22 ratemaking. Such remuneration and incentives shall compensate the electric distribution
23 company for accepting the financial obligation of the long-term contracts. The financial
24 remuneration and incentives described in this subsection shall apply only to long-term contracts
25 for newly developed renewable energy resources. The financial remuneration and incentives
26 shall be in the form of annual compensation, equal to three percent (3%) of the actual annual
27 payments made under the contracts for those projects that are commercially operating.

28 **39-26.1-5. Commission approvals and regulations.** – (a) Electric distribution
29 companies shall submit to the commission for review and approval all long-term contracts for
30 newly developed renewable energy resources proposed to be entered into in accordance with this
31 chapter.

32 (b) Unless the commission approves otherwise, all energy and capacity purchased by an
33 electric distribution company pursuant to this chapter shall be immediately sold by the electric
34 distribution company into the wholesale spot market; provided, however, that all such sales shall

1 be made through arms-length transactions.

2 (c) Unless the commission approves otherwise, any attributes including NE-GIS
3 certificates purchased by an electric distribution company pursuant to this chapter shall be sold
4 through a competitive bidding process in a commercially reasonable manner.

5 (d) Notwithstanding any term or provision to the contrary contained in subsection (b)
6 hereof, subject to commission approval, electric distribution companies shall be permitted, but
7 shall not be required: (1) to use the energy, capacity and other attributes purchased for resale to
8 customers; and/or (2) to use the NE-GIS certificates for purposes of meeting the obligations set
9 forth in chapter 26 of title 39; provided, however, that the commission finds that such sales would
10 not have a detrimental impact on energy markets, on the market for NE-GIS certificates, and is
11 otherwise in the interest of utility customers.

12 (e) The commission shall promulgate regulations by April 1, 2009, that shall, as a
13 condition of contract approval, require all approved projects, regardless of their location, to
14 provide other direct economic benefits to Rhode Island, such as job creation, increased property
15 tax revenues or other similar revenues, deemed substantial by the commission.

16 (f) The electric distribution company shall file tariffs with the commission for
17 commission review and approval that net the cost of payments made to projects under the long-
18 term contracts against the proceeds obtained from the sale of energy, capacity, RECs or other
19 attributes. The difference shall be credited or charged to all distribution customers through a
20 uniform fully reconciling annual factor in distribution rates, subject to review and approval of the
21 commission. The reconciliation shall be designed so that customers are credited with any net
22 savings resulting from the long-term contracts and the electric distribution company recovers all
23 costs incurred under such contracts, as well as, recovery of the financial remuneration and
24 incentives specified in section 39-26.1-4.

25 **39-26.1-6. Interaction with other laws. –** The long-term contract standard set forth in
26 this chapter shall be separate and distinct from the renewable energy standard set forth in chapter
27 26 of title 39.

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

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LC02188/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS

1 This act would create long-term contracting standards for the development of renewable
2 energy.

3 This act would take effect upon passage.

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LC02188/SUB A
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