

1 Development Fund of fifty dollars (\$50.00) per megawatt-hour of renewable energy obligation, in
2 2003 dollars, adjusted annually up or down by the consumer price index, which may be made in
3 lieu of standard means of compliance with this statute;

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

5 (3) Compliance year: means a calendar year beginning January 1 and ending December
6 31, for which an obligated entity must demonstrate that it has met the requirements of this statute;

7 (4) Customer-sited generation facility: means a generation unit that is interconnected on
8 the end-use customer's side of the retail electricity meter in such a manner that it displaces all or
9 part of the metered consumption of the end-use customer;

10 (5) Electrical energy product: means an electrical energy offering, including but not
11 limited to last resort and standard offer service, that can be distinguished by its generation
12 attributes or other characteristics, and that is offered for sale by an obligated entity to end-use
13 customers;

14 (6) Eligible biomass fuel: means fuel sources including brush, stumps, lumber ends and
15 trimmings, wood pallets, bark, wood chips, shavings, slash and other clean wood that is not
16 mixed with other solid wastes; agricultural waste, food and vegetative material; energy crops;
17 landfill methane; biogas; or neat bio-diesel and other neat liquid fuels that are derived from such
18 fuel sources;

19 (7) Eligible renewable energy resource: means resources as defined in section 39-26-4 of
20 this chapter;

21 (8) End-use customer: means a person or entity in Rhode Island that purchases electrical
22 energy at retail from an obligated entity;

23 (9) Existing renewable energy resources: means generation units using eligible renewable
24 energy resources and first going into commercial operation before December 31, 1997;

25 (10) Generation attributes: means the nonprice characteristics of the electrical energy
26 output of a generation unit including, but not limited to, the unit's fuel type, emissions, vintage
27 and policy eligibility;

28 (11) Generation unit: means a facility that converts a fuel or an energy resource into
29 electrical energy;

30 (12) NE-GIS: means the generation information system operated by NEPOOL, its
31 designee or successor entity, which includes a generation information database and certificate
32 system, and that accounts for the generation attributes of electrical energy consumed within
33 NEPOOL;

34 (13) NE-GIS certificate: means an electronic record produced by the NE-GIS that

1 identifies the relevant generation attributes of each megawatt-hour accounted for in the NE-GIS;

2 (14) NEPOOL: means the New England Power Pool or its successor;

3 (15) New renewable energy resources: means generation units using eligible renewable
4 energy resources and first going into commercial operation after December 31, 1997; or the
5 incremental output of generation units using eligible renewable energy resources that have
6 demonstrably increased generation in excess of ten percent (10%) using eligible renewable
7 energy resources through capital investments made after December 31, 1997; but in no case
8 involve any new impoundment or diversion of water with an average salinity of twenty (20) parts
9 per thousand or less;

10 (16) Obligated entity: means a person or entity that sells electrical energy to end-use
11 customers in Rhode Island, including, but not limited to: nonregulated power producers and
12 electric utility distribution companies, as defined in section 39-1-2, supplying standard offer
13 service, last resort service, or any successor service to end-use customers; including Narragansett
14 Electric, but not to include Block Island Power Company as described in section 39-26-7 or
15 Pascoag Utility District;

16 (17) Off-grid generation facility: means a generation unit that is not connected to a utility
17 transmission or distribution system;

18 (18) Reserved certificate: means a NE-GIS certificate sold independent of a transaction
19 involving electrical energy, pursuant to Rule 3.4 or a successor rule of the operating rules of the
20 NE-GIS;

21 (19) Reserved certificate account: means a specially designated account established by an
22 obligated entity, pursuant to Rule 3.4 or a successor rule of the operating rules of the NE-GIS, for
23 transfer and retirement of reserved certificated from the NE-GIS;

24 (20) Self-generator: means an end-use customer in Rhode Island that displaces all or part
25 of its retail electricity consumption, as metered by the distribution utility to which it
26 interconnects, through the use of a customer-sited generation facility;

27 (21) Small hydro facility: means a facility employing one or more hydroelectric turbine
28 generators and with an aggregate capacity not exceeding thirty (30) megawatts. For purposes of
29 this definition, “facility” shall be defined in a manner consistent with Title 18 of the Code of
30 Federal Regulations, section 92.201 et seq.; provided, however, that the size of the facility is
31 limited to thirty (30) megawatts, rather than eighty (80) megawatts.

32 **39-26-3. Purposes. --** The purpose of this chapter is to facilitate the development of new
33 renewable energy resources to supply electricity to customers in Rhode Island with goals of
34 stabilizing long-term energy prices, enhancing environmental quality, and creating jobs in Rhode

1 Island in the renewable energy sector.

2 **39-26-4. Renewable energy standard.** -- (a) Starting in compliance year 2007, all
3 obligated entities shall obtain at least three percent (3%) of the electricity they sell at retail to
4 Rhode Island end-use customers, adjusted for electric line losses, from eligible renewable energy
5 resources, escalating, according to the following schedule:

6 (i) At least three percent (3%) of retail electricity sales in compliance year 2007;

7 (ii) An additional one half of one percent (0.5%) of retail electricity sales in each of the
8 following compliance years 2008, 2009, 2010;

9 (iii) An additional one percent (1%) of retail electricity sales in each of the following
10 compliance years 2011, 2012, 2013, 2014, provided that the commission has determined the
11 adequacy, or potential adequacy, of renewable energy supplies to meet these percentage
12 requirements;

13 (iv) An additional one and one half percent (1.5%) of retail electricity sales in each of the
14 following compliance years 2015, 2016, 2017, 2018 and 2019; provided that the commission has
15 determined the adequacy, or potential adequacy of renewable energy supplies to meet these
16 percentage requirements;

17 (v) In 2020 and each year thereafter the minimum renewable energy standard established
18 in 2019 shall be maintained unless the commission shall determine that such maintenance is no
19 longer necessary for either amortization of investments in new renewable energy resources or for
20 maintaining targets and objectives for renewable energy.

21 (b) For each obligated entity and in each compliance year, the amount of retail electricity
22 sales used to meet obligations under this statute that is derived from existing renewable energy
23 resources shall not exceed two percent (2%) of total retail electricity sales.

24 (c) The minimum renewable energy percentages set forth in subsection 39-26-4(a) above
25 shall be met for each electrical energy product offered to end-use customers, in a manner that
26 ensures that the amount of renewable energy of end-use customers voluntarily purchasing
27 renewable energy is not counted toward meeting such percentages.

28 (d) To the extent consistent with the requirements of this chapter, compliance with the
29 renewable energy standard may be demonstrated through procurement of NE-GIS certificates
30 relating to generating units certified by the commission as using eligible renewable energy
31 sources, as evidenced by reports issued by the NE-GIS administrator. Procurement of NE-GIS
32 certificates from off-grid and customer-sited generation facilities, if located in Rhode Island and
33 verified by the commission as eligible renewable energy resources, may also be used to
34 demonstrate compliance. With the exception of contracts for generation supply entered into prior

1 to 2002, initial title to NE-GIS certificates from off-grid and customer-sited generation facilities
2 and from all other eligible renewable energy resources shall accrue to the owner of such a
3 generation facility, unless such title has been explicitly deemed transferred pursuant to contract or
4 regulatory order.

5 (e) In lieu of providing NE-GIS certificates pursuant to subsection 39-26-4(d), an
6 obligated entity may also discharge all or any portion of its compliance obligations by making an
7 alternative compliance payments to the Renewable Energy Development Fund established
8 pursuant to section 39-26-7.

9 **39-26-5. Eligible renewable energy resources.** -- (a) For the purposes of the regulations
10 promulgated under this chapter, eligible renewable energy resources are generation units in the
11 NEPOOL control area using:

12 (i) direct solar radiation;

13 (ii) the wind;

14 (iii) movement or the latent heat of the ocean;

15 (iv) the heat of the earth;

16 (v) small hydro facilities;

17 (vi) biomass facilities using eligible biomass fuels and maintaining compliance with
18 current air permits; eligible biomass fuels may be co-fired with fossil fuels, provided that only the
19 renewable energy fraction of production from multi-fuel facilities shall be considered eligible.

20 (vii) fuel cells using the renewable resources referenced above in this section;

21 (viii) waste-to-energy combustion of any sort or manner shall in no instance be
22 considered eligible except for fuels identified in subsection 39-26-2(6).

23 (b) A generation unit located in an adjacent control area outside of the NEPOOL may
24 qualify as an eligible renewable energy resource, but the associated generation attributes shall be
25 applied to the renewable energy standard only to the extent that the energy produced by the
26 generation unit is actually delivered into NEPOOL for consumption by New England customers.
27 The delivery of such energy from the generation unit into NEPOOL must be generated by:

28 (i) a unit-specific bilateral contract for the sale and delivery of such energy into
29 NEPOOL; and

30 (ii) confirmation from ISO-New England that the renewable energy was actually settled
31 in the NEPOOL system; and

32 (iii) confirmation through the North American Reliability Council tagging system that the
33 import of the energy into NEPOOL actually occurred; or

34 (iv) any such other requirements as the commission deems appropriate.

1 (c) NE-GIS certificates associated with energy production from off-grid generation and
2 customer-sited generation facilities certified by the commission as eligible renewable energy
3 resources may also be used to demonstrate compliance, provided that the facilities are physically
4 located in Rhode Island.

5 **39-26-6. Duties of the commission. -- The commission shall:**

6 (a) Develop and adopt regulations on or before December 31, 2005, for implementing a
7 renewable energy standard, which regulations shall include but be limited to provisions for:

8 (1) Verifying the eligibility of renewable energy generators and the production of energy
9 from such generators, including requirements to notify the commission in the event of a change in
10 a generator's eligibility status.

11 (2) Standards for contracts and procurement plans for renewable energy resources, to
12 achieve the purposes of this chapter.

13 (3) Flexibility mechanisms for the purposes of easing compliance burdens, facilitating
14 bringing new renewable resources on-line, and avoiding and/or mitigating conflicts with state
15 level source disclosure requirements and green marketing claims throughout the region; which
16 flexibility mechanisms shall allow obligated entities to: (i) demonstrate compliance over a
17 compliance year; (ii) bank excess compliance for two (2) subsequent compliance years, capped at
18 thirty percent (30%) of the current year's obligation; and (iii) allow renewable energy generated
19 during 2006 to be banked by an obligated entity as early compliance, usable towards meeting an
20 obligated entity's 2007 requirement. Generation used for early compliance must result in the
21 retirement of NE-GIS certificate in a reserved certificate account designated for such purposes.

22 (4) Annual compliance filings to be made by all obligated entities within one (1) month
23 after NE-GIS reports are available for the fourth (4th) quarter of each calendar year. All electric
24 utility distribution companies shall cooperate with the commission in providing data necessary to
25 assess the magnitude of obligation and verify the compliance of all obligated entities.

26 (b) Authorize rate recovery by electric utility distribution companies of all prudent
27 incremental costs arising from the implementation of this chapter, including, without limitation,
28 the purchase of NE-GIS certificates, the payment of alternative compliance payments, required
29 payments to support the NE-GIS, assessments made pursuant to subsection 39-26-7 (c) and the
30 incremental costs of complying with energy source disclosure requirements.

31 (c) Certify eligible renewable energy resources by issuing statements of qualification
32 within ninety (90) days of application. The commission shall provide prospective reviews for
33 applicants seeking to determine whether a facility would be eligible.

34 (d) Determine, on or before January 1, 2010, the adequacy, or potential adequacy, of

1 renewable energy supplies to meet the increase in the percentage requirement of energy from
2 renewable energy resources to go into effect in 2011 and determine on or before January 1, 2014,
3 the adequacy or potential adequacy, of renewable energy supplies to meet the increase in the
4 percentage requirement of energy from renewable energy resources to go into effect in 2015. In
5 making such determinations the commission shall consider among other factors the historical use
6 of alternative compliance payments in Rhode Island and other states in the NEPOOL region. In
7 the event that the commission determines an inadequacy or potential inadequacy of supplies for
8 scheduled percentage increases, the commission shall delay the implementation of the scheduled
9 percentage increase for a period of one year or recommend to the general assembly a revised
10 schedule of percentage increases, if any, to achieve the purposes of this chapter.

11 (e) Establish sanctions for those obligated entities that after investigation have been found
12 to fail to reasonably comply with the commission's regulations. No sanction or penalty shall
13 relieve or diminish an obligated entity from liability for fulfilling any shortfall in its compliance
14 obligation, provided, however, that no sanction shall be imposed if compliance is achieved
15 through alternative compliance payments. The commission may suspend or revoke the
16 certification of generation units, certified in accordance with subsection 39-26-6(c) above, that
17 are found to provide false information, or that fail to notify the commission in the event of a
18 change in eligibility status or otherwise comply with its rules. Financial penalties resulting from
19 sanctions from obligated entities shall not be recoverable in rates.

20 (f) Report, by February 15, 2006, and by February 15 each year thereafter, to the
21 governor, the speaker of the house and the president of the senate on the status of the
22 implementation of the renewable energy standards in Rhode Island and other states, and which
23 report shall include in 2009 and each year thereafter the level of use of renewable energy
24 certificates by eligible renewable energy resources and the portion of renewable energy standards
25 met through alternative compliance payments, and the amount of rate increases authorized
26 pursuant to subsection 39-26-6(b) above.

27 **39-26-7. Renewable energy development fund. --** (a) There is hereby authorized and
28 created within the economic development corporation a renewable energy development fund for
29 the purpose of increasing the supply of NE-GIS certificates available for compliance in future
30 years by obligated entities with renewable energy standard requirements, as established in this
31 chapter. The fund shall be located at and administered by the Rhode Island Economic
32 Development Corporation and shall have a board of trustees of five (5) members as follows: the
33 executive director of the economic development corporation, who shall be chairman, the director
34 of the department of administration or a designee of the director, the administrator of the division

1 of public utilities, and two public members appointed by the governor with advice and consent of
2 the senate, who shall serve terms of three (3) years, provided however that no public members
3 may serve more than two (2) consecutive three year terms. One of the public members shall be a
4 representative of an organization that advocates for renewable energy development. Each
5 member shall hold office for the term appointed and until the member's successor shall have been
6 duly appointed and qualified, or until the member's earlier death, resignation or removal.
7 Members of the board of trustees of the fund shall receive no compensation for the performance
8 of their duties, but may be reimbursed for reasonable expenses incurred in carrying out those
9 duties. The board of trustees shall recommend to the economic development corporation: (1)
10 plans and guidelines for the management and use of the fund, and (2) its evaluation of proposals
11 and/or actions to obligate, use and/or sell, dispose, trade or exchange assets held by the fund. The
12 board of trustees shall have the power to adopt, with the approval of the economic development
13 corporation, such by-laws as may be necessary or convenient for the conduct of its affairs.

14 (b) The economic development corporation shall enter into agreements with obligated
15 entities to accept alternative compliance payments, consistent with rules of the commission and
16 the purposes set forth in this section; and alternative compliance payments received pursuant to
17 this section shall be trust funds to be held and applied solely for the purposes set forth in this
18 section.

19 (c) The uses of the fund shall include but not be limited to:

20 (1) Stimulating investment in renewable energy development by entering into
21 agreements, including multi-year agreements, for renewable energy certificates;

22 (2) Issuing assurances and/or guarantees to support the acquisition of renewable energy
23 certificates and/or the development of new renewable energy sources for Rhode Island;

24 (3) Establishing escrows, reserves, and/or acquiring insurance for the obligations of the
25 fund;

26 (4) Paying administrative costs of the fund incurred by the economic development
27 corporation or the board of trustees, not to exceed ten percent (10%) of the income of the fund,
28 including but not limited to alternative compliance payments.

29 (d) NE-GIS certificates acquired through the fund may be conveyed to obligated entities
30 or may be credited against the renewable energy standard for the year of the certificate provided
31 that the commission assesses the cost of the certificates to the obligated entity, or entities,
32 benefiting from the credit against the renewable energy standard, which assessment shall be
33 reduced by previously made alternative compliance payments and shall be paid to the fund.

34 **39-26-8. Interaction with other policies. -- (a) Rhode Island has established a system-**

1 benefits charge (SBC) dedicated to supporting renewable energy, administered by the state
2 energy office; other states have similar policies. The state energy office is hereby directed to
3 collaborate with the commissions and the renewable energy development fund in maximizing the
4 combined impact and efficiency of the SBC and the renewable energy standard.

5 (b) It is the intent of this chapter that generation attributes and NE-GIS certificates
6 applied towards Rhode Island renewable energy standard compliance may not be used towards
7 compliance with state renewable energy obligations relating to an obligated entity's load in other
8 states.

9 **39-26-9. Energy source disclosure requirements.** -- (a) The commission shall , by
10 March 31, 2005 establish and enforce right-to-know regulations requiring any obligated entity to
11 distribute energy source disclosures to all customers of each electrical energy product offered.

12 (b) The energy source disclosure shall indicate what sources of energy were used to
13 generate electricity for each electrical energy product, expressed as a percentage of the total
14 amount of energy used towards each electrical energy product. The energy source disclosure
15 shall show the percentages of energy obtained from each of the eligible renewable energy
16 resources, as well as the percentage energy obtained from nuclear plants, natural gas, oil (which
17 may include any fossil fuel), hydroelectric plants that are not eligible renewable energy resources,
18 coal, and any other sources that the commission may require to be included. The energy source
19 disclosure shall also indicate the emissions created as a result of generating said electricity.

20 (c) Energy source disclosures shall be distributed to consumers on a quarterly basis. The
21 obligated entities shall be allowed to recover in rates all incremental costs associated with
22 preparation and distribution of the disclosure label.

23 (d) The commission shall allow for or require the use of NE-GIS certificates for the
24 calculation of the energy source disclosure.

25 (e) The energy source disclosure presented to any particular end-use customer shall take
26 into consideration and account for voluntary purchases of generation attributes or related
27 products, including purchases made by the end-use customer from providers other than the
28 obligated entity, even if the end-use customer is billed by the obligated entity and also served by
29 that obligated entity's electrical energy product.

30 **39-26-10. Severability and construction.** – If any provision of this chapter or its
31 application to any person or circumstances is held invalid, the invalidity does not affect other
32 provisions or applications of this chapter which can be given effect without the invalid provision
33 or application, and to this end the provisions of this chapter are severable. The provisions of this
34 chapter shall be liberally construed to give effect to the purposes thereof.

1 SECTION 2. Chapter 42-64 of the general laws entitled “Rhode Island Economic
2 Development Corporation” is hereby amended by adding thereto the following section:

3 **42-64-13.2 Renewable Energy Development Fund.** -- The corporation shall, in the
4 furtherance of its responsibilities to promote and encourage economic development, establish and
5 administer a renewable energy development fund as provided for in chapter 39-26, and may
6 exercise the powers set forth in this chapter, 42-64, as necessary or convenient to accomplish this
7 purpose.

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

=====
LC00035/SUB A/2
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS -- RENEWABLE ENERGY
STANDARD

1 This act would establish renewable energy portfolio standards and energy source
2 disclosure requirements by requiring the public utilities commission to adopt regulations
3 specifically relating thereto.

4 This act would take effect upon passage.

=====
LC00035/SUB A/2
=====

