

Title 39

Public Utilities and Carriers

Chapter 26.1

Long-Term Contracting Standard for Renewable Energy

R.I. Gen. Laws § 39-26.1-1

§ 39-26.1-1. Purpose.

The purpose of this chapter is to encourage and facilitate the creation of commercially reasonable long-term contracts between electric distribution companies and developers or sponsors of newly developed renewable energy resources with the goals of stabilizing long-term energy prices, enhancing environmental quality, creating jobs in Rhode Island in the renewable energy sector, and facilitating the financing of renewable energy generation within the jurisdictional boundaries of the state or adjacent state or federal waters or providing direct economic benefit to the state.

History of Section.

P.L. 2009, ch. 51, § 1; P.L. 2009, ch. 53, § 1.

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R.I. Gen. Laws § 39-26.1-2

§ 39-26.1-2. Definitions.

Terms not defined in this chapter shall have the same meaning as contained in chapter 26 of this title. When used in this chapter:

- (1) “Commercially reasonable” means terms and pricing that are reasonably consistent with what an experienced power market analyst would expect to see in transactions involving newly developed renewable energy resources. Commercially reasonable shall include having a credible project operation date, as determined by the commission, but a project need not have completed the requisite permitting process to be considered commercially reasonable. If there is a dispute about whether any terms or pricing are commercially reasonable, the commission shall make the final determination after evidentiary hearings.
- (2) “Commission” means the Rhode Island public utilities commission.
- (3) “Electric distribution company” means a company defined in § 39-1-2, supplying standard-offer service, last-resort service, or any successor service to end-use customers, but not including the Block Island Power Company or the Pascoag Utility District.
- (4) “Eligible renewable energy resource” means resources as defined in § 39-26-5 and any references therein.
- (5) “Long-term contract” means a contract of not less than ten (10) years.
- (6) “Minimum long-term contract capacity” means ninety megawatts (90 MW) of which three megawatts (3 MW) must be solar or photovoltaic projects located in the state of Rhode Island. In determining whether the minimum long-term contract capacity has been reached, the capacity under contract shall be adjusted by the capacity factor of each renewable generator as determined by the ISO-NE rules, as they may change from time to time. By way of example, a contract with a one hundred (100) megawatt facility with a thirty percent (30%) capacity factor would be counted as providing thirty megawatts (30 MW) to the minimum long-term contract capacity requirement.
- (7) “Newly developed renewable energy resources” means electrical generation units that use exclusively an eligible renewable energy resource, and that have neither begun operation, nor have the developers of the units implemented investment or lending agreements necessary to finance the construction of the unit; provided, however, that any projects using eligible renewable energy resources and located within the state of Rhode Island that obtain project financing on or after January 1, 2009, shall qualify as newly developed renewable energy resources for purposes of the first solicitation under this chapter.

History of Section.

P.L. 2009, ch. 51, § 1; P.L. 2009, ch. 53, § 1.

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R.I. Gen. Laws § 39-26.1-3

§ 39-26.1-3. Long-term contract standard.

(a) Beginning on or before July 1, 2010, each electric distribution company shall be required to annually solicit proposals from renewable energy developers and, provided commercially reasonable proposals have been received, enter into long-term contracts with terms of up to fifteen (15) years for the purchase of capacity, energy, and attributes from newly developed renewable energy resources. Subject to commission approval, the electric distribution company may enter into contracts for term lengths longer than fifteen (15) years.

Notwithstanding any other provisions of this chapter, on or before August 15, 2009, the electric distribution company shall solicit proposals for one newly developed renewable energy resources project as required in § 39-26.1-7. Proposals for the sale of output from an offshore-wind project received under the provisions of this section shall be diligently and fully considered without prejudice, regardless of the status of any proceedings under § 39-26.1-7 or § 39-26.1-8.

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

(c)(1) No electric distribution company shall be obligated to enter into long-term contracts for newly developed renewable energy resources on terms that the electric distribution company reasonably believes to be commercially unreasonable; provided, however, if there is a dispute about whether these terms are commercially unreasonable, the commission shall make the final determination after an evidentiary hearing. The electric distribution company shall not be obligated to enter into long-term contracts pursuant to this section that would, in the aggregate, exceed the minimum long-term contract capacity, but may do so voluntarily subject to commission approval. As long as the electric distribution company has entered into long-term contracts in compliance with this section, the electric distribution company shall not be required by regulation or order to enter into power-purchase contracts with renewable-generation projects for power, renewable energy certificates,

or any other attributes with terms of more than three (3) years in meeting its applicable, annual-renewable-portfolio standard requirements set forth in § 39-26-4 or pursuant to any other provision of the law.

(2) Except as provided in §§ 39-26.1-7 and 39-26.1-8, an electric distribution company shall not be required to enter into long-term contracts for newly developed renewable energy resources that exceed the following five (5) year phased schedule:

By December 30, 2010: Twenty-five percent (25%) of the minimum long-term contract capacity;

By December 30, 2011: Fifty percent (50%) of the minimum long-term contract capacity;

By December 30, 2012: Seventy-five percent (75%) of the minimum long-term contract capacity;

After December 30, 2013: One hundred percent (100%) of the minimum long-term contract capacity subject to subsection (f) of this section.

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

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

(f) At least once per year beginning in 2014, the electric distribution company shall conduct solicitations until one hundred percent (100%) of the minimum long-term contract capacity is met; provided, however, that no contracts shall be awarded unless the pricing under such contract(s) is below the forecasted market price of energy and renewable energy certificates over the term of the proposed contract, using industry standard forecasting methodologies as have been used to evaluate pricing in the past solicitation processes reviewed by the commission under this section. In such solicitations, the electric distribution company may elect not to acquire capacity, but shall acquire all environmental attributes and energy.

History of Section.

P.L. 2009, ch. 51, § 1; P.L. 2009, ch. 53, § 1; P.L. 2013, ch. 167, § 1; P.L. 2013, ch. 202, § 1; P.L. 2014, ch. 61, § 1; P.L. 2014, ch. 63, § 1; P.L. 2014, ch. 200, § 2; P.L. 2014, ch. 216, § 2.

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R.I. Gen. Laws § 39-26.1-4

§ 39-26.1-4. Financial remuneration and incentives.

In order to achieve the purposes of this chapter, electric distribution companies shall be entitled to financial remuneration and incentives for long-term contracts for newly developed renewable energy resources, which are over and above the base rate revenue requirement established in its cost of service for distribution ratemaking. Such remuneration and incentives shall compensate the electric distribution company for accepting the financial obligation of the long-term contracts. The financial remuneration and incentives described in this section shall apply only to long-term contracts for newly developed renewable energy resources. For long-term contracts approved pursuant to this chapter before January 1, 2022, the financial remuneration and incentives shall be in the form of annual compensation, equal to two and three quarters percent (2.75%) of the actual annual payments made under the contracts for those projects that are commercially operating, unless determined otherwise by the commission at the time of approval. For long-term contracts approved pursuant to this chapter on or after January 1, 2022, including contracts above the minimum long-term contract capacity, the financial remuneration and incentives shall be in the form of annual compensation up to one percent (1.0%) of the actual annual payments made under the contracts through December 31, 2026, for those projects that are commercially operating. For all long-term contracts approved pursuant to this chapter on or after January 1, 2027, financial remuneration and incentives shall not be applied, unless otherwise granted by the commission. For any calendar year in which the electric distribution company's actual return on equity exceeds the return on equity allowed by the commission in the electric distribution company's last general rate case, the commission shall have the authority to adjust any or all remuneration paid to the electric distribution company pursuant to this section in order to assure that such remuneration does not result in or contribute toward the electric distribution company earning above its allowed return for such calendar year.

History of Section.

P.L. 2009, ch. 51, § 1; P.L. 2009, ch. 53, § 1; P.L. 2022, ch. 372, § 2; P.L. 2022, ch. 373, § 2.

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R.I. Gen. Laws § 39-26.1-5

§ 39-26.1-5. Commission approvals and regulations.

- (a) Electric distribution companies shall submit to the commission for review and approval all long-term contracts for newly developed renewable energy resources proposed to be entered into in accordance with this chapter.
- (b) Unless the commission approves otherwise, all energy and capacity purchased by an electric distribution company pursuant to this chapter shall be immediately sold by the electric distribution company into the wholesale spot market; provided, however, that all such sales shall be made through arms-length transactions.
- (c) Unless the commission approves otherwise, any attributes including NE-GIS certificates purchased by an electric distribution company pursuant to this chapter shall be sold through a competitive bidding process in a commercially reasonable manner.
- (d) Notwithstanding any term or provision to the contrary contained in subsection (b) or (c) hereof, subject to commission approval, electric distribution companies shall be permitted, but shall not be required: (1) To use the energy, capacity, and other attributes purchased for resale to customers; and/or (2) To use the NE-GIS certificates for purposes of meeting the obligations set forth in chapter 26 of this title; provided, however, that the commission finds that such sales would not have a detrimental impact on energy markets, on the market for NE-GIS certificates, and is otherwise in the interest of utility customers.
- (e) The commission shall promulgate regulations by April 1, 2010, that shall, as a condition of contract approval, require all approved projects, regardless of their location, to provide other direct economic benefits to Rhode Island, such as job creation, increased property tax revenues, or other similar revenues, deemed substantial by the commission.
- (f) The electric distribution company shall file tariffs with the commission for commission review and approval that net the cost of payments made to projects under the long-term contracts against the proceeds obtained from the sale of energy, capacity, RECs, or other attributes. The difference shall be credited or charged to all distribution customers through a uniform fully reconciling annual factor in distribution rates, subject to review and approval of the commission. The reconciliation shall be designed so that customers are credited with any net savings resulting from the long-term contracts and the electric distribution company recovers all costs incurred under such contracts, as well as, recovery of the financial remuneration and incentives specified in § 39-26.1-4.

History of Section.

P.L. 2009, ch. 51, § 1; P.L. 2009, ch. 53, § 1.

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R.I. Gen. Laws § 39-26.1-6

§ 39-26.1-6. Interaction with other laws.

The long-term contract standard set forth in this chapter shall be separate and distinct from the renewable energy standard set forth in chapter 26 of this title.

History of Section.

P.L. 2009, ch. 51, § 1; P.L. 2009, ch. 53, § 1.