

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION

IN RE: PETITION FOR DECLARATORY JUDGMENT :  
OF THE RHODE ISLAND CONVENTION CENTER : Docket No.  
AUTHORITY :

**PETITION FOR DECLARATORY JUDGMENT**  
**Regarding Chapter 26.4 of Title 39 of the Rhode Island General Laws**

The Rhode Island Convention Center Authority (“RICCA”) files this Petition for Declaratory Judgment seeking a determination from the Public Utilities Commission (“PUC”) that RICCA falls within the definition of a “public entity” set forth in R.I. Gen. Laws §39-26.4-2(15) of Chapter 26.4 of Title 39 (the Net Metering Act). The authority for the filing of this Petition is R.I. Gen. Laws §42-35-8 and Rule 1.10(c) of the PUC’s Rules of Practice and Procedure.

RICCA’s designation as a public entity for purposes of the Net Metering Act will allow RICCA to enter into financial arrangements with developers to develop a renewable energy project which would constitute an Eligible Net-Metering System.

RICCA’s Intent

RICCA has been approached by a number of third-party vendors who indicate that RICCA could significantly reduce its electric costs by entering into a third-party net-metering arrangement for offsite metering.<sup>1</sup> If the within Petition is granted RICCA intends to seek to obtain a majority of its electric power by entering into a public entity net-metering financing arrangement with a renewable wind or solar energy generation developer for an offsite location. RICCA’s intent is to use the electricity generated through net metering to save money on future electric bills and be afforded electric price stability.

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<sup>1</sup> While RICCA is considering the installation of solar panels on the roof of one or more of its facilities, RICCA does not have the financial ability, location, or land area at its existing sites to erect its own solar or wind eligible net-metering resource large enough to significantly reduce its total power costs.

## RICCA

RICCA was created by the General Assembly in Chapter 99 of Title 42 of the R.I. Gen. Laws (“RICCA’s Act”), and currently owns and operates the Rhode Island Convention Center (a multi-purpose general assembly and meeting venue), the Dunkin’ Donuts Center (a multi-use entertainment arena), and two parking garages (totaling approximately 2,400 spaces). RICCA also leases from the state of Rhode Island and operates The Vets (a 1,900 seat theater and adjacent building). All of the preceding are located in the city of Providence. Recently, RICCA was tasked by the General Assembly with constructing a parking garage on the site of the surface parking lot at the rear of the Garrahy Courthouse in Providence.

### Current Law as to Net Metering.

R.I. Gen. Laws §39-26.4-2(5) of the Net Metering Act defines “eligible net metering system” as:

“... any eligible net-metering resource: ... (ii) owned and operated by a renewable generation developer *on behalf of a public entity* ... through public entity net-metering financing arrangement shall be treated as an eligible net-metering system. (*Emphasis added*)

R.I. Gen. Laws §39-26.4-2(16) defines a “Public entity net-metering financing arrangement” as:

“means arrangements entered into by a *public entity*... with a private entity to facilitate the financing and operation of a net-metering resource in which the private entity owns and operates and eligible net-metering resource on behalf of a *public entity*..., where (i) the eligible net-metering resource is located on property owned or *controlled* by the *public entity* ..., and (ii) The production from the eligible net-metering resource and primary compensation by the public entity... to the private entity for such production is directly tied to the consumption of electricity occurring at the designated net-metered accounts. (*Emphasis added*) (See also Sections 39-26.4-2(5))

R.I. Gen. Laws §39-26.4-2(15) defines “Public Entity” as:

“Public Entity” means the state of Rhode Island, municipalities, waste-water treatment facilities, public transit agencies or any water distributing plant or system employed for the distribution of water to the consuming public within this state including the water supply board of the city of Providence.”

## RICCA's Position

It is RICCA's position that it is deemed to be a "public entity" under the Net Metering Statute, as for purposes of the Statute it is equivalent or similar to the "State of Rhode Island", and is properly considered part of the State.

RICCA's Act states that it is a "public corporation of the state", "is constituted a public instrumentality", and the exercise by the corporation of the powers conferred by RICCA's Act "are deemed and held to be the performance of an essential governmental function of the state". (R.I. Gen. Laws §42-99-4(a)). In §42-99-2(3) of RICCA's Act the General Assembly determined that "The public welfare and the further economic development and prosperity of the state requires the establishment of its facilities."

Eight of RICCA's eleven commissioners are appointed by the governor and all must be confirmed by the senate. RICCA's Act explicitly states that RICCA is deemed a "state agency" for purposes of Chapter 75.2 of Title 42 (as to "Public Art"), state's that RICCA is subject to the provisions of Chapter 2 of Title 38 ("Access to Public Records Act"), Chapter 46 of Title 42 ("Open Meetings Act"), and Chapter 2 of Title 37 ("State Purchases"). Its commissioners are subject to the provisions of Chapter 14 of Title 36 ("Code of Ethics"). Additionally as to Section 9(f) of Chapter 13 of Title 22 (Access to Executive Sessions of a Public Agency), and Chapter 20 of Title 35 (Public Corporation Financial Integrity and Accountability Act) RICCA is referred to as a "public agency" or "public corporation", respectively.

Under §42-99-7 of RICCA's Act, RICCA has the power to condemn property in aid of its purposes and such condemned property is to be considered required for a "public use". Under §42-99-9 RICCA has the power to issue its bonds and notes. Further, in §42-99-16(b) as to the exemption from taxation of RICCA's properties it states:

(b) The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of this state, the increase of their

commerce, welfare, and prosperity and for the improvement of their health and living conditions ...

RICCA is a component unit of the State of Rhode Island for financial reporting purposes, is exempt from federal and state income taxes, its audited financial statements are included in the state's annual financial report, and under R.I. Gen. Law §42-99-15 upon dissolution of RICCA all of its property descends to the state.

Both the Rhode Island Turnpike and Bridge Authority ("RITBA") in PUC Docket 4557 and the Rhode Island Airport Corporation ("RIAC") in PUC Docket 4591 have sought a similar determination before the PUC that they are a public entity, and both were granted.

#### Conclusion

R.I. Gen. Laws §39-26.4-2(15) defines a public entity to include the state of Rhode Island. While RICCA is not a State department, RICCA per the determination of the General Assembly performs "an essential government function" and has to comply with certain requirements with which state agencies and public bodies must comply. RICCA's Act creates RICCA as a "public corporation" and it is referred to as a "public agency" in various other statutes, and is similar to other Authorities determined to be a public entity.

Section 39-26.4-4 of the Net Metering Act states that the chapter is to be liberally construed to meet its intended purpose. Similarly, §42-99-4(a) of RICCA's Act also states that RICCA's Act is to be liberally construed to meet its objectives.

One of the purposes of the Net Metering Act is "to support and encourage customer development of renewable generation systems". Granting the within Petition and finding that RICCA falls within the definition of a public entity for purposes of the Net Metering Act will make it clear that RICCA, like RITBA and RIAC, is eligible to enter into a public entity net metering financing arrangement.

For the above reasons, RICCA respectfully requests that the within Petition be granted.

Respectfully submitted,

RHODE ISLAND CONVENTION  
CENTER AUTHORITY

By its Attorney,

By 

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