

**2011 -- S 412 SUBSTITUTE A AS AMENDED**

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LC01158/SUB A/2  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2011**

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - PUBLIC UTILITIES COMMISSION

Introduced By: Senators Miller, Goodwin, Pichardo, Metts, and Crowley

Date Introduced: March 10, 2011

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. This act shall be known and may be cited as "The Henry Shelton Act".

2 SECTION 2. Chapter 39-1 of the General Laws entitled "Public Utilities Commission" is  
3 hereby amended by adding thereto the following section:

4 **39-1-27.12. Low Income Home Energy Assistance Program Enhancement Plan. –**

5 (a) The Low Income Home Energy Assistance Program Enhancement Plan (hereinafter  
6 “LIHEAP Enhancement Plan”) is hereby created to supplement the federal Low Income  
7 Household Assistance Program (“LIHEAP”) funding being received by customers of Rhode  
8 Island electric and gas distribution companies.

9 (b) Within a period of time sufficient to accomplish the purposes of this section, but not  
10 longer than ninety (90) days after the effective date of this chapter, the Office of Energy  
11 Resources shall develop a recommended monthly “LIHEAP Enhancement Charge” rate for the  
12 following year and make a filing with the commission pursuant to this chapter recommending  
13 rates. Thereafter annually but no later than October 15 of each year, the office shall make filings  
14 with the commission to recommend the LIHEAP Enhancement Charge rates for each class of  
15 electric and natural gas distribution company customer for the following year.

16 (c) A LIHEAP Enhancement Charge approved by the Commission shall have the  
17 following limitations:

18 (1) For electric distribution company customers, the charge shall not be more than ten  
19 dollars (\$10.00) per year.

1           (2) For natural gas distribution company customers, the charge shall not be more than ten  
2 dollars (\$10.00) per year.

3           (3) The total projected annual revenue for the LIHEAP Enhancement Plan through  
4 charges to all electric and natural gas distribution company customers shall not exceed seven  
5 million five hundred thousand dollars (\$7,500,000) and shall not be below six million five  
6 hundred thousand dollars (\$6,500,000).

7           (d) The commission shall open a docket to consider for approval LIHEAP Enhancement  
8 Charge rates proposed by the office. In reviewing the recommended rates the commission shall  
9 give due consideration to the recommendations of the office and the standards set forth in  
10 subsection (c) of this section. The commission shall issue a decision within sixty (60) days after  
11 said recommendations and report are filed with the commission establishing the Enhancement  
12 Plan Charge rates.

13           (e) The electric or gas distribution company shall use the funds collected through this  
14 Enhancement Plan Charge to provide a credit to customers accounts that are receiving federal  
15 LIHEAP assistance payments. The office of energy resources shall designate to the gas or electric  
16 distribution company the qualifying customer accounts and the amounts to be credited to those  
17 customer accounts, provided that the total amount to be credited to those accounts shall be fully  
18 funded by and not exceed the total amount collected through the Enhancement Plan Charge. The  
19 electric or gas distribution company's added administrative expenses to process the credit  
20 assignments provided to it by the office of energy resources will be recoverable either from the  
21 LIHEAP Enhancement Charge or through a separate charge approved by the Public Utilities  
22 Commission.

23           (f) As used in this section, "electric and natural gas distribution company" means a  
24 company as defined in subsection 39-1-2(12), but not including the Block Island Power Company  
25 or the Pascoag Utility District.

26           SECTION 3. Chapter 39-1 of the General Laws entitled "Public Utilities Commission" is  
27 hereby amended by adding thereto the following section:

28           **39-1-37.1. Ratepayers Advisory Board.** -- (a) There is hereby established the ratepayers  
29 advisory board. The advisory board shall consist of the following public members:

30           (1) Three (3) members appointed by the speaker of the house of representatives, one of  
31 whom shall represent the interests of residential ratepayers; one of whom shall represent the  
32 interests of the elderly and disabled; and one of whom shall represent a community-based  
33 consumer organization representing low-income individuals.

34           (2) Three (3) members appointed by the senate president, one of whom shall represent the

1 interests of residential ratepayers; one of whom shall represent a chamber of commerce; and one  
2 of whom shall represent a non-profit energy consortium of businesses.

3 (3) Three (3) members appointed by the governor, one of whom shall represent the  
4 LIHEAP program administration; one of whom shall represent the interests of small business  
5 owners; and one of whom shall represent the interests of residents of affordable housing.

6 (b) The appointments to the advisory board shall be made as follows: each appointing  
7 authority shall appoint one member to serve a term of one year, one member to serve a term of  
8 two (2) years, and one member to serve a term of three (3) years. Thereafter, each member  
9 appointed to the advisory board shall serve a three (3) year terms. The board members are eligible  
10 to succeed themselves. A vacancy, other than by expiration of a term, shall be filled in the manner  
11 of the original appointment, but only for the unexpired portion of the term.

12 (c) Five (5) members shall constitute a quorum. A majority vote of the board shall be  
13 required for all recommendations, advice, and approvals of the board, in accordance with this  
14 section.

15 (d) A board member shall not receive compensation for his or her service on the board  
16 but may receive reimbursement for travel and other necessary expenses, while engaged in the  
17 performance of official duties of the board.

18 (e) The board shall elect annually a chairperson and vice chairperson from among its  
19 membership.

20 (f) The board shall receive staff and administrative support from the division, to organize  
21 meetings and take and distribute minutes. The division shall also furnish the advisory board a  
22 suitable location to hold its meetings.

23 (g) The board shall meet at least quarterly and at the call of the chairperson or four (4)  
24 board members. The administrator shall be present for all board meetings to inform the board of  
25 the actions of the division and to respond to the board's inquiries.

26 (h) The board shall review legislative proposals and comment on existing state laws  
27 relating to residential ratepayers.

28 (i) The board shall advise the administrator on matters concerning residential ratepayers  
29 including, but not limited to utility shut-off policies, rate affordability, conservation measures,  
30 consumer education, smart meters and/or restricted use meters, customer service charges,  
31 legislation pending before the general assembly, and legislative initiatives.

32 (j) The advisory board shall issue an annual report of findings, including  
33 recommendations on current or proposed state programs, policies, regulations and laws, to the  
34 governor and the general assembly.



1 within seven (7) days a written certification indicating the name and address of the seriously ill  
2 person, the nature of the illness, and its likely duration. The public utility shall acknowledge  
3 receipt of such written certification and shall notify the customer in writing of the date upon  
4 which service will be terminated, unless the customer: (1) Has arranged for payment of an  
5 outstanding amount with the public utility, pursuant to rules and regulations promulgated by the  
6 commission; (2) Requests a hearing, pursuant to rules and regulations promulgated by the  
7 commission; or (3) Enrolls in a residential payment plan or other payment arrangement. The  
8 termination date shall be not less than three (3) weeks from receipt by the public utility of the  
9 written certification. If the duration of the illness exceeds three (3) weeks from the certification to  
10 the public utility, the customer may request a review pursuant to rules and regulations  
11 promulgated by the commission, to determine whether the initial exemption shall continue, for  
12 how long, and under what circumstances.

13 (ii) A public utility must honor a licensed physician's certification of serious illness, but  
14 may seek division review of the validity of the certification, pursuant to rules and regulations  
15 promulgated by the commission. If a licensed physician's certification does not comply with the  
16 requirements promulgated by the commission and is rejected by a public utility, the public utility  
17 shall inform the customer immediately, in writing, of the reasons for rejection of the certification  
18 and the customer's right to have the division review the utility's rejection of the certification.

19 (iii) Non-termination for any reason does not, in any way, relieve the customer of liability  
20 incurred for utility services.

21 SECTION 6. Section 39-2-1 of the General Laws in Chapter 39-2 entitled "Duties of  
22 Utilities and Carriers" is hereby amended to read as follows:

23 **39-2-1. Reasonable and adequate services -- Reasonable and just charges.** -- (a)  
24 Every public utility is required to furnish safe, reasonable, and adequate services and facilities.  
25 The rate, toll, or charge, or any joint rate made, exacted, demanded, or collected by any public  
26 utility for the conveyance or transportation of any persons or property, including sewage, between  
27 points within the state, or for any heat, light, water, or power produced, transmitted, distributed,  
28 delivered, or furnished, or for any telephone or telegraph message conveyed or for any service  
29 rendered or to be rendered in connection therewith, shall be reasonable and just, and every unjust  
30 or unreasonable charge for the service is prohibited and declared unlawful, and no public utility  
31 providing heat, light, water, or power produced, transmitted, distributed, delivered, or furnished  
32 shall terminate the service or deprive any home or building, or whatsoever, of service if the  
33 reason therefor is nonpayment of the service without first notifying the user of the service, or the  
34 owner or owners of the building as recorded with the utility of the impending service termination

1 by written notice at least ten (10) days prior to the effective date of the proposed termination of  
2 service.

3 (1) Effective immediately, following the issuance of a decision by the commission under  
4 39-1-27.2(d), the utility shall collect a LIHEAP Enhancement Chargefunds from all utility  
5 customers, for the funding of the LIHEAP Enhancement Fund.

6 (b) Any existing rules and regulations dealing with the termination of utility service and  
7 establishing reasonable methods of debt collection promulgated by the commission  
8 pursuant to this chapter and the provisions of section 39-1.1-3, including but not limited to, any  
9 rules and regulations dealing with deposit and deferred payment arrangements, winter  
10 moratorium and medical emergency protections, and customer dispute resolution procedures,  
11 shall be applicable to any public utility which distributes electricity.

12 (c) The commission shall promulgate such further rules and regulations as are necessary  
13 to protect consumers following the introduction of competition in the electric industry and which  
14 are consistent with this chapter and the provisions of section 39-1.1-3. In promulgating such rules  
15 and regulations, the commission shall confer with the Retail Electric Licensing Commission and  
16 shall give reasonable consideration to any and all recommendations of the Retail Electric  
17 Licensing Commission.

18 (d) On or before May 1, 2007, the commission shall administer such rules and regulations  
19 as may be necessary to implement the purpose of subdivision (1) of this section and to provide for  
20 restoration of electric and/or gas service to very low income households as defined by section 42-  
21 141-2. On or before August 15, 2011, the commission shall administer such rules and regulations,  
22 as may be necessary, to implement the purpose of subdivision (2) of this section and to provide  
23 for the restoration of electric and/or gas service to LIHEAP eligible households, defined as those  
24 with a combined gross income equal to or less than sixty percent (60%) of the state median  
25 household income as calculated by the U.S. Bureau of Census and as adjusted for family or group  
26 size by the U.S. Department of Health and Human Services regulation 45 CFR Sec. 96.85 or its  
27 successor regulation..

28 (1) Effective July 1, 2007 until October 14, 2011, notwithstanding the provisions of part  
29 V sections 4(E)(1)(B) and (C) of the public utilities commission rules and regulations governing  
30 the termination of residential electric, gas, and water utility service, a very low income customer  
31 who is terminated from gas and/or electric service or is recognized pursuant to a rule or decision  
32 by the division as being scheduled for actual shut-off of service on a date specified, shall be  
33 eligible one time to have electric and/or gas utility service restored providing the following  
34 conditions are met:

1 (i) the customer pays twenty-five percent (25%) of the customer's unpaid balance;

2 (ii) the customer agrees to pay one thirty-sixth (1/36) of one half (1/2) of the customer's  
3 remaining balance per month for thirty-six (36) months;

4 (iii) the customer agrees to remain current with payments for current usage. For purposes  
5 of this subsection remaining current with payments shall mean that the customer: (a) misses no  
6 more than a total of three (3) payments in the thirty-six (36) month period covered by the  
7 agreement; (b) misses more than two (2) payments in any one calendar year, provided that such  
8 missed payments in a calendar year are not consecutive and that payments for the year are up-to  
9 date by October 31st; and (c) that the amount due under that agreement is paid in full by the  
10 conclusion of the period of the agreement; ~~and~~

11 (iv) the customer has shown, to the satisfaction of the division, that the customer is  
12 reasonably capable of meeting the payment schedule provided for by the provisions of  
13 subdivision 39-2-1(d)(1)(i) and (ii) in this section. The restoration of service provided for by this  
14 subsection shall be a one-time right; failure to comply with the payment provisions set forth in  
15 this subsection shall be grounds for the customer to be dropped from the repayment program  
16 established by this subsection, and the balance due on the unpaid balance shall be due in full and  
17 shall be payable in accordance with the rules of the commission governing the termination of  
18 residential electric, gas, and water utility service. A customer who completes the schedule of  
19 payments pursuant to this subsection, shall have the balance of any arrearage forgiven, and the  
20 customer's obligation to the gas and/or electric company for such balance shall be deemed to be  
21 fully satisfied. The amount of the arrearage so forgiven shall be treated as bad debt for purposes  
22 of cost recovery by the gas or the electric

23 (2) Effective October 15, 2011, notwithstanding the provisions of part V sections  
24 4(E)(1)(B) and (C) of the public utilities commission rules and regulations governing the  
25 termination of residential electric, gas, and water utility service, a LIHEAP eligible customer, as  
26 defined above in this section, who has been terminated from gas and/or electric service or is  
27 recognized, pursuant to a rule or decision by the division, as being scheduled for actual shut-off  
28 of service on a specific date, shall not be deprived electric and/or gas utility service provided the  
29 following conditions are met:

30 (i) The customer makes an initial payment of ten percent (10%) of the customer's unpaid  
31 balance; and

32 (ii) The customer agrees to pay an amount equal to one-thirty sixth (1/36) of forty percent  
33 (40%) of the customer's unpaid balance, per month for thirty-six (36) months; and

34 (iii) The customer agrees to remain current with payments for current usage. For purposes

1 of this subsection, remaining current with payments, shall mean that the customer: (A) Misses no  
2 more than a total of three (3) payments in the thirty-six (36) month period covered by the  
3 agreement; (B) Misses more than two (2) payments in any one calendar year, provided that such  
4 missed payments in a calendar year are not consecutive and that payments for the year are up-to  
5 date by October 31st; and (C) That the amount due under that agreement is paid in full, by the  
6 conclusion of the period of the agreement; and

7 (iv) the customer has shown, to the satisfaction of the division, that the customer is  
8 reasonably capable of meeting the payment schedule, provided for by the provisions of  
9 subdivision 39-2-1(d)(1)(i) and (ii) in this section. The restoration of service, provided for by this  
10 subsection, shall be a one-time right; failure to comply with the payment provisions set forth in  
11 this subsection shall be grounds for the customer to be removed from the repayment program  
12 established by this subsection and the balance due on the unpaid balance, shall be due and  
13 payable in full, in accordance with the rules of the commission governing the termination of  
14 residential electric, gas, and water utility service. A customer, who completes the schedule of  
15 payments, pursuant to this subsection, shall have the balance of any arrearage forgiven, and the  
16 customer's obligation to the gas and/or electric company for such unpaid balance shall be deemed  
17 to be fully satisfied. The amount of the arrearage, so forgiven, shall be treated as bad debt for  
18 purposes of cost recovery by the gas or the electric company.

19 ~~(2)~~ (3) A customer terminated from service under the provisions of subdivision 39-2-  
20 1(d)(1) or subdivision 39-2-1(d)(2) shall be eligible for restoration of service in accordance with  
21 the applicable provisions of part V section 4(E)(1)(C), or its successor provision, of the public  
22 utilities commission rules and regulations governing the termination of residential electric, gas,  
23 and water service.

24 SECTION 7. This act shall take effect upon passage.

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LC01158/SUB A/2  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO PUBLIC UTILITIES AND CARRIERS - PUBLIC UTILITIES COMMISSION

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- 1           This act would create the universal service fund as well as create a percentage of income
- 2 payment plan for public utilities.
- 3           This act would take effect upon passage.

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RELATING TO PUBLIC UTILITIES AND CARRIERS - PUBLIC UTILITIES COMMISSION

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Presented by