

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND ELEVEN

S.P. 501 - L.D. 1570

An Act To Reduce Energy Prices for Maine Consumers

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 35-A MRSA §3210, sub-§2, ¶B-4, as enacted by PL 2009, c. 542, §4, is amended to read:

B-4. "New" as applied to any renewable capacity resource means a renewable capacity resource that:

- (1) Has an in-service date after September 1, 2005;
- (2) Was added to an existing facility after September 1, 2005;
- (3) For at least 2 years was not operated or was not recognized by the New England independent system operator as a capacity resource and, after September 1, 2005, resumed operation or was recognized by the New England independent system operator as a capacity resource; or
- (4) Was refurbished after September 1, 2005 and is operating beyond its previous useful life or is employing an alternate technology that significantly increases the efficiency of the generation process.

For the purposes of this paragraph, "capacity resource" has the same meaning as in section 3210-C, subsection 1, paragraph A. For the purposes of this paragraph, "to refurbish" means to make an investment in equipment or facilities, other than for routine maintenance and repair, to renovate, reequip or restore the renewable capacity resource.

Sec. 2. 35-A MRSA §3210-C, sub-§3, as amended by PL 2009, c. 518, §3, is further amended to read:

3. Commission authority. The commission may direct investor-owned transmission and distribution utilities to enter into long-term contracts for:

- A. Capacity resources;
- B. Any available energy associated with capacity resources contracted under paragraph A:

- (1) To the extent necessary to fulfill the policy of subsection 2, paragraph A; or
- (2) If the commission determines appropriate for purposes of supplying or lowering the cost of standard-offer service or otherwise lowering the cost of electricity for the ratepayers in the State. Available energy contracted pursuant to this subparagraph may be sold into the wholesale electricity market in conjunction with solicitations for standard-offer supply bids; and

C. Any available renewable energy credits associated with capacity resources contracted under paragraph A ~~to the extent the cost of the renewable energy credits is below market value or the purchase of renewable energy credits adds value to the transaction.~~ The price paid by the investor-owned transmission and distribution utility for the renewable energy credits must be lower than the price received for those renewable energy credits at the time they are sold by the investor-owned transmission and distribution utility.

~~If at any time after July 1, 2011 the commission determines that the assessments on transmission and distribution utilities under section 10110, subsections 4 and 5 will not provide sufficient funds to meet the energy efficiency program budget allocations articulated in the triennial plan approved by the commission pursuant to section 10104, subsection 4 or any annual update plan approved by the commission pursuant to section 10104, subsection 6, the commission may, after providing notification to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters, direct investor owned transmission and distribution utilities to enter into long-term contracts for energy efficiency capacity resources and any available energy associated with such resources to the extent necessary to meet the energy efficiency program budget allocations articulated in the triennial plan or annual update plan.~~

~~The commission may direct investor owned transmission and distribution utilities to enter into contracts under this subsection only as agents for their customers, only when such contracts are in the best interest of customers and only in accordance with this section.~~ The commission may permit, but may not require, investor-owned transmission and distribution utilities to enter into contracts for differences that are designed and intended to buffer ratepayers in the State from potential negative impacts from transmission development. To the greatest extent possible, the commission shall develop procedures for long-term contracts for investor-owned transmission and distribution utilities under this subsection having the same legal and financial effect as the procedures used for standard-offer service pursuant to section 3212 for investor-owned transmission and distribution utilities.

The commission may enter into contracts for interruptible, demand response or energy efficiency capacity resources. These contracts are not subject to the rules of the State Purchasing Agent. In a competitive solicitation conducted pursuant to subsection 6, the commission shall allow transmission and distribution utilities to submit bids for interruptible or demand response capacity resources.

Capacity resources contracted under this subsection may not exceed the amount necessary to ensure the reliability of the electric grid of this State, to meet the energy efficiency program budget allocations articulated in the triennial plan as approved by the commission pursuant to section 10104, subsection 4 or any annual update plan approved

by the commission pursuant to section 10104, subsection 6 or to lower customer costs as determined by the commission pursuant to rules adopted under subsection 10.

Unless the commission determines the public interest requires otherwise, a capacity resource may not be contracted under this subsection unless the commission determines that the capacity resource is recognized as a capacity resource for purposes of any regional or federal capacity requirements.

The commission shall ensure that any long-term contract authorized under this subsection is consistent with the State's goals for greenhouse gas reduction under Title 38, section 576 and the regional greenhouse gas initiative as described in the state climate action plan required in Title 38, section 577.

Sec. 3. 35-A MRSA §3210-C, sub-§§11 and 12 are enacted to read:

11. Customer benefits. The commission may direct investor-owned transmission and distribution utilities to enter into contracts under this section only as agents for their customers and only when such contracts are in the best interest of customers and in accordance with this subsection. The commission shall adopt rules to ensure that:

A. To the extent the benefits to ratepayers of a long-term contract are projected to occur in the later years of the contract term, the commission shall ensure that adequate financial security is in place so that it is reasonably likely ratepayers will obtain the projected benefits of the long-term contract; and

B. To the extent practicable, ratepayers obtain the benefit of lower cost capacity resources of energy associated with those resources or of any renewable energy credits that may exist after the term of primary financing or subsequent replacement financing necessary for the development and construction of a generation project is completed.

12. Triennial plan energy efficiency contracts. The commission, in accordance with this subsection, may direct transmission and distribution utilities to enter into long-term contracts with the trust to meet the energy efficiency program budget allocations articulated in the triennial plan approved by the commission pursuant to section 10104, subsection 4.

A. If the commission determines that the assessments on transmission and distribution utilities under section 10110, subsections 4 and 5 will not provide sufficient funds to meet the energy efficiency program budget allocations articulated in the triennial plan or any annual update plan approved by the commission pursuant to section 10104, subsection 6, the commission may direct investor-owned transmission and distribution utilities to enter into long-term contracts for energy efficiency capacity resources and any available energy associated with those resources to the extent necessary to meet the energy efficiency program budget allocations articulated in the triennial plan or annual update plan. If those contracts result in a fee or assessment on ratepayers, the commission may only direct an investor-owned transmission and distribution utility to enter into those contracts if:

(1) The commission provides notification to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters of the proposed contract or contracts; and

(2) The Legislature:

(a) Specifically authorizes the contract or contracts; or

(b) Allocates an amount of funds from the account established under paragraph B that is no less than the total funds that will be deposited in the account under all proposed contracts over the full terms of those contracts.

B. The Energy Efficiency Capacity Contract Account, referred to in this paragraph as "the account," is established in the Efficiency Maine Trust. The account is a nonlapsing account. Except as otherwise expressly directed by legislation approving the contract or contracts pursuant to paragraph A, subparagraph (2), division (a), all payments from contracts entered into pursuant to this subsection must be deposited in the account. Notwithstanding Title 5, section 1667-B, the State Budget Officer may not allot an amount in any fiscal year that is greater than the allocation pursuant to paragraph A, subparagraph (2), division (b).

Sec. 4. 35-A MRSA §3210-E, sub-§5, as enacted by PL 2009, c. 627, §5 and affected by §12, is amended to read:

5. Electricity sales. Notwithstanding section 3210, the sale of electricity by a competitive electricity provider to a qualified Pine Tree Development Zone business established under Title 30-A is exempt from the requirements of that section ~~and, at the request of the competitive electricity provider, sales to~~ unless the qualified Pine Tree Development Zone ~~businesses must be excluded from any calculation by business requests~~ the commission to determine compliance with that section waive the exemption for the sale of electricity to that Pine Tree Development Zone business.

The commission may adopt routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A, to implement this subsection.

Sec. 5. Prohibition. Except for long-term contracts entered into pursuant to Public Law 2009, chapter 615, Part A, section 6, the Public Utilities Commission may not direct transmission and distribution utilities to enter into long-term contracts pursuant to the Maine Revised Statutes, Title 35-A, section 3210-C after the effective date of this Act until the major substantive rules required under Title 35-A, section 3210-C, subsection 11 are finally adopted.

Sec. 6. Report. The Public Utilities Commission shall study the portfolio requirements established under the Maine Revised Statutes, Title 35-A, section 3210, subsection 3-A. The study must include an analysis of:

1. The source and cost of renewable energy credits used to satisfy the portfolio requirements;

2. The impact of renewable energy credits generated in this State on the regional renewable energy credit market;

3. The impact of the portfolio requirements on the viability of electricity generating facilities in this State that are eligible to meet the portfolio requirements;
4. The impact of the portfolio requirements on electricity costs;
5. If the portfolio requirements result in an increase in electricity costs, to the extent possible, the impact of that increase on economic development in this State;
6. The cost of the use of the alternative compliance payment mechanism under Title 35-A, section 3210, subsection 9 for electricity consumers in this State and, to the extent information is available, the reasons competitive electricity providers use the alternative compliance payment mechanism;
7. The best practices for setting the alternative compliance payment rate; and
8. To the extent possible, the benefits resulting from the portfolio requirements, including, but not limited to, tangible benefits and community benefits pursuant to Title 35-A, section 3454, economic benefits due to the creation of jobs or investments in this State including multiplier effects, research and development investment in this State, the impact on electricity rates and benefits due to diversifying this State's energy generation portfolio.

The commission may consult with the Department of Economic and Community Development and the Department of Environmental Protection to complete this report. The commission may contract with one or more qualified entities to complete the report in whole or in part.

To the extent possible, the commission shall complete the study within existing resources. If additional resources are needed, the commission may confer with the Office of the Public Advocate to identify the necessary funding and may accept funds from the Office of the Public Advocate for the purposes of this section.

The commission shall submit a report of its findings and recommendations to the Joint Standing Committee on Energy, Utilities and Technology by January 31, 2012. After reviewing the report, the committee may submit a bill related to the findings in the report to the Second Regular Session of the 125th Legislature.

Sec. 7. Application to long-term contracts for offshore wind and tidal energy. Notwithstanding Public Law 2009, chapter 615, Part A, section 6, the portions of this Act that amend the Maine Revised Statutes, Title 35-A, section 3210-C do not apply to contracts entered into pursuant to Public Law 2009, chapter 615, Part A, section 6.

In House of Representatives, 2011

Read twice and passed to be enacted.

..... Speaker

In Senate, 2011

Read twice and passed to be enacted.

..... President

Approved 2011

..... Governor