

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Save Money for Maine Energy Consumers through Enhanced Energy Efficiency**

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

**Sec. 1. 35-A MRSA §3153-A, sub-§4** is enacted to read:

4. In any general rate design case, pending on or initiated after January 1, 2007, the commission shall adopt provisions for severing the link between utility sales and earnings consistent with the provisions of section 3195, subsection 1.

**Sec. 2. 35-A MRSA §3195, sub-§1**, as amended by PL 1999, c. 398, Pt. A, §71 and as affected by §§104 and 105, is further amended to read:

**1. Rate-adjustment mechanisms.** This Title may not be construed to prohibit the commission from or to restrict the commission in establishing or authorizing any reasonable rate-adjustment mechanisms to promote efficiency in transmission and distribution utility operations and least-cost planning. ~~Rate-adjustment mechanisms may include, but are not limited to:~~In order to ensure that the incentives offered to electric transmission and distribution utilities are aligned with customer interests in reducing energy costs through increased energy efficiency and demand reduction resources, the commission shall adopt provisions for severing the link between utility sales and earnings. On or after the issuance of a final decision in a proceeding on amendments to rate schedules for any electric transmission and distribution utility, but not later than January 1, 2009, any electricity or natural gas distribution rate energy adjustment clause approved by the commission for an electric or natural gas company must include a provision designed to allow the electric or natural gas company to charge or reimburse customers for any under-recovery or over-recovery of overhead and fixed costs due solely to the deviation of actual retail sales of electricity or natural gas from projected retail sales of electricity or natural gas. The provision may be based on changes to either total retail sales or per customer retail sales. Additional rate adjustments may also include:

- ~~A. Decoupling of utility profits from utility sales through revenue reconciliation;~~
- ~~B. Reconciliation of actual revenues or costs with projected revenues or costs, either on a total or per customer basis;~~
- ~~C. Adjustment of revenues based on reconciled, indexed or forecasted costs; and~~
- D. Positive or negative financial incentives for efficient operations.

**Sec. 3. 35-A MRSA §3210-D, first ¶**, as enacted by PL 2005, c. 677, Pt. C, §1, is amended to read:

The commission shall adopt by rule a long-term plan for electric resource adequacy for this State to ensure grid reliability and the provision or availability of electricity to consumers at the lowest cost. To help reduce energy costs of consumers in this State by the maximum amount possible, the commission shall hold an uncontested docket in which interested parties may submit comments and shall establish by separate order efficiency investment strategies, consistent with the long-term plan and not otherwise directly allocable, by which to realize through distribution rates all available energy efficiency and demand reduction resources that are cost-effective, reliable and feasible in this State. Investments directed pursuant to this section may be deposited in the conservation program fund established under section 3211-A, subsection 5.

**Sec. 4. 35-A MRSA §3211-A, sub-§2, ¶A,** as amended by PL 2005, c. 569, §1, is further amended to read:

A. The commission shall consider, without limitation, conservation programs that:

- (1) Increase consumer awareness of cost-effective options for conserving energy;
- (2) Create more favorable market conditions for the increased use of efficient products and services;
- (3) Promote sustainable economic development and reduced environmental damage; and
- (4) Reduce the price of electricity over time for all consumers by achieving reductions in demand for electricity during peak use periods; and
- (5) Reduce total costs paid by electricity consumers in this State by increasing the efficiency with which electricity is consumed in this State.

**Sec. 5. 35-A MRSA §3211-A, sub-§2, ¶B,** as enacted by PL 2001, c. 624, §4, is amended to read:

B. The commission shall:

- ~~(1) Target at least 20% of available funds to programs for low-income residential consumers, as defined by the commission by rule;~~
- ~~(2) Target at least 20% of available funds to programs for small business consumers, as defined by the commission by rule; and~~

(3) To the greatest extent practicable, apportion remaining available funds assessed under this section among customer groups and geographic areas in a manner that allows each customer group to receive funding approximately proportionate to its contribution to total assessments under this section and allows all other customers to have a reasonable opportunity to participate in one or more conservation programs.

**Sec. 6. 35-A MRSA §3211-A, sub-§2, ¶C**, as enacted by PL 2001, c. 624, §4, is repealed and the following enacted in its place:

C. The Energy Efficiency Stakeholder Board shall advise and assist the commission and other agencies, utilities or other publicly directed energy efficiency program administrators in the design, implementation and periodic review of a comprehensive energy savings plan to implement cost-effective energy conservation programs and market transformation initiatives. The plan must:

(1) Provide the overall energy strategy for all energy efficiency and conservation programs in this State funded by or through, but not limited to:

(a) The minimum conservation program assessment in section 3211-A, subsection 4;

(b) Any proceeds from allowances of a regional greenhouse gas initiative, or a similar regulatory system, that generates proceeds from the sale of emissions allowances;

(c) Payments from the regional forward capacity markets;

(d) Natural gas, home heating oil or other home heating fuel assessments, taxes, fees or contributions;

(e) Contracts for energy efficiency used to satisfy standard offer service;

(f) Long-term contracting of demand-side capacity resources;

(g) State and federally funded weatherization programs; and

(h) Any rate-based investments directed by the commission to realize cost-effective energy efficiency and demand reduction;

(2) Be updated at least once every 3 years. Each program contained in the comprehensive energy savings plan must be voted on by the Energy Efficiency Stakeholder Board prior to submission to the commission for approval. Approval of the plan and other decisions by the

board requires an affirmative vote of at least 60% of the members of the board. The Energy Efficiency Stakeholder Board shall, as part of its review, examine opportunities to offer joint programs providing similar efficiency measures that save more than one fuel resource or otherwise to coordinate programs targeted at saving more than one fuel resource. Any costs for joint programs must be allocated equitably among the energy efficiency and conservation programs; and

(3) Be approved by the commission.

**Sec. 7. 35-A MRSA §3211-A, sub-§2, ¶F,** as enacted by PL 2001, c. 624, §4, is amended to read:

F. The Energy Efficiency Stakeholder Board and the commission shall monitor and evaluate the delivery of conservation programs by service providers and assess the cost-effectiveness of programs in meeting the objectives and overall strategy established by the commission comprehensive energy savings plan under section 3211-A, subsection 2, paragraph C.

Strategies and programs included in the comprehensive energy savings plan must be screened through cost-effectiveness testing that compares the value and payback period of program benefits to program costs to ensure that programs are designed to obtain energy savings and system benefits the value of which is greater than the costs of the programs. Cost-effectiveness for each strategy or program must be reviewed annually, or otherwise as is practicable, and if a strategy or program fails the cost-effectiveness test as part of the review process, it must either be modified to pass the test or be terminated.

**Sec. 8. 35-A MRSA §3211-A, sub-§2, ¶H,** as enacted by PL 2001, c. 624, §4, is amended to read:

H. The commission shall secure sufficient technical and administrative expertise to carry out its responsibilities pursuant to this section by:

(1) Contracting with appropriate entities with relevant expertise and experience;

~~(2) Establishing one or more advisory groups composed of persons with relevant expertise and experience; or~~ No later than October 1, 2007, establishing, appointing and convening the Energy Efficiency Stakeholder Board, which must include one representative of each of the following:

(a) A statewide manufacturing association;

(b) A statewide business association;

(c) A chamber of commerce;

(d) Residential customers;

(e) Low-income customers;

(f) An environmental advocacy organization;

(g) An environmental organization knowledgeable in energy efficiency and energy procurement programs;

(h) The Office of the Public Advocate;

(i) The Department of Environmental Protection; and

(j) The Attorney General.

Each board member must have some relevant background or experience in energy technologies, markets or policy. The commission and each of the electric and natural gas distribution companies operating in this State are entitled to have a nonvoting, ex officio member on the board. Representatives serve for a term of 4 years and may be reappointed. Expenditures by the Energy Efficiency Stakeholder Board for the retention of expert consultants and reasonable administrative costs must be recovered in distribution rates and from other sources. Such consultants may not be employed by or have any contractual relationship with an electric or natural gas distribution company. Such costs may not exceed 5% of the total costs of energy efficiency and conservation plans. Costs of independent expert services must be provided for in the comprehensive energy savings plan; or

(3) ~~Any~~By any other reasonable means developed by the commission.

**Sec. 9.35-A MRSA §3211-A, sub-§4**, as amended by PL 2005, c. 459, §1, is further amended to read:

**4. Funding level.** The commission shall assess transmission and distribution utilities to collect funds for a minimum base level of conservation programs and administrative costs in accordance with this subsection. The amount of all assessments by the commission under this subsection plus expenditures of a transmission and distribution utility associated with prior conservation efforts must result in total conservation expenditures ~~by each transmission and distribution utility~~ that:

A. Are based on the relevant characteristics of the transmission and distribution utility's service territory, including the needs of customers;

- B. ~~Do not exceed~~Are fixed at a rate of .145 cent per kilowatt-hour; and
- C. ~~Except as provided in subsection 7-A, are no less than 0.5% of the total transmission and distribution revenues of the transmission and distribution utility; and~~
- D. Are proportionally equivalent on a per-kilowatt-hour basis to the total conservation expenditures of other transmission and distribution utilities, unless the commission finds that a different amount is justified.

## SUMMARY

This bill directs the Public Utilities Commission to establish the Energy Efficiency Stakeholder Board to advise and assist the commission, other agencies, utilities and publicly directed energy efficiency program administrators in the design, implementation and review of a comprehensive energy savings plan to implement cost-effective energy conservation programs and market transformation initiatives. The bill sets an assessment rate on transmission and distribution utilities to fund conservation programs and specifies the method of apportionment of funds collected for conservation programs among groups of customers. The bill amends the laws governing rate-adjustment mechanisms for transmission and distribution utilities as they relate to utility sales and earnings.