An Act Regarding Solar Power for Farms and Businesses

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

Presented by Senator SAVIELLO of Franklin.
Cosponsored by Representative GROHMAN of Biddeford and
Senators: DILL of Penobscot, WOODSOME of York, Representatives: BLACK of Wilton,
FOLEY of Wells, HARVELL of Farmington, HIGGINS of Dover-Foxcroft, POULIOT of
Augusta, SANBORN of Portland.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 35-A MRSA §3209-A, as enacted by PL 2011, c. 262, §1, is repealed and the following enacted in its place:

§3209-A. Net energy billing

1. Shared ownership or community net energy billing projects. The commission may not limit the number of customers that may participate in any shared ownership or community net energy billing project.

2. Rules. The commission may adopt or amend rules governing net energy billing. Rules adopted or amended pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

For the purposes of this section, "net energy billing" means a billing and metering practice under which a customer is billed on the basis of net energy over the billing period taking into account accumulated bill credits for unused kilowatt-hours from the previous billing period.

Sec. 2. 35-A MRSA §3471-A is enacted to read:

§3471-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Affordable multifamily housing. "Affordable multifamily housing" means any building with at least 5 residential units that meet the standards for housing that is affordable to persons of low income as determined by the Maine State Housing Authority under Title 30-A, chapter 201.

2. Agricultural or forest products business. "Agricultural or forest products business" means a person or business located in this State and engaged in the commercial growing or harvesting of plants; raising of animals; growing or obtaining plant or animal by-products; aquaculture, as defined in Title 12, section 6001, subsection 1; or processing, storing, packaging or marketing of a raw product derived from plants, animals, plant or animal by-products or aquaculture, with the intent that the product be sold or otherwise disposed of to generate income. "Agricultural or forest products business" includes a business or activity that attracts visitors to a farm for the purpose of supplementing income from the primary crop or livestock operation.

3. Distributed generation resource. "Distributed generation resource" means an electric generating facility that begins operation after January 1, 2018 and is located in the service territory of a transmission and distribution utility and that uses fuel cells; tidal power; solar arrays and installations; geothermal installations; hydroelectric generators that meet all state and federal fish passage requirements applicable to the generator; biomass generators that are fueled by wood, wood waste or landfill gas; anaerobic
digestion of by-products of waste from animals or agricultural crops, food or vegetative material, algae or organic refuse; or that relies on wind power installations.

4. Eligible small business. "Eligible small business" means a business that meets the requirements of section 3477, subsection 1.

5. Kilowatt. "Kilowatt" means 1,000 watts, measured in alternating current.

6. Large-scale commercial solar distributed generation resource. "Large-scale commercial solar distributed generation resource" or "solar project" means a solar distributed generation resource with a nameplate capacity of up to 2 megawatts, or other nameplate capacity limit determined by the commission by rule under section 3476, subsection 9, that is selected in a procurement in accordance with section 3476 and that relies on solar photovoltaic technology for which compensating bill credits pursuant to section 3476, subsection 7 are provided to a nonresidential customer, including but not limited to commercial, industrial or municipal account holders.

7. Megawatt. "Megawatt" means 1,000,000 watts, measured in alternating current.

8. Output. "Output" means energy, capacity, renewable energy certificates and all other environmental attributes and market products that are available or may become available from a distributed generation resource.

9. Small business credit rate. "Small business credit rate" means the per kilowatt-hour rate used to calculate the monetary value to be credited to the customer bill pursuant to section 3477.

Sec. 3. 35-A MRSA §§3475 to 3478 are enacted to read:

§3475. Standard buyer

The standard buyer designated pursuant to this section must aggregate the output of the portfolio of distributed generation resources procured pursuant to this chapter and sell or use the output of these resources in a manner that maximizes the value of the portfolio of resources to all ratepayers.

1. Designation of standard buyer. Each investor-owned transmission and distribution utility serves as the standard buyer in its service territory, except that the commission may designate another entity to serve as standard buyer if the commission determines that such a designation is in the best interest of ratepayers. The standard buyer is subject to the jurisdiction of the commission.

2. Obligations of the standard buyer. The standard buyer designated pursuant to subsection 1 shall:

   A. Serve as counterparty to and enforce long-term contracts with customers pursuant to section 3476;

   B. Reimburse, when the standard buyer is not an investor-owned transmission and distribution utility, the investor-owned transmission and distribution utility for any bill credit or payment to a subscriber or project sponsor pursuant to section 3476;
C. Establish reasonable metering and measurement and verification requirements for distributed generation resources;

D. Provide information needed to allocate eligible costs and benefits pursuant to subsection 3; and

E. Provide to the commission aggregate data regarding the output of distributed generation resources.

3. Standard buyer cost allocation. The commission and each standard buyer designated pursuant to subsection 1 shall implement a transparent mechanism to track and recover or distribute the eligible costs and benefits from procuring the output of distributed generation resources pursuant to this chapter. These eligible costs and benefits must be reviewed by the commission annually and allocated to and recovered from customers through a process established by the commission by rule. The process developed by the commission must be similar to the allocation of costs and benefits of long-term energy contracts in section 3210-F. Eligible costs and benefits include:

A. Incremental costs of serving as the standard buyer;

B. All payments to customers, subscribers and project sponsors under each procurement pursuant to section 3476; and

C. All revenue from sale of the output of distributed generation resources procured pursuant to this chapter.

4. Rules. The commission shall adopt rules to implement this section. The commission shall ensure that the rules provide opportunities for entities other than the standard buyer to aggregate and sell the output of distributed generation resources in the applicable markets. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§3476. Large-scale commercial, municipal, industrial solar procurement

1. Procurement. The commission shall conduct competitive solicitations twice per year for long-term contracts for the output of a total of 50 megawatts of large-scale commercial solar distributed generation resources by December 31, 2022, referred to in this section as the "procurement target." In each calendar year, the commission shall seek to procure approximately 10 megawatts of output through 2 separate solicitations, except that the commission may modify this annual procurement if it concludes that doing so would be in the best interests of all ratepayers. Prior to a solicitation, the commission shall develop, in consultation with the standard buyer, a standard contract that commits all parties to commercially reasonable behavior and includes provisions to ensure that projects proceed to commercial operation on a reasonable timeline.

2. Bidder eligibility. The commission may establish minimum requirements for bidders in a solicitation under subsection 1, including but not limited to site control, development experience, completion of an interconnection application and provision of system details. The commission may by rule require bidders to pay an application fee to defray administrative costs.
3. Ensuring competition. Prior to each solicitation under subsection 1, the commission shall establish standards to determine whether the solicitation has a sufficient number of unique bidders and quantity of offered capacity to be competitive. If the commission concludes based on the standards that a solicitation is not competitive, no bidders may be selected and the capacity available in that solicitation must be deferred to a subsequent solicitation. The commission may by rule adjust the maximum size of a large-scale commercial solar distributed generation resource eligible for a solicitation to ensure that there is more than one bid selected.

4. Bid enhancement. In reviewing bids, the commission shall give preference to solar projects associated with affordable multifamily housing. Bids for a solar project associated with affordable multifamily housing must be reviewed by the commission at a rate that is 1¢ per kilowatt-hour less than the actual bid submitted. For the purpose of calculating that contract rate, a solar project associated with affordable multifamily housing that is awarded a contract must be paid at the actual bid rate and not the bid rate used for review.

5. Bid selection. Following review of bids in a solicitation under subsection 1, if the commission determines that the solicitation is competitive, the commission shall select one or more winning bidders and direct the standard buyer to negotiate and enter into a contract with the winning bidder or bidders for a term of 20 years at a specified contract rate. The commission shall select bids that maximize benefits or minimize costs to all ratepayers.

6. Agricultural or forest products business target. The commission shall seek to procure 8 megawatts of the 50-megawatt procurement target under subsection 1 from solar projects associated with an agricultural or forest products business. The commission shall monitor winning bids to determine progress toward this target. If, by December 31, 2019, the commission determines that the solicitations under this section are not likely to result in the procurement of 8 megawatts of solar projects associated with an agricultural or forest products business by 2022, the commission shall review bids for a solar project associated with an agricultural or forest products business at a rate that is 1¢ per kilowatt-hour less than the actual bid submitted. For the purpose of calculating that contract rate, a solar project associated with an agricultural or forest products business that is awarded a contract must be paid at the actual bid rate and not the bid rate used for review.

7. Determination of bill credit. The bill credit to be allocated to a customer must be based on the total kilowatt-hours of energy production of the solar distributed generation resource for the previous month. Each billing month, the value of the credits must be calculated by multiplying the number of kilowatt-hours by the contract rate. Payments to subscribers must be credited against the subscriber's monthly electricity bill in accordance with section 3478.

The monthly production must be determined by a revenue-grade meter installed and paid for by the participating large-scale commercial solar distributed generation resource customer account holder.
8. Exemption. A customer is not considered a public utility or competitive electricity supplier solely as a result of entering into a contract with the standard buyer under this section.

9. Rules. The commission shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§3477. Small business distributed generation credit rate program

The small business distributed generation credit rate program, referred to in this section as "the program," is established as an alternative to net energy billing.

1. Eligibility. Nonresidential customers are eligible for a small business distributed generation credit rate as an alternative to net energy billing pursuant to section 3209-A.

2. Long-term contracts. The standard buyer shall enter into a contract with eligible small business customers for the energy and capacity of a distributed generation resource with a capacity of between 25 and 250 kilowatts for a term of 20 years. The rate paid for the energy and capacity must be set by the commission in accordance with subsection 3. Payments to customers under a contract under this section must be credited against the customer's monthly electricity bill in accordance with section 3478.

3. Rates. The commission shall establish a small business credit rate to be paid for the energy and capacity of a distributed generation resource. By December 1st of each year the program is in effect, the commission shall set the small business credit rate for new program participants in the following calendar year equal to the average over the past 12 months of total volumetric rates, including, but not limited to, the rate for standard offer service paid by the nonresidential rate class with the lowest annual peak demand. The commission shall establish a separate small business credit rate for each investor-owned transmission and distribution utility service territory in the State. New program participants receive the fixed small business credit rate in effect at the time they begin participation in the program for the term of the contract in subsection 2.

4. Self-consumption. Notwithstanding subsection 2, an eligible small business customer may offset that customer's own consumption using that customer's distributed generation resource.

5. Net energy billing option. After the effective date of rules adopted under subsection 7, an eligible customer may elect to either participate in net energy billing pursuant to section 3209-A or enter into a contract under subsection 2. If a customer elects to enter into a contract, that customer may not subsequently participate in net energy billing during the time period covered by the contract. If a customer elects to participate in net energy billing, the customer may change the customer's bill credit to a contract under subsection 2 within 12 months of the execution of a net energy billing agreement with a transmission and distribution utility.

6. Consumer-owned utility exemption. This section does not apply to a consumer-owned transmission and distribution utility or its customers.
7. **Rules.** The commission shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

8. **Program review.** The commission shall evaluate how effective the program is at increasing installations of distributed generation resources and the program's expected short-term and long-term effect on ratepayers. After completing its final evaluation, the commission shall determine whether or not to continue the program for new participants until such time it determines the program is no longer effective or it does not result in benefits to ratepayers. The commission shall submit a report by December 31, 2020 or when contracts under the program total 20 megawatts, whichever comes first, and by December 31, 2021 or when contracts under the program total 30 megawatts, whichever comes first, to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. The report must include the commission's findings along with any recommendations for program modification. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may report out a bill relating to the program to the First Regular Session of the 130th Legislature and may also report out a bill relating to the program to the Second Regular Session of the 130th Legislature.

§3478. **Bill credits**

This section applies to any credits assigned to a customer's bill under this chapter.

If the value of the credit to be applied to a customer's bill is less than the amount owed by the customer at the end of the applicable billing period, the customer must be billed for the difference between the amount shown on the bill and the value of the available credits.

If the value of the credits to be applied to a customer's bill is greater than the amount owed by the customer at the end of the applicable billing period, the remaining value of the credit must carry over from month to month until a specified date each year. The commission shall establish a minimum of 2 standard credit expiration dates that provide customers the opportunity to use bill credits to the maximum extent practicable in a given 12-month period. Any remaining credits as of that date must be credited to the standard buyer and may not be applied against any future customer bill.

Sec. 4. **Rules.** The Public Utilities Commission shall adopt rules by January 1, 2018 to implement the Maine Revised Statutes, Title 35-A, sections 3475 to 3478.

Sec. 5. **Net energy billing rules.** The commission shall amend its net energy billing rules adopted pursuant to the Maine Revised Statutes, Title 35-A, section 3209-A to be substantively equivalent to the rules in effect on January 1, 2017, except the rules must be consistent with Title 35-A, section 3209-A, subsection 1. Notwithstanding Title 35-A, section 3209-A, subsection 2, rules adopted for this purpose are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. **Net energy billing analysis.** The Public Utilities Commission shall conduct an analysis of the costs and benefits to ratepayers from net energy billing. The
analysis must include all identifiable costs and benefits for net energy billing participants and nonparticipants, including but not limited to the costs and benefits described in Public Law 2013, chapter 562, section 2. The analysis must at a minimum look at costs and benefits over a 10-year period and a 25-year period. Where uncertainty exists with regard to a future cost or benefit, the commission shall use assumptions for what it considers the most likely higher and lower value scenarios. The commission shall submit a report by December 31, 2019 and another report by December 31, 2020 to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. The commission shall submit with the December 31, 2019 report information regarding any programs the commission is conducting and recommendations regarding alternatives to net energy billing that would encourage distributed energy resource projects. The commission shall submit with the December 31, 2020 report recommendations regarding net energy billing based on the costs and benefits analysis including methods for encouraging and integrating distributed energy resources to increase efficiency of the electric grid while reducing costs. Methods may include, but are not limited to, rate design and time of use rates, direct deployment of aggregated solar and storage systems, distributed energy rates or changes to transmission and distribution system planning. In developing these reports, the commission shall consult with stakeholders that include, but are not limited to, transmission and distribution utilities, consumer advocates, distributed energy installers or suppliers, conservation organizations and experts in rate design. At least 60 days before submitting the December 31, 2019 report and the December 31, 2020 report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters, the commission shall post the reports on its publicly accessible website. Within that period of time, a member of the public may submit to the commission written comments regarding the report. The commission shall submit all comments received to the committee with the report. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may report out a bill relating to the December 31, 2020 report.

SUMMARY

This bill amends the law regarding net energy billing and makes the adoption of net energy billing rules major substantive instead of routine technical, except that rules adopted to be consistent with the changes in the Maine Revised Statutes, Title 35-A, section 3209-A, subsection 1, substantively equivalent to the rules in effect prior to March 29, 2017 and that must be completed by December 1, 2017, are routine technical rules.

The bill directs the Public Utilities Commission to enter into long-term contracts with a duration of 20 years for the procurement of 50 megawatts of large-scale commercial solar distributed generation resources by 2022. The bill requires that 8 megawatts of the 50-megawatt procurement target be from large commercial solar distributed generation resources for projects associated with an agricultural or forest products business.

The bill creates a standard buyer, which the bill specifies is the investor-owned transmission and distribution utility in its service territory. The bill allows the commission to designate another entity as the standard buyer if it determines it is in the best interest of ratepayers to do so. The purpose of the standard buyer is to purchase the
output of each category of distributed generation resource, aggregate the portfolio of
distributed generation resources procured and sell or use the output of these resources in a
manner that maximizes the value of this portfolio of resources to all ratepayers.

The bill directs the commission to conduct competitive solicitations for 20% of the 5-
year target procurement for long-term contracts for the output of large-scale commercial
solar distributed generation resources twice per year. The bill directs the commission and
standard buyer to develop a contract prior to a solicitation that will ensure that projects
proceed to commercial operation on a reasonable timeline and commits all parties to
commercially reasonable behavior.

The bill gives the commission authority to establish requirements for bidder
eligibility and standards to ensure competition in the bidding process. The bill also
specifies that if the solicitation is fully competitive, the commission must select one or
more winning bids and direct the standard buyer to negotiate and enter into a contract
with the winning bidder or bidders. If the commission concludes the solicitation is not
competitive, no bidders may be selected and the capacity available in that solicitation
must be deferred to a subsequent solicitation. The bill requires the commission to select
bids that maximize the benefits or minimize the costs to all ratepayers.

The bill directs the commission to give preference to projects associated with
affordable multifamily housing. The bill requires the commission to review bids for
projects associated with affordable multifamily housing at 1¢ less per kilowatt-hour than
the actual bid, but if such a project is awarded a contract, it is paid at the actual bid rate
and not the rate used for review. This same process is allowed in the bill after December
31, 2019 for projects associated with an agricultural or forest products business if the
commission determines that solicitations are not likely to result in the procurement of 8
megawatts of solar projects associated with an agricultural or forest products business by
2022.

The bill also includes a small business distributed generation credit rate program as
an alternative to net energy billing for nonresidential customers.

The bill includes language on how bill credits are to be determined for a customer.

The bill requires the Public Utilities Commission to adopt routine technical rules
regarding the procurement of large-scale commercial solar distributed generation
resources by January 1, 2018.

The bill also requires the commission to submit multiple reports on the effectiveness
of the bill credit program at increasing installations of distributed generation resources
and its expected short-term and long-term effect on ratepayers, as well as multiple reports
regarding net energy billing and alternatives to net energy billing.