

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND THIRTEEN

—
H.P. 1128 - L.D. 1559

**An Act To Reduce Energy Costs, Increase Energy Efficiency, Promote
Electric System Reliability and Protect the Environment**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the University of Maine has developed an innovative deep-water offshore wind energy project that should be considered in the development of energy alternatives; and

Whereas, it is necessary to ensure that the University of Maine's deep-water offshore wind energy project can be considered by the Public Utilities Commission for approval as a pilot project; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

Sec. A-1. 35-A MRSA §122, sub-§6-B, as enacted by PL 2011, c. 652, §13 and affected by §14, is amended to read:

6-B. Revenue from energy infrastructure corridors. Notwithstanding subsection 6-A, ~~90%~~ 20% of the revenues generated from the use of statutory corridors designated under subsection 1-A, paragraphs A and B owned by the Department of Transportation within energy infrastructure corridors must be deposited into the Secondary Road Program Fund established in Title 23, section 1803-C and ~~40%~~ 80% of the revenues must be deposited into the energy infrastructure benefits fund established in Title 5, section 282, subsection 9.

Sec. A-2. 35-A MRSA §3210-C, sub-§12, as enacted by PL 2011, c. 413, §3, is repealed.

Sec. A-3. 35-A MRSA §10103, sub-§1, ¶B, as enacted by PL 2009, c. 372, Pt. B, §3, is repealed and the following enacted in its place:

B. Reduce energy costs and improve security of the state and local economies. The trust shall administer cost-effective energy and energy efficiency programs consistent with applicable requirements of this chapter and other law to help individuals and businesses meet their energy needs at the lowest cost and generally to improve the economic security of the State by:

(1) Reducing the cost of energy to residents of the State;

(2) Maximizing the use of cost-effective weatherization and energy efficiency measures, including measures that improve the energy efficiency of energy-using systems, such as heating and cooling systems and system upgrades to energy efficient systems that rely on affordable energy resources;

(3) Reducing economic insecurity from the inefficient use of fossil fuels;

(4) Increasing new jobs and business development to deliver affordable energy and energy efficiency products and services;

(5) Enhancing heating improvements for households of all income levels through implementation of cost-effective efficiency programs, including weatherization programs and affordable heating systems, that will produce comfort, improve indoor air quality, reduce energy costs for those households and reduce the need for future fuel assistance;

(6) Simplifying and enhancing consumer access to technical assistance and financial incentives relating to energy efficiency and the use of alternative energy resources by merging or coordinating dispersed programs under a single administrative unit possessing independent management and expertise; and

(7) Using cost-effective energy and energy efficiency investments to reduce greenhouse gas emissions;

Sec. A-4. 35-A MRSA §10103, sub-§1, ¶D, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

D. Actively promote investment in cost-effective energy and energy efficiency measures and systems that use ~~alternative~~ energy resources that reduce overall energy costs for consumers in the State.

Sec. A-5. 35-A MRSA §10103, sub-§4, as amended by PL 2009, c. 655, Pt. B, §3, is further amended to read:

4. Program funding. The board may apply for and receive grants from state, federal and private sources for deposit into appropriate program funds, including funds for both residential and business programs. The board may deposit in appropriate program funds the proceeds of any bonds issued for the purposes of programs administered by the trust. The board may receive and shall deposit in appropriate

program funds revenue resulting from any forward capacity market or other capacity payments from the regional transmission organization that may be attributable to ~~by~~ those projects funded by those funds. The board shall deposit into appropriate program funds revenue transferred to the trust from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9 for use in accordance with subsection 4-A. The board may also deposit any grants or other funds received by or from any entity with which the trust has an agreement or contract pursuant to this chapter if the board determines that receipt of those funds is consistent with the purposes of this chapter.

Sec. A-6. 35-A MRSA §10103, sub-§4-A, ¶A, as enacted by PL 2009, c. 655, Pt. B, §4, is repealed and the following enacted in its place:

A. To improve the State's economy by pursuing lower energy costs for people, communities and businesses in a manner that will enhance the environment of the State in accordance with the triennial plan. In the expenditure of funds pursuant to this paragraph, the trust may provide grants, loans, programs and incentives; and

Sec. A-7. 35-A MRSA §10104, sub-§1, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

1. Generally. In accordance with this section and other applicable law, the trust administers and disburses funds and coordinates programs to promote reduced energy costs, energy efficiency and increased use of alternative energy resources in the State. The trust is responsible for accounting for, evaluating and monitoring all activities of the trust and all programs funded in whole or in part by the trust.

Sec. A-8. 35-A MRSA §10104, sub-§2, ¶B, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

B. The effectiveness of programs is maximized by building up and centralizing expertise, addressing conflicts of interest, mitigating the influence of politics, promoting flexible, timely program management and providing a champion for funding cost-effective energy and energy efficiency programs;

Sec. A-9. 35-A MRSA §10104, sub-§3, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

3. Measures of performance. The trust shall develop quantifiable measures of performance for all programs it administers and to which it will hold accountable all recipients of funding from the trust and recipients of funds used to deliver energy and energy efficiency and weatherization programs administered or funded by the trust. Such measures may include, but are not limited to, reduced energy consumption, increased use of alternative energy resources, reduced heating costs, reduced capacity demand for natural gas, electricity and fossil fuels, reduced carbon dioxide emissions, program and overhead costs and cost-effectiveness, the number of new jobs created by the award of trust funds, the number of energy efficiency trainings or certification courses completed and the amount of sales generated.

Sec. A-10. 35-A MRSA §10104, sub-§4, ¶A, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

A. The triennial plan must be developed by the trust, in consultation with entities and agencies engaged in delivering efficiency programs in the State, to authorize and govern or coordinate implementation of energy efficiency and weatherization programs in the State. The triennial plan must identify all achievable cost-effective energy efficiency savings and related programs that could be implemented pursuant to sections 10110 and 10111, the costs and benefits of such programs and the basis and support for such identified costs and benefits. The trust shall conduct an evaluation of all cost-effective potential for electrical and natural gas energy efficiency savings in the State at least once every 5 years.

(1) Transmission and distribution utilities and natural gas utilities shall furnish data to the trust that the trust requests under this subsection to develop and implement the triennial plan or conduct the evaluation of all cost-effective potential for electrical and natural gas energy efficiency savings subject to such confidential treatment as a utility may request and the board determines appropriate pursuant to section 10106. The costs of providing the data are deemed reasonable and prudent expenses of the utilities and are recoverable in rates.

Sec. A-11. 35-A MRSA §10104, sub-§4, ¶C, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

C. The board shall review and approve the triennial plan by affirmative vote of 2/3 of the trustees upon a finding that the plan is consistent with the statutory authority for each source of funds that will be used to implement the plan, advances the state energy efficiency targets in paragraph F and reflects the best practices of program administration under subsection 2. The plan must include, but is not limited to, efficiency and conservation program budget allocations, objectives, targets, measures of performance, program designs, program implementation strategies, timelines and other relevant information.

Sec. A-12. 35-A MRSA §10104, sub-§4, ¶D, as amended by PL 2009, c. 518, §8, is further amended to read:

D. Prior to submission of the triennial plan to the commission, the trust shall offer to provide a detailed briefing on the draft plan to the joint standing committee of the Legislature having jurisdiction over energy matters and, at the request of the committee, shall provide such a briefing and opportunity for input from the committee. After providing such opportunity for input and making any changes as a result of any input received, the board shall deliver the plan to the commission for its review and approval. The commission shall open ~~a~~ an adjudicatory proceeding and issue an order either approving the plan and issuing the appropriate orders to transmission and distribution utilities and gas utilities or rejecting the plan and stating the reasons for the rejection. The commission shall reject elements of the plan that propose to use funds generated pursuant to sections 3210-C, 10110, 10111 or 10119 if the plan fails to reasonably explain how these elements of the program would achieve the objectives and implementation requirements of the programs established under those sections or the measures of performance under subsection 3. Funds generated under these statutory authorities may not be used pursuant to the triennial

plan unless those elements of the plan proposing to use the funds have been approved by the commission. The commission shall approve ~~or reject any~~ all elements of the triennial plan it determines to be cost-effective, reliable and achievable and shall incorporate into gas utility and transmission and distribution rates sufficient revenue to provide for the procurement of energy efficiency resources identified within the plan pursuant to section 10110, subsection 4-A and section 10111, subsection 2. The commission shall approve or reject the entire plan or elements of the plan within ~~60~~ 120 days of its delivery to the commission. The board, within ~~45~~ 30 days of final commission approval of its plan, shall submit the plan to the joint standing committee of the Legislature having jurisdiction over energy matters together with any explanatory or other supporting material as the committee may request and, at the request of the committee, shall provide a detailed briefing on the final plan. After receipt of the plan, the joint standing committee of the Legislature having jurisdiction over energy matters may submit legislation relating to the plan.

Sec. A-13. 35-A MRSA §10104, sub-§4, ¶F, as amended by PL 2009, c. 518, §8, is repealed and the following enacted in its place:

F. It is an objective of the triennial plan to design, coordinate and integrate sustained energy efficiency and weatherization programs that are available to all energy consumers in the State and to users of all fuel types. The plan must set forth the costs and benefits of energy efficiency programs that advance the following goals, and funding necessary to meet those goals:

(1) Reducing energy costs, including residential heating costs;

(2) Weatherizing substantially all homes whose owners or occupants are willing to participate in and share the costs of cost-effective home weatherization to a minimum standard of weatherization, as defined by the trust, by 2030;

(3) Reducing peak-load demand for electricity through trust programs by 300 megawatts by 2020;

(4) By 2020, achieving electricity and natural gas program savings of at least 20% and heating fuel savings of at least 20%, as defined in and determined pursuant to the measures of performance approved by the commission under section 10120;

(5) Creating stable private sector jobs providing alternative energy and energy efficiency products and services in the State by 2020; and

(6) Reducing greenhouse gas emissions from the heating and cooling of buildings in the State by amounts consistent with the State's goals established in Title 38, section 576.

The trust shall preserve when possible and appropriate the opportunity for carbon emission reductions to be monetized and sold into a voluntary carbon market. Any program of the trust that supports weatherization of buildings must be voluntary and may not constitute a mandate that would prevent the sale of emission reductions generated through weatherization measures into a voluntary carbon market.

Except when specifically provided in the individual goals under this paragraph, the trust may consider expected savings from market effects not attributable to the trust as well as efforts by other organizations, including but not limited to federally funded low-income weatherization programs.

As used in this paragraph, "heating fuel" means liquefied petroleum gas, kerosene or #2 heating oil, but does not include fuels when used for industrial or manufacturing processes.

Sec. A-14. 35-A MRSA §10109, sub-§3, as enacted by PL 2009, c. 372, Pt. B, §3, is repealed.

Sec. A-15. 35-A MRSA §10109, sub-§4, ¶A, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

A. ~~During the years 2009, 2010 and 2011 fiscal years 2013-14, 2014-15 and 2015-16, not less than 85% 50% of the trust fund funds received during those years must be allocated for measures, investments and arrangements that reduce electricity consumption or reduce greenhouse gas emissions and lower energy costs at commercial or industrial facilities, and not more than 15% 35% of the funds received by the trust fund during those years must be allocated for fossil fuel conservation measures, investments and arrangements used for investment in measures that lower residential heating energy demand and reduce greenhouse gas emissions. The measures that lower residential heating demand must be fuel-neutral and may include, but are not limited to, energy efficiency improvements to residential buildings and upgrades to efficient heating systems that will reduce residential energy costs and greenhouse gas emissions, as determined by the board. The trust shall transfer to the commission 15% of funds received by the trust fund during fiscal years 2013-14, 2014-15 and 2015-16, which the commission shall direct transmission and distribution utilities to disburse to ratepayers in a manner that provides maximum benefit to the Maine economy. Subject to the apportionment between fossil fuel and electricity conservation pursuant to this subsection, the trust shall fund conservation programs that give priority to measures with the highest benefit-to-cost ratio, as long as cost-effective collateral efficiency opportunities are not lost, and that:~~

(1) Reliably reduce greenhouse gas production and heating energy costs by fossil fuel combustion in the State at the lowest cost in funds from the trust fund per unit of emissions; or

(2) Reliably reduce the consumption of electricity in the State at the lowest cost in funds from the trust fund per kilowatt-hour saved.

Sec. A-16. 35-A MRSA §10109, sub-§4, ¶D, as amended by PL 2009, c. 565, §6 and affected by §9, is further amended to read:

~~D. Nonelectric savings programs must be used to maximize fossil fuel energy efficiency and conservation and associated greenhouse gas reductions, subject to the apportionment between fossil fuel and electricity conservation set forth in paragraph A.~~ Community-based renewable energy projects, as defined in section 3602, subsection 1, may apply for funding from the trust as nonelectric savings programs to the extent they are eligible under paragraph A.

Sec. A-17. 35-A MRSA §10109, sub-§4, ¶J, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

J. Trust fund receipts ~~may~~ must, upon request by the Department of Environmental Protection, fund research approved by the Department of Environmental Protection in an amount of up to \$100,000 per year to develop new categories for carbon dioxide emissions offset projects, as defined in Title 38, section 580-A, subsection 6, that are located in the State. Expenditures on research pursuant to this paragraph are not considered administrative costs under paragraph F, subparagraph (1).

Sec. A-18. 35-A MRSA §10110, sub-§2, ¶B, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

B. The trust, with regard to ~~the assessment imposed under subsection 4~~ funds available to the trust under this section, shall:

(1) Target at least ~~20%~~ 10% of funds for electricity conservation collected under subsection 4 or 4-A or \$2,600,000, whichever is greater, to programs for low-income residential consumers, as defined by the board by rule;

(2) Target at least ~~20%~~ 10% of funds for electricity conservation collected under subsection 4 or 4-A or \$2,600,000, whichever is greater, to programs for small business consumers, as defined by the board by rule; and

(3) To the greatest extent practicable, apportion remaining funds among customer groups and geographic areas in a manner that allows all other customers to have a reasonable opportunity to participate in one or more conservation programs.

Sec. A-19. 35-A MRSA §10110, sub-§4, as enacted by PL 2009, c. 372, Pt. B, §3, is repealed.

Sec. A-20. 35-A MRSA §10110, sub-§4-A is enacted to read:

4-A. Procurement of cost-effective energy efficiency resources. The commission shall ensure that transmission and distribution utilities on behalf of their ratepayers procure all electric energy efficiency resources found by the commission to be cost-effective, reliable and achievable pursuant to section 10104, subsection 4, except that the commission may not require the inclusion in rates under this subsection of a total amount that exceeds 4% of total retail electricity transmission and distribution sales in the State as determined by the commission by rule. The cost of procurement of cost-effective electric energy efficiency resources is a just and reasonable element of rates. The commission may issue any appropriate orders to transmission and distribution utilities necessary to achieve the goals of this subsection. When determining the amount of cost-effective electric energy efficiency resources to be procured under this subsection, the commission shall:

A. Consider electric energy efficiency resources that are reasonably foreseeable to be acquired by the trust using all other sources of revenue, including, but not limited to, the Regional Greenhouse Gas Initiative Trust Fund under section 10109;

B. Ensure that calculations of avoided energy costs and the budget identified by the trust in its triennial plan as needed to capture all cost-effective electric energy efficiency resources are reasonable, based on sound evidence and make use of best practices across the region; and

C. Maximize total electricity savings for all ratepayers.

The commission shall consider gross efficiency savings for the purpose of determining savings that are cost-effective, reliable and achievable and shall consider both net and gross efficiency savings for the purpose of determining the appropriateness of the amount identified by the trust in its triennial plan as needed to capture all cost-effective electric energy efficiency resources.

Rules adopted under this subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.

Sec. A-21. 35-A MRSA §10110, sub-§5, as amended by PL 2009, c. 518, §10, is repealed.

Sec. A-22. 35-A MRSA §10110, sub-§6, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

6. Transmission and subtransmission voltage level. After July 1, 2007, electricity customers receiving service at transmission and subtransmission voltage levels are not eligible for ~~new~~ conservation programs undertaken under this section, and those customers are not required to pay in rates any amount associated with the assessment imposed on transmission and distribution utilities under subsection 4 ~~or subsection 5~~, or any amount associated with any procurement of energy efficiency resources by transmission and distribution utilities ordered under subsection 4-A. To remove the amount of the assessment under subsection 4, the commission shall reduce the rates of such customers by 0.145 cent per kilowatt-hour. For the purposes of this section, "transmission voltage levels" means 44 kilovolts or more, and "subtransmission voltage levels" means 34.5 kilovolts.

Sec. A-23. 35-A MRSA §10110, sub-§8, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

8. Administration fund. The trust ~~shall establish a conservation~~ may transfer up to 9% of funds collected pursuant to this section to its administration fund to be used solely to defray administrative costs. The commission, at the direction of the trust, may annually deposit funds collected pursuant to this section into the administration fund up to a maximum in any fiscal year of up to 9% of total funds received pursuant to subsections 4 and 5. Any interest on funds in the administration fund must be credited to the administration fund and any funds unspent in any fiscal year must either remain in the administration fund to be used to defray administrative costs or be transferred to the program fund.

Sec. A-24. 35-A MRSA §10110, sub-§10, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

10. Funds held in trust. All funds collected from electricity consumers pursuant to this section are collected under the authority and for the purposes of this section and are deemed to be held in trust for the purposes of benefiting electricity consumers. In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the commission shall ~~return~~ ensure that the value of those funds is returned to consumers ~~by appropriate reductions in the assessment collected pursuant to subsection 4.~~

Sec. A-25. 35-A MRSA §10111, sub-§2, as amended by PL 2011, c. 637, §7, is further amended to read:

2. Funding level. The natural gas conservation fund, which is a nonlapsing fund, is established to carry out the purposes of this section. The commission shall assess each gas utility ~~that serves at least 5,000 residential customers an amount that is no less than 3% of the gas utility's delivery revenues as defined by commission rule. In, in~~ accordance with the triennial plan, the commission may assess a higher an amount necessary to capture all cost-effective energy efficiency that is achievable and reliable. All amounts collected under this subsection must be transferred to the natural gas conservation fund. Any interest on funds in the fund must be credited to the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section.

The assessments charged to gas utilities under this section are just and reasonable costs for rate-making purposes and must be reflected in the rates of gas utilities.

All funds collected pursuant to this section are collected under the authority and for the purposes of this section and are deemed to be held in trust for the purposes of benefiting natural gas consumers served by the gas utilities assessed under this subsection. In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the commission shall ~~return~~ ensure that the value of those funds is returned to consumers ~~by appropriate reductions in the assessment collected pursuant to this subsection.~~

Rules adopted by the commission under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-26. 35-A MRSA §10120, sub-§3, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

3. Oversight and evaluation fund. The commission ~~may~~ shall establish an oversight and evaluation fund to be used solely to defray the commission's projected costs of ~~overseeing ongoing oversight of the trust trust's programs and results,~~ including but not limited to reviewing the trust's calculation of program costs and benefits, measurement and verification procedures and program evaluations and reviewing and approving the triennial plan ~~and contracting.~~ The commission may use funds to contract with expert 3rd-party resources to provide technical assistance or impartial evaluation of the performance of energy efficiency programs administered by the trust. The commission may assess the trust an amount not to exceed 1% of the total funds administered by the trust, and the trust shall transfer that amount to the commission to be deposited into the oversight and evaluation fund. Any interest on funds in the oversight and evaluation fund must be credited to the oversight and evaluation fund and any funds unspent in any fiscal

year must either remain in the oversight and evaluation fund to be used for the purposes specified in this subsection or be transferred to the trust for deposit in appropriate program funds.

Sec. A-27. Maine Yankee settlement funds. The Public Utilities Commission shall direct any transmission and distribution utility in this State that is the recipient of funds pursuant to a damage award received pursuant to litigation with the United States Department of Energy concerning decommissioning costs related to Maine Yankee Atomic Power Company, referred to in this section as "settlement funds," to disburse those settlement funds according to this section.

1. Fiscal years 2013-14 and 2014-15. In fiscal years 2013-14 and 2014-15, the Public Utilities Commission shall require the payment of 55% of any settlement funds received by a transmission and distribution utility to the Efficiency Maine Trust to be used by the trust for electric efficiency and conservation programs pursuant to the Maine Revised Statutes, Title 35-A, section 10110 in accordance with the trust's triennial plan, except that if a utility's proportional share of the settlement funds paid to the trust by all transmission and distribution utilities exceeds that utility's proportional share of retail kilowatt hours delivered in this State by those transmission and distribution utilities, the commission shall allocate the excess to that transmission and distribution utility to reduce stranded costs.

The commission shall require the remaining 45% of the settlement funds to be used to reduce the transmission and distribution utility's rates in a manner that provides maximum benefit to the economy of the State.

2. In fiscal year 2015-16. In fiscal year 2015-16, the Public Utilities Commission shall require the payment of a total of \$2,000,000 of the settlement funds received by transmission and distribution utilities to the Efficiency Maine Trust to be used by the trust for electric efficiency and conservation programs pursuant to Title 35-A, section 10110 in accordance with the trust's triennial plan. The proportional share of the \$2,000,000 provided from each transmission and distribution utility's settlement funds must be the same as that transmission and distribution utility's proportional share of the total retail kilowatt hours delivered in this State by all the transmission and distribution utilities receiving settlement funds.

The commission shall require the remaining funds to be used to reduce the transmission and distribution utility's rates in a manner that provides maximum benefit to the economy of the State.

3. After fiscal year 2015-16. After fiscal year 2015-16, the Public Utilities Commission shall ensure that all settlement funds are allocated in a manner that provides maximum benefit to the economy of the State.

Sec. A-28. Efficiency Maine Trust contract for capacity resources. The Public Utilities Commission shall direct investor-owned transmission and distribution utilities to enter into long-term contracts as described in the order issued by the commission on February 13, 2013 under Docket No. 2012-00408.

Sec. A-29. Other long-term contracts. The Public Utilities Commission shall convene a stakeholder group to examine, and make policy recommendations to the Legislature regarding, financing and implementing energy efficiency and combined heat and power projects for transmission and subtransmission-level customers in an effective and fair manner. Except for the long-term contracts described in the order issued by the commission on February 13, 2013 under Docket No. 2012-00408, the commission may not approve long-term contracts under the Maine Revised Statutes, Title 35-A, section 3210-C for energy efficiency and demand capacity resources affecting transmission and subtransmission customers prior to the commission's providing a report to the Legislature on the stakeholder group findings.

Sec. A-30. Effective date. That section of this Part that repeals the Maine Revised Statutes, Title 35-A, section 10110, subsection 4 takes effect July 1, 2015. That section of this Part that enacts Title 35-A, section 10110, subsection 4-A takes effect January 1, 2015.

PART B

Sec. B-1. 35-A MRSA c. 19 is enacted to read:

CHAPTER 19

THE MAINE ENERGY COST REDUCTION ACT

§1901. Short title

This chapter may be known and cited as "the Maine Energy Cost Reduction Act."

§1902. Definitions

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

1. Basis differential. "Basis differential" means the difference between the so-called Henry Hub spot price for natural gas and the corresponding cash spot price for natural gas in New England.

2. Energy cost reduction contract. "Energy cost reduction contract" or "contract" means a contract executed in accordance with this chapter to procure capacity on a natural gas transmission pipeline, including, when applicable, compression capacity.

3. ISO-NE region. "ISO-NE region" means the region in which the New England bulk power system operated by the independent system operator of the New England bulk power system or a successor organization is located.

4. Pipeline capacity holder. "Pipeline capacity holder" means any person owning rights to natural gas pipeline capacity.

5. Trust fund. "Trust fund" means the Energy Cost Reduction Trust Fund established under section 1907, subsection 1.

§1903. Legislative findings

The Legislature finds that:

1. Electricity prices. It is in the public interest to decrease prices of electricity and natural gas for consumers in this State; and

2. Natural gas expansion. The expansion of natural gas transmission capacity into this State and other states in the ISO-NE region could result in lower natural gas prices and, by extension, lower electricity prices for consumers in this State.

§1904. Energy cost reduction contracts

The commission in consultation with the Public Advocate and Governor's Energy Office may execute an energy cost reduction contract in accordance with this section. In no event may the commission execute energy cost reduction contracts for the transmission of greater than a cumulative total of 200,000,000 cubic feet of natural gas per day or for a total amount that exceeds \$75,000,000 annually.

1. Prior to executing an energy cost reduction contract. Before executing an energy cost reduction contract, the commission shall:

A. Pursue, in appropriate regional and federal forums, market and rule changes that will reduce the basis differential for gas coming into New England and increase the efficiency with which gas brought into New England and Maine is transmitted, distributed and used. If the commission concludes that those market or rule changes will, within the same time frame, achieve substantially the same cost reduction effects for Maine electricity and gas customers as the execution of an energy cost reduction contract, the commission may not execute an energy cost reduction contract;

B. Explore all reasonable opportunities for private participation in securing additional gas pipeline capacity that would achieve the objectives in subsection 2. If the commission concludes that private transactions, within the same time frame, achieve substantially the same cost reduction effects for Maine electricity and gas customers as the execution of an energy cost reduction contract, the commission may not execute an energy cost reduction contract; and

C. In consultation with the Public Advocate and the Governor's Energy Office, hire a consultant with expertise in natural gas markets to make recommendations regarding the execution of an energy cost reduction contract. The commission shall consider those recommendations as part of an adjudicatory proceeding under subsection 2.

2. Commission determination of benefits. After satisfying the requirements of subsection 1, the commission may execute or direct one or more transmission and distribution utilities, gas utilities or natural gas pipeline utilities to execute an energy cost reduction contract if the commission has determined, in an adjudicatory proceeding, that the agreement is commercially reasonable and in the public interest and that the contract is reasonably likely to:

A. Materially enhance natural gas transmission capacity into the State or into the ISO-NE region and that additional capacity will be economically beneficial to electric

consumers, natural gas consumers or both in the State and that the overall costs of the contract are outweighed by its benefits to electric consumers, natural gas consumers or both in the State; and

B. Enhance electrical and natural gas reliability in the State.

3. Parties to an energy cost reduction contract. The commission may execute, or direct to be executed, an energy cost reduction contract that contains the following provisions.

A. The commission may direct one or more transmission and distribution utilities, gas utilities or natural gas pipeline utilities to be a counterparty to an energy cost reduction contract. In determining whether and to what extent to direct a utility to be a counterparty to a contract under this subsection, the commission shall consider the anticipated reduction in the price of gas or electricity, as applicable, accruing to the customers of the utility as a result of the contract as determined by the commission in an adjudicatory proceeding.

Any economic loss, including but not limited to any effects on the cost of capital resulting from an energy cost reduction contract for a transmission and distribution utility, a gas utility or a natural gas pipeline utility, is deemed to be prudent and the commission shall allow full recovery through the utility's rates.

B. If the commission concludes that an energy cost reduction contract can be achieved with the participation of other entities, the commission may contract jointly with other entities, including other state agencies and instrumentalities, governments in other states and nations, utilities and generators.

C. The commission may execute an energy cost reduction contract as a principal and counterparty.

4. Approval by the Governor. The commission may not execute or direct the execution of an energy cost reduction contract unless the Governor has in writing approved the execution of the energy cost reduction contract.

§1905. Funding of an energy cost reduction contract

An energy cost reduction contract may be funded in accordance with this section.

1. Assessments on ratepayers. The commission may direct one or more transmission and distribution utilities, gas utilities or natural gas pipeline utilities to collect an assessment from ratepayers for the following purposes:

A. To finance the participation of a transmission and distribution utility, a gas utility or a natural gas pipeline utility in an energy cost reduction contract; and

B. To pay the costs of energy cost reduction contract evaluation and administration under section 1906, subsection 2.

All assessments must be just and reasonable as determined by the commission and must be identified as an energy cost reduction contract charge on a ratepayer's utility bill. When determining just and reasonable assessments, the commission shall consider the

anticipated reduction in the price of gas or electricity, as applicable, accruing to different categories of ratepayers as a result of the contract.

2. Assessments on utilities. If the commission is the principal and counterparty on the contract, the commission may:

A. Assess one or more transmission and distribution utilities, gas utilities and natural gas pipeline utilities in proportion to the anticipated reduction in the price of gas or electricity, as applicable, accruing as a result of the contract to the customers of the utility for any and all net costs to the commission of the commission's performance of the contract as determined by the commission in an adjudicatory proceeding. The cost to the utility of the assessment may be recovered by the utility in rates in the same manner as any other prudently incurred cost.

3. Volumetric fee. The commission may establish and direct the payment to the trust fund of a volumetric fee on the use of gas by a consumer of natural gas obtained from a source other than a gas utility or a natural gas pipeline utility of this State in proportion to the anticipated reduction in the price of gas accruing to that consumer as a result of the contract as determined by the commission in an adjudicatory proceeding.

§1906. Contract resale and administration

The following provisions govern the resale and evaluation and administration of an energy cost reduction contract.

1. Resale of natural gas pipeline capacity. The commission may negotiate and enter into contracts for the resale of all or a portion of the reserved natural gas transmission pipeline capacity acquired through an energy cost reduction contract. All of the revenue received as a result of the resale must be deposited into the trust fund.

2. Contract evaluation and administration. The commission is responsible for assessing, analyzing, negotiating, implementing and monitoring compliance with energy cost reduction contracts. The commission may use funds for this purpose from the trust fund or may collect funds for this purpose through just and reasonable assessments placed on a transmission and distribution utility, a gas utility or a natural gas pipeline utility pursuant to section 1905, subsection 1, paragraph B.

§1907. Revenues from energy cost reduction contracts

Revenues received from the resale of natural gas pipeline capacity acquired through an energy cost reduction contract must be used in accordance with this section.

1. Establishment of Energy Cost Reduction Trust Fund. The Energy Cost Reduction Trust Fund is established as a nonlapsing fund administered by the commission for the purposes of this chapter. The commission is authorized to receive and shall deposit in the trust fund and expend in accordance with this section revenues received from an energy cost reduction contract and revenues received from the resale of natural gas pipeline capacity acquired through an energy cost reduction contract.

The funds in the trust fund are held in trust for the purpose of reducing the energy costs of consumers in the State and may not be used for any other purpose, except as described in subsection 2.

2. Distribution of funds. The commission shall distribute funds in the trust fund in the following order of priority:

A. As a first priority, to the costs of monitoring and administering a contract pursuant to section 1906, subsection 2; and

B. As a 2nd priority, to utilities and other entities to reduce energy costs for electricity and natural gas ratepayers and consumers subject to a volumetric fee under section 1905, subsection 3. The commission may distribute funds to benefit ratepayers of one or more transmission and distribution utilities, gas utilities or natural gas pipeline utilities or consumers subject to a volumetric fee under section 1905, subsection 3 in a manner that the commission finds is equitable, just and reasonable.

§1908. Exemption from State Purchasing Agent rules

Notwithstanding any other provision of law, agreements and contracts entered into pursuant to this chapter are not subject to the competitive bid requirements of the State Purchasing Agent.

§1909. Market power investigation

The commission may on its own motion, with or without notice, summarily investigate the exercise of market power by a gas utility, natural gas pipeline utility or pipeline capacity holder. If, after the summary investigation, the commission determines it to be necessary, it may hold a public hearing in accordance with section 1304. Notwithstanding section 1304 and Title 5, section 9052, the commission shall notify the utility under investigation in writing of the matter under investigation and 7 days after the commission has given notice the commission may set the time and place for the public hearing.

§1910. Rulemaking

The commission may adopt rules to implement this chapter. When adopting rules, the commission shall consider the financial implications of this chapter for transmission and distribution utilities, gas utilities and natural gas pipeline utilities. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§1911. Reports

The commission shall include in its annual report under section 120, subsection 3 a description of its efforts to pursue, in appropriate regional and federal forums, market and rule changes that will reduce the basis differential for natural gas coming into New England.

§1912. Limitation

The commission may not execute an energy cost reduction contract under this chapter after December 31, 2018. The commission may continue to administer existing contracts and enter into agreements regarding the resale of natural gas pipeline capacity purchased through an energy cost reduction contract after December 31, 2018.

Sec. B-2. 35-A MRSA §4508, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Natural gas pipeline utilities subject to commission's authority. A natural gas pipeline utility organized to construct or operate an interstate natural gas pipeline, ~~which~~ that holds a certificate of public convenience and necessity issued under the Federal Natural Gas Act authorizing it to construct or operate a natural gas pipeline and appurtenant facilities within the State, or an intrastate natural gas pipeline utility, ~~which~~ that has obtained authorization from the commission, is subject to the authority of the commission. The commission shall adopt policies that reduce the probability of methane leakage from facilities as part of its regulation under this chapter.

Sec. B-3. Report. The Public Utilities Commission shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on the status of energy cost reduction contracts under the Maine Revised Statutes, Title 35-A, chapter 19 by December 31, 2015. After receipt of the report, the joint standing committee may submit legislation relating to the report.

PART C

Sec. C-1. 35-A MRSA §3131, sub-§4-B is enacted to read:

4-B. Nontransmission alternative. "Nontransmission alternative" means any of the following methods used either individually or combined to reduce the need for the construction of a transmission line under section 3132 or transmission project under section 3132-A: energy efficiency and conservation, load management, demand response or distributed generation.

Sec. C-2. 35-A MRSA §3132, sub-§2-C, ¶¶B and C, as enacted by PL 2009, c. 309, §2, are amended to read:

B. Justification for adoption of the route selected, including comparison with alternative routes that are environmentally, technically and economically practical; ~~and~~

C. Results of an investigation by an independent 3rd party, which may be the commission or a contractor selected by the commission, of nontransmission alternatives to construction of the proposed transmission line including energy conservation, distributed generation or load management. The investigation must set forth the total projected costs of the transmission line as well as the total projected costs of the alternatives over the effective life of the proposed transmission line; and

Sec. C-3. 35-A MRSA §3132, sub-§2-C, ¶D is enacted to read:

D. A description of the need for the proposed transmission line.

Sec. C-4. 35-A MRSA §3132, sub-§5, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

5. Commission approval of a proposed line. The commission may approve or disapprove all or portions of a proposed transmission line and shall make such orders regarding its character, size, installation and maintenance as are necessary, having regard for any increased costs caused by the orders. The commission shall give preference to the nontransmission alternatives that have been identified as able to address the identified need for the proposed transmission line at lower total cost to ratepayers in this State. When the costs to ratepayers in this State of the identified nontransmission alternatives are reasonably equal, the commission shall give preference to the alternatives that produce the lowest amount of local air emissions, including greenhouse gas emissions.

Sec. C-5. 35-A MRSA §3132, sub-§6, as repealed and replaced by PL 2011, c. 281, §1, is amended to read:

6. Commission order; certificate of public convenience and necessity. In its order, the commission shall make specific findings with regard to the public need for the proposed transmission line. The commission shall make specific findings with regard to the likelihood that nontransmission alternatives can sufficiently address the identified public need over the effective life of the transmission line at lower total cost. Except as provided in subsection 6-A for a high-impact electric transmission line and in accordance with subsection 6-B regarding nontransmission alternatives, if the commission finds that a public need exists, after considering whether the need can be economically and reliably met using nontransmission alternatives, it shall issue a certificate of public convenience and necessity for the transmission line. In determining public need, the commission shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and recreational values, state renewable energy generation goals, the proximity of the proposed transmission line to inhabited dwellings and alternatives to construction of the transmission line, including energy conservation, distributed generation or load management. If the commission orders or allows the erection of the transmission line, the order is subject to all other provisions of law and the right of any other agency to approve the transmission line. The commission shall, as necessary and in accordance with subsections 7 and 8, consider the findings of the Department of Environmental Protection under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed transmission line and any modifications ordered by the Department of Environmental Protection to lessen the impact of the proposed transmission line on the environment. A person may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as provided in subsection 4, before identifying a specific route or route options for the proposed transmission line. Except as provided in subsection 4, the commission may not consider the petition insufficient for failure to provide identification of a route or route options for the proposed transmission line. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the person to erect or construct was prudent. At the time of its issuance of a

certificate of public convenience and necessity, the commission shall send to each municipality through which a proposed corridor or corridors for a transmission line extends a separate notice that the issuance of the certificate does not override, supersede or otherwise affect municipal authority to regulate the siting of the proposed transmission line. The commission may deny a certificate of public convenience and necessity for a transmission line upon a finding that the transmission line is reasonably likely to adversely affect any transmission and distribution utility or its customers.

Sec. C-6. 35-A MRSA §3132, sub-§6-B is enacted to read:

6-B. Reasonable consideration of nontransmission alternatives. If the commission determines that nontransmission alternatives can sufficiently address the transmission need under subsection 6 at lower total cost, but at a higher cost to ratepayers in this State than the proposed transmission line, the commission shall make reasonable efforts to achieve within 180 days an agreement among the states within the ISO-NE region to allocate the cost of the nontransmission alternatives among the ratepayers of the region using the allocation method used for transmission lines or a different allocation method that results in lower costs than the proposed transmission line to the ratepayers of this State.

For the purposes of this section, "ISO-NE region" has the same meaning as in section 1902, subsection 3.

The subsection is repealed December 31, 2015.

Sec. C-7. 35-A MRSA §3132, sub-§15 is enacted to read:

15. Advancement of nontransmission alternatives policies. The commission shall advocate in all relevant venues for the pursuit of least-cost solutions to bulk power system needs on a total cost basis and for all available resources, including nontransmission alternatives, to be treated comparably in transmission analysis, planning and access to funding.

Sec. C-8. 35-A MRSA §3132-A is enacted to read:

§3132-A. Construction of transmission projects prohibited without approval of the commission

A person may not construct any transmission project without approval from the commission. For the purposes of this section, "transmission project" means any proposed transmission line and its associated infrastructure capable of operating at less than 69 kilovolts and projected to cost in excess of \$20,000,000.

1. Submission requirement. A person that proposes to undertake in the State a transmission project must provide the commission with the following information:

A. Results of an investigation by an independent 3rd party, which may be the commission or a contractor selected by the commission, of nontransmission alternatives to construction of the proposed transmission project. The investigation must set forth the total projected costs of the transmission project as well as the total

projected costs of the nontransmission alternatives over the effective life of the proposed transmission project; and

B. A description of the need for the proposed transmission project.

2. Approval; consideration of nontransmission alternatives. In order for a transmission project to be approved, the commission must consider whether the identified need over the effective life of the proposed transmission project can be economically and reliably met using nontransmission alternatives at a lower total cost. During its review the commission shall give preference to nontransmission alternatives that are identified as able to address the identified need for the proposed transmission project at lower total cost to ratepayers. Of the identified nontransmission alternatives, the commission shall give preference to the lowest-cost nontransmission alternatives. When the costs to ratepayers of the identified nontransmission alternatives are reasonably equal, the commission shall give preference to the alternatives that produce the lowest amount of local air emissions, including greenhouse gas emissions.

3. Exception. A transmission project that is constructed, owned and operated by a generator of electricity solely for the purpose of electrically and physically interconnecting the generator to the transmission system of a transmission and distribution utility is not subject to this section.

PART D

Sec. D-1. 38 MRSA §579, first ¶, as amended by PL 2007, c. 608, §3, is further amended to read:

The department may participate in the regional greenhouse gas initiative as described in the climate action plan required in section 577. The commissioner or the commissioner's designee and the members of the Public Utilities Commission are authorized to act as representatives for the State in the regional organization as defined in section 580-A, subsection 20, may contract with organizations and entities when such arrangements are necessary to efficiently carry out the purposes of this section and may coordinate the State's efforts with other states and jurisdictions participating in that initiative, with respect to:

Sec. D-2. 38 MRSA §580-A, sub-§6, as enacted by PL 2007, c. 317, §17, is amended to read:

6. Carbon dioxide emissions offset project. "Carbon dioxide emissions offset project" means a project that reduces or avoids loading of carbon dioxide and other greenhouse gases in the atmosphere and is demonstrated to qualify as real, additional, verifiable, enforceable and permanent as those terms are defined in rules adopted by the department. "Carbon dioxide emissions offset project" includes, but is not limited to, landfill and agricultural methane capture and destruction, reduction in emissions of sulfur hexafluoride, sequestration of carbon due to ~~afforestation~~ forestry practices and reduction or avoidance of carbon dioxide emissions from natural gas, oil or propane end-use combustion due to end-use energy efficiency and other categories established by the department by rule.

Sec. D-3. 38 MRSA §580-A, sub-§17-A is enacted to read:

17-A. Model rule. "Model rule" means the model rule, as amended, referenced in the memorandum of understanding.

Sec. D-4. 38 MRSA §580-B, sub-§3, as enacted by PL 2007, c. 317, §17, is amended to read:

3. Base annual budget. ~~The~~ Until January 1, 2014, the base annual carbon dioxide emissions budget is established at 5,948,902 tons of carbon dioxide. ~~Beginning with the year 2015, the annual carbon dioxide emissions budget must decline by 148,722 tons per year until 2018 so that the annual carbon dioxide emissions budget for 2018 is 10% below the base annual carbon dioxide emissions budget.~~ For the year 2014, the base annual carbon dioxide emissions budget is established at 3,277,250 tons of carbon dioxide. Beginning with the year 2015, the annual carbon dioxide emissions budget must decline by 2.5% each year through the year 2020.

Sec. D-5. 38 MRSA §580-B, sub-§3-A is enacted to read:

3-A. Interim adjustments for banked allowances. The 2014 base annual carbon dioxide emissions budget of 3,277,250 tons of carbon dioxide and base annual budgets for 2015 to 2020 must be reduced by an amount equivalent to the quantity of banked allowances in excess of the quantity of allowances required for compliance at the end of 2013. The State's interim adjustments for banked allowances must be made in proportion to the State's share of the total annual carbon dioxide emissions budget for all states participating in the regional greenhouse gas initiative.

Sec. D-6. 38 MRSA §580-B, sub-§4, as enacted by PL 2007, c. 317, §17, is amended to read:

4. Rules implementing program. The department shall adopt rules to implement the program. ~~The rules must contain~~ Rules must be consistent with the model rule. The rules must include, but are not limited to:

- A. Provisions for the establishment of a system for the annual assignment, sale and distribution of carbon dioxide emissions allowances consistent with the carbon dioxide emissions budget;
- B. Provisions for the establishment of carbon dioxide budget unit compliance obligation accounts;
- C. Provisions for the establishment of carbon dioxide offset project allowance categories and requirements;
- D. Provisions for the implementation of a licensing process for carbon dioxide budget units;
- E. Provisions for the establishment of a carbon dioxide emissions and carbon dioxide allowance tracking program; and
- F. Provisions to manage the carbon dioxide allowance auction developed in coordination with other states and jurisdictions in the regional greenhouse gas

initiative and in a manner that is consistent with provisions adopted by those states and jurisdictions and, to the extent feasible, that:

- (1) Ensure close monitoring of allowance transactions in a manner that guards against collusion and market manipulation;
- (2) Ensure ongoing authentic price discovery and minimize price volatility;
- (3) Facilitate open participation for bidding to all individuals or entities that meet the financial requirements jointly adopted by the participating states;
- (4) Minimize administration and transaction costs and provide for an open and transparent user-friendly system;
- (5) Provide that ongoing monitoring of market activity is undertaken by entities that have complete financial independence from any market participant;
- (6) For purposes of civil and criminal enforcement authority under section 349, establish a contract term at the time an allowance is purchased at the regional auction for violations of market rules jointly adopted by the participating states and jurisdictions or through another method of ensuring state jurisdiction; and
- (7) Guarantee that the Attorney General, the Public Utilities Commission and the commissioner have access to all auction information and information concerning allowance trading activity, including reports provided to the regional organization by a market monitor.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. D-7. 38 MRSA §580-B, sub-§10, as repealed and replaced by PL 2009, c. 652, Pt. A, §61, is amended to read:

10. Annual report. The department, the Public Utilities Commission and the trustees of the Efficiency Maine Trust established pursuant to Title 35-A, section 10103 shall submit a joint report to the joint standing committees of the Legislature having jurisdiction over natural resources matters and utilities and energy matters by March ~~15, 2009 and each year thereafter~~ 15th annually. The report must assess and address:

- A. The reductions of greenhouse gas emissions from carbon dioxide budget units, conservation programs funded by the Regional Greenhouse Gas Initiative Trust Fund pursuant to Title 35-A, section 10109 and carbon dioxide emissions offset projects;
- B. The improvements in overall carbon dioxide emissions and energy efficiency from sources that emit greenhouse gases including electrical generation and fossil fuel fired units;
- C. The maximization of savings through systemic energy improvements statewide;
- D. Research and support of new carbon dioxide offset allowance categories for development in the State;
- E. Management and cost-effectiveness of the State's energy conservation and carbon reduction programs and efforts funded by the Regional Greenhouse Gas Initiative Trust Fund, established pursuant to Title 35-A, section 10109;

F. The extent to which funds from the Regional Greenhouse Gas Initiative Trust Fund, established pursuant to Title 35-A, section 10109, serve customers from all classes of the State's transmission and distribution utilities; and

G. The revenues and expenditures of the Regional Greenhouse Gas Initiative Trust Fund, established pursuant to Title 35-A, section 10109.

The department, the Public Utilities Commission and the trustees of the Efficiency Maine Trust may include in the report any proposed changes to the program established under this chapter.

The joint standing committee of the Legislature having jurisdiction over natural resources matters may submit legislation relating to areas within the committee's jurisdiction in connection with the program. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit legislation relating to areas within the committee's jurisdiction in connection with the program.

Sec. D-8. Fuel switching offset category. The Department of Environmental Protection and the Public Utilities Commission shall work together to develop and promote for recognition by the other states participating in the regional greenhouse gas initiative a modification of the existing end-use energy efficiency offset category in the Regional Greenhouse Gas Initiative Act of 2007 to provide incentives for industrial and residential consumers to switch from the use of oil and coal as fuel to fuels with lower greenhouse gas emissions. In developing the modification to the existing offset category, the department shall work toward including the following factors:

1. Eligibility of fuel switching to alternative fuels such as natural gas, biomass or other renewable fuels;
2. Calculation of the offset amounts on the basis of the net reduction in carbon dioxide equivalents from the prior fuel used;
3. Offsets for greenhouse gas emission reductions that are real, additional, verifiable, enforceable and permanent; and
4. Allowing for the transfer of offset credits to a 3rd party to provide financial consideration to enable the fuel switching to occur.

The department and the commission shall include a progress report on the development of this offset category as part of the annual report under the Maine Revised Statutes, Title 38, section 580-B, subsection 10.

PART E

Sec. E-1. 35-A MRSA §2523 is enacted to read:

§2523. Street lights; use of poles

This section governs street lights that are attached to utility poles in the public way.

1. Ownership and maintenance options. On or after October 1, 2014, a transmission and distribution utility shall provide the following options to municipalities for street and area lighting provided by light fixtures attached to poles owned by the transmission and distribution utility or on shared-use poles in the electrical space under the contractual management of the transmission and distribution utility located in the public way:

A. The transmission and distribution utility provides all of the components of the street lighting system, including installation on the utility poles and maintenance, and provides electricity delivery to the street lighting system from a power vendor selected by the municipality. The transmission and distribution utility shall apply a monthly charge for these services as approved by the commission that reflects the total cost to provide street lighting equipment for each light and a separate charge for power delivery consistent with subsection 3;

B. The transmission and distribution utility installs all of the components of the street lighting hardware as selected, purchased and owned by the municipality on utility poles owned by the transmission and distribution utility or in the electrical space under contractual management of the transmission and distribution utility on shared-use poles and connects the light to the power source on the pole. The transmission and distribution utility may apply a one-time charge per light fixture for installation as established by the commission.

Any repairs made by the transmission and distribution utility to the mounting hardware or the power supply wire connection following installation must be billed at a rate established by the commission. Maintenance of all components of the light fixture is the responsibility of the municipality or its contractor. Any person performing maintenance work on behalf of the municipality pursuant to this provision must be qualified pursuant to applicable federal or state standards or any standards established by the commission for such work and must have liability insurance in an amount and with terms determined by the commission. Light locations, the street lighting hardware installed and delivery charges are governed by subsections 2 and 3; and

C. The transmission and distribution utility connects to the power lines a light fixture either owned by or owned and installed by the municipality or its contractor on a pole owned by the transmission and distribution utility or on a shared-use pole in the electrical space under the contractual management of the transmission and distribution utility. Light locations, the street lighting hardware installed and delivery charges are governed by subsections 2 and 3. Maintenance of the light fixture and mounting hardware is the responsibility of the municipality or its contractor. Any person installing or working on municipally owned street lighting equipment pursuant to this paragraph on behalf of the municipality must be qualified pursuant to applicable federal and state standards or any standards established by the commission for such work and must have liability insurance in an amount and with terms determined by the commission. The transmission and distribution utility may apply a one-time power connection charge per light fixture as established by the commission.

2. Lighting location and installation. For municipally owned street lighting hardware located on poles owned by the transmission and distribution utility or in the

electrical space under the contractual management of the transmission and distribution utility on shared-use poles in the public way, the location on the pole and the street lighting hardware installed, as well as any associated charges, are governed by the following provisions.

A. The commission shall establish criteria, based on standard utility industry practice, for determining possible locations on the utility pole for the street lighting hardware, determining any changes that may be needed, including, but not limited to, relocating equipment already on the pole, installing a taller pole or bracing an existing pole, as well as determining any one-time fees the transmission and distribution utility may charge the municipality for making the determinations and undertaking the work necessitated by the determinations. The criteria must also specify the conditions under which a request from a municipality to locate a light fixture on a pole may reasonably be denied by the transmission and distribution utility.

B. The commission shall establish basic criteria, consistent with standard utility industry practice, for municipally owned street lighting hardware installed on utility poles that address any reasonable safety and compatibility issues with other equipment on or uses of the pole. The criteria must provide a basis for determining when no additional assessment work, and related fees pursuant to paragraph A, would be warranted for a replacement light fixture because the new light fixture places comparable or lower demands on the utility pole and related utility equipment than the light fixture being replaced.

3. Delivery rates and associated charges. The commission shall establish through appropriate proceedings the charges for the transmission and distribution utility to deliver electricity to the municipal street lighting systems as provided in subsection 1. For municipal street lighting system options described in subsection 1, paragraphs B and C, the commission shall determine what, if any, ongoing fees beyond the power-only delivery charge may be assessed, including a pole attachment fee. In making this determination, the commission shall weigh, among other factors, the municipal interest to serve the general public and the location of the poles in municipal rights-of-way.

4. Transfer of ownership. A transmission and distribution utility shall allow a municipality to transfer utility-owned street and area lighting for which the municipality is billed to either form of municipal ownership in subsection 1, paragraphs B and C in a time frame and under terms established by the commission. The commission shall also determine a fair and equitable cost for all aspects of the transfer and establish guidelines to best enable the contiguous ownership of lighting fixtures.

PART F

Sec. F-1. 35-A MRS §101, as amended by PL 2011, c. 623, Pt. D, §2, is further amended to read:

§101. Statement of purpose

The purpose of this Title is to ensure that there is a regulatory system for public utilities in the State and for other entities subject to this Title that is consistent with the

public interest and with other requirements of law and to provide for reasonable licensing requirements for competitive electricity providers. The basic purpose of this regulatory system as it applies to public utilities subject to service regulation under this Title is to ensure safe, reasonable and adequate service, to assist in minimizing the cost of energy available to the State's consumers and to ensure that the rates of public utilities subject to rate regulation are just and reasonable to customers and public utilities.

Sec. F-2. 35-A MRSA §3152, sub-§1, ¶A, as amended by PL 1999, c. 398, Pt. A, §57 and affected by §§104 and 105, is further amended to read:

A. Require the commission to relate transmission and distribution rates more closely to the costs of providing transmission and distribution service; ~~and~~

Sec. F-3. 35-A MRSA §3152, sub-§1, ¶C, as amended by PL 1999, c. 398, Pt. A, §57 and affected by §§104 and 105, is further amended to read:

C. Require the commission to consider the ability of low-income residential customers to pay in full for electric services as transmission and distribution rates are redesigned consistent with these policies; and

Sec. F-4. 35-A MRSA §3152, sub-§1, ¶D is enacted to read:

D. Require the commission to set rates to the extent practicable to achieve economic efficiency.

Sec. F-5. 35-A MRSA §3153-A, sub-§4 is enacted to read:

4. Economic efficiency. In designing rates for transmission and distribution utilities, the commission shall set rates to the extent practicable to achieve economic efficiency.

PART G

Sec. G-1. PL 2011, c. 637, §11, sub-§2, ¶¶A, D and E are amended to read:

A. May provide efficient electric heat pumps or electric thermal storage units to up to 500 residential or small business customers within its service territory. The number of efficient electric heat pumps provided to customers may exceed 500 if proposed by the utility and approved by the Public Utilities Commission;

D. May offer ~~rebates~~ incentives to participating customers to be applied to the total installation cost of the efficient electric heat pumps or electric thermal storage units; and

E. ~~May~~ With respect to electric thermal storage units, may enroll customers in the pilot program only until December 31, 2013 and with respect to efficient electric heat pumps, may enroll customers in the pilot program until December 31, 2014, except that the deadline may be extended if proposed by the utility and approved by the Public Utilities Commission.

Sec. G-2. PL 2011, c. 637, §11, sub-§2 is amended by adding at the end a new blocked paragraph to read:

Nothing in this subsection is intended to limit the authority of the commission to establish special rates for customers purchasing electricity through the pilot program. Those rates may include the recovery of costs associated with incentives or loans authorized under the pilot program. Any recovery of those costs must be through customers participating in the program and may not be passed through to customers not participating in the pilot program.

PART H

Sec. H-1. PL 2009, c. 615, Pt. A, §6, 3rd ¶ from the end is amended to read:

The commission may not approve any long-term contract under this section that would result in an increase in electric rates in any customer class that is greater than ~~the amount of the assessment charged under Title 35-A, section 10110, subsection 4 at the time that the contract is entered~~ \$1.45 per megawatt hour.

Sec. H-2. PL 2009, c. 615, Pt. A, §6 is amended by adding at the end a new paragraph to read:

If a supplier under a deep-water offshore wind energy pilot project elects not to go forward or does not proceed to construction under the terms of a contract or other terms approved by the commission by order for any reason, including that the supplier does not receive necessary federal funding or financing, the commission may consider additional proposals for a deep-water offshore energy pilot project that can be funded within funding limitations under this section. To consider additional proposals, the commission shall conduct a 2nd round of solicitation of competitive proposals. The commission may approve additional projects that are contingent on previously approved projects not proceeding to construction within the approved time frames or deadlines. The University of Maine's deep-water offshore wind energy pilot project must be considered a deep-water offshore wind energy pilot project under this section. The commission shall make all reasonable efforts to complete its review and make decisions on additional proposals under this section by December 31, 2013.

PART I

Sec. I-1. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC UTILITIES COMMISSION

Public Utilities - Administrative Division 0184

Initiative: Allocates the projected revenue from the transfers from the Regional Greenhouse Gas Initiative Trust Fund of the Efficiency Maine Trust to be distributed to utility ratepayers at the direction of the Public Utilities Commission to provide the maximum benefit to the Maine economy.

OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
All Other	\$1,500,000	\$1,500,000
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$1,500,000</u>	<u>\$1,500,000</u>

Emergency clause. In view of the emergency cited in the preamble, except as otherwise provided, this legislation takes effect when approved.