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Date: (Filing No. H-)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1427, L.D. 2112, “An Act to Authorize Municipalities to Form Community Choice Aggregation Programs to Procure Electricity”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 35-A MRSA §3202, sub-§3, as enacted by PL 1997, c. 316, §3, is amended to read:

3. Aggregation permitted; limitation. When retail access begins, consumers of electricity may aggregate their purchases of generation service in any manner they choose. If a public entity serves as an aggregator, it may not require consumers of electricity within its jurisdiction to purchase generation service from that entity except as provided in section 3219.

Sec. 2. 35-A MRSA §3219 is enacted to read:

§3219. Community choice aggregation program

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Community choice aggregation program" means a program through which a municipality or group of municipalities located in the service territory of an investor-owned transmission and distribution utility aggregates the electric load of residential customers and small commercial electricity customers within the jurisdiction of the municipality or group of municipalities to procure electricity on their behalf.

B. "Competitive electricity provider service agreement" means a form agreement that is developed by the commission by rule in accordance with subsection 10, paragraph G and that is signed by an investor-owned transmission and distribution utility and a program supplier.

C. "Default service" means the standard-offer service provided in accordance with section 3212.

COMMITTEE AMENDMENT

1 D. "Houlton Band of Maliseet Indians" has the same meaning as in Title 30, section
2 6203, subsection 2.

3 E. "Mi'kmaq Nation" has the same meaning as in Title 30, section 7203, subsection 4.

4 F. "Passamaquoddy Tribe" has the same meaning as in Title 30, section 6203,
5 subsection 7.

6 G. "Penobscot Nation" has the same meaning as in Title 30, section 6203, subsection
7 10.

8 H. "Program consultant" means a person acting as a broker or aggregator and licensed
9 as a competitive electricity provider in accordance with section 3203 that is engaged
10 by a municipality or group of municipalities to assist with the development and
11 operation of a community choice aggregation program.

12 I. "Program supplier" means a competitive electricity provider licensed in accordance
13 with section 3203 that has executed a competitive electricity provider service
14 agreement and is providing electricity to customers under a community choice
15 aggregation program.

16 **2. Community choice aggregation program; plan approval.** A municipality or
17 group of municipalities may implement a community choice aggregation program in
18 accordance with the requirements of this section.

19 A. A municipality or group of municipalities may adopt a community choice
20 aggregation program plan if the adoption is approved by a majority vote of each
21 municipality's legislative body or governing board and the adoption of the plan is
22 approved by a majority of voters in each municipality adopting the plan.

23 B. If a municipality or group of municipalities has adopted a plan in accordance with
24 paragraph A, the municipality or group of municipalities may submit the plan to the
25 commission for approval.

26 C. The commission shall review and approve or reject a plan submitted for approval
27 in accordance with paragraph B. Pursuant to subsection 10, the commission shall adopt
28 rules to establish requirements for community choice aggregation program plans,
29 including, but not limited to, requirements for a municipality or a group of
30 municipalities to conduct targeted outreach in the municipality's or group of
31 municipalities' jurisdiction to ensure that customers are aware of their rights, benefits
32 of the community choice aggregation program and opt-out options.

33 D. If the commission rejects a community choice aggregation program plan, the
34 municipality or group of municipalities may amend the plan to address deficiencies
35 identified by the commission and resubmit the plan to the commission without
36 complying with the requirements of paragraph A as long as the amendments to the plan
37 are not material in nature as determined by the commission.

38 E. If the commission approves a community choice aggregation program plan, the
39 municipality or group of municipalities shall comply with the notification requirements
40 in subsections 3 and 4 before implementing the community choice aggregation
41 program.

42 A municipality or group of municipalities may not implement a community choice
43 aggregation program unless the plan has been approved by the commission.

1 **3. Community choice aggregation program; regulatory notice.** After receiving
2 community choice aggregation program plan approval from the commission in accordance
3 with subsection 2 and prior to implementing the community choice aggregation program,
4 a municipality shall provide written notice to the commission, the Public Advocate, the
5 Department of Energy Resources and an investor-owned transmission and distribution
6 utility serving customers within the community choice aggregation program service area
7 in accordance with rules adopted by the commission pursuant to subsection 10, paragraph
8 H.

9 **4. Customer notice.** A municipality or group of municipalities that receives
10 commission approval for a community choice aggregation program plan under subsection
11 2 shall send all default service customers, other than customers described in subsection 5,
12 paragraph B, subparagraphs (1), (2) and (4), within the municipality's or group of
13 municipalities' jurisdiction at least one written notice via first-class mail and publish one
14 notice in a newspaper of general circulation informing the customers of the following:

15 A. The community choice aggregation program details;

16 B. The right to opt out of the community choice aggregation program without penalty;
17 and

18 C. The process and deadlines for opting out of the community choice aggregation
19 program.

20 The notice required by this subsection must be provided to each default service customer
21 prior to the time the customer is initially enrolled in the community choice aggregation
22 program and must be sent in accordance with time frames established by the commission
23 by rule pursuant to subsection 10, paragraph D.

24 **5. Community choice aggregation program; implementation.** Except as provided
25 in paragraph B, subparagraphs (1), (2) and (4), after receiving community choice
26 aggregation program plan approval from the commission and complying with the
27 regulatory notice requirements in subsection 3 and the customer notice requirements in
28 subsection 4, all default service customers within the municipality's or group of
29 municipalities' jurisdiction may be automatically enrolled in the community choice
30 aggregation program unless they affirmatively opt out.

31 A. A municipality or group of municipalities may elect not to provide service to a
32 customer under a community choice aggregation program based on the customer's
33 utility payment history.

34 B. A customer may not be automatically enrolled in a community choice aggregation
35 program and must affirmatively opt in in order to participate in the community choice
36 aggregation program if the customer:

37 (1) Is participating in net energy billing pursuant to section 3209-A or 3209-B;

38 (2) Is participating in a front of the meter distributed energy resource program
39 pursuant to section 3209-I;

40 (3) Is receiving generation service from a competitive electricity provider; or

41 (4) Is receiving financial assistance for low-income households in accordance with
42 section 3214, subsection 2 or participating in an arrearage management program
43 pursuant to section 3214, subsection 2-A.

1 C. A customer receiving financial assistance for low-income households in accordance
2 with section 3214, subsection 2 or participating in an arrearage management program
3 pursuant to section 3214, subsection 2-A may not receive electricity supply under a
4 community choice aggregation program if the customer would pay a supply rate under
5 the community choice aggregation program that is at any time higher than the default
6 service supply rate.

7 D. A customer may be unenrolled from a community choice aggregation program and
8 returned to default service for nonpayment of electricity services provided under the
9 community choice aggregation program.

10 E. The approval of a plan by the commission as described in subsection 2 constitutes
11 a default service customer's authorization for the program consultant or program
12 supplier to provide service as required by section 3203, subsection 4-A, paragraph A.

13 F. If a customer not automatically enrolled opts in to a community choice aggregation
14 program, the customer is responsible for sharing the customer's electricity account
15 information with the program consultant or program supplier.

16 G. If a customer has a contract to receive generation service from a competitive
17 electricity provider and opts in to a community choice aggregation program, the
18 customer is responsible for notifying the competitive electricity provider that the
19 customer is terminating the contract to opt in to the community choice aggregation
20 program.

21 H. A program consultant or program supplier, with the approval of the municipality
22 or group of municipalities that has implemented the community choice aggregation
23 program, may communicate with customers receiving service under the community
24 choice aggregation program regarding the community choice aggregation program and
25 any energy-related products or services that may be available to those customers.

26 **6. Protections for low-income and electric assistance program customers.** The
27 following protections apply to low-income customers and electric assistance program
28 customers enrolled in a community choice aggregation program.

29 A. Enrollment in a community choice aggregation program does not affect a
30 customer's eligibility for or receipt of benefits under an electric assistance program or
31 any other low-income assistance program administered by the State.

32 B. All discounts, credits and protections afforded to low-income customers under an
33 arrearage management program pursuant to section 3214, subsection 2-A continue to
34 apply without interruption or modification.

35 C. An investor-owned transmission and distribution utility or a municipality may not
36 charge a customer enrolled in an electric assistance program or any other low-income
37 assistance program administered by the State any additional fees, charges or penalties
38 as a result of participation in a community choice aggregation program.

39 **7. Billing and collection; data sharing.** If a municipality or group of municipalities
40 implements a community choice aggregation program plan approved by the commission
41 under subsection 2, the investor-owned transmission and distribution utility serving
42 customers enrolled in the community choice aggregation program shall:

1 A. Provide the program consultant or program supplier with the same options for
2 billing as those available to competitive electricity providers providing generation
3 service to retail customers pursuant to section 3203;

4 B. Remit payments in the same manner as required for competitive electricity
5 providers providing generation service in accordance with rules adopted by the
6 commission pursuant to section 3203; and

7 C. Within a time frame established by the commission by rule, after a request by a
8 program consultant or program supplier, provide to the program consultant, the
9 program supplier or an authorized agent of the program consultant or program supplier,
10 in standardized machine-readable format, all customer-specific data reasonably
11 necessary to price, notify customers of and implement a community choice aggregation
12 program. The commission shall establish by rule the customer-specific data that must
13 be provided by an investor-owned utility, which must include, but is not limited to:

14 (1) Customer name and account number;

15 (2) Service address and mailing address;

16 (3) Customer class and applicable rate schedule;

17 (4) Twelve months of historical electricity usage data at the level of detail available
18 to the transmission and distribution utility obtained using the utility's available
19 automated electronic data or produced directly by the utility with the cost of
20 production to be paid by the requester;

21 (5) Capacity tag data or other peak demand obligation data used for resource
22 adequacy or capacity procurement;

23 (6) Twelve months of aggregated payment history for electricity customers in the
24 municipality or group of municipalities;

25 (7) Whether an electricity customer is receiving default service or supply from a
26 competitive electricity provider;

27 (8) Whether an electricity customer participates in net energy billing pursuant to
28 section 3209-A or 3209-B or a front of the meter distributed energy resource
29 program pursuant to section 3209-I or otherwise exports energy to the electric grid;
30 and

31 (9) Any additional customer or account information required by the commission
32 by rule to support aggregation pricing, customer notification, enrollment or
33 community choice aggregation program implementation.

34 Transmission and distribution services remain with the investor-owned transmission and
35 distribution utilities, which must be paid for according to rate schedules approved by the
36 applicable regulatory authority.

37 **8. Confidentiality.** Program consultants and program suppliers are subject to the
38 confidentiality requirement established in section 3203, subsection 4-A, paragraph B.

39 **9. Tribal community choice aggregation programs.** The Houlton Band of Maliseet
40 Indians, the Mi'kmaq Nation, the Penobscot Nation or the Passamaquoddy Tribe may
41 establish a community choice aggregation program in accordance with this section. The
42 rights applicable to municipalities as provided in this section apply to any community

1 choice aggregation programs that may be established by the Houlton Band of Maliseet
2 Indians, the Mi'kmaq Nation, the Penobscot Nation or the Passamaquoddy Tribe.

3 **10. Rulemaking.** The commission shall initiate rulemaking for the implementation
4 of this section no later than January 1, 2027. The rules must include, but are not limited to,
5 rules establishing:

6 A. The process by which a municipality or group of municipalities may:

7 (1) Establish a community choice aggregation program under subsection 2,
8 paragraph A; and

9 (2) Seek approval from the commission under subsection 2, paragraph B;

10 B. Standards for commission approval of a community choice aggregation program
11 plan under subsection 2, paragraph C;

12 C. Opt-in procedures for customers identified in subsection 5, paragraph B and opt-
13 out procedures for default service customers;

14 D. Timing and notice requirements related to the automatic enrollment of default
15 service customers in a community choice aggregation program;

16 E. Consumer protection and transparency requirements;

17 F. Requirements for data sharing by a transmission and distribution utility in
18 accordance with subsection 7, paragraph C, to ensure that data is provided in a timely
19 fashion and updated as necessary to support the ongoing administration of a community
20 choice aggregation program;

21 G. A standard competitive electricity provider service agreement to be used by a
22 program supplier and an investor-owned transmission and distribution utility to provide
23 for the ongoing sharing of data as described in subsection 7, paragraph C;

24 H. The timing for providing regulatory notice as required by subsection 3;

25 I. A process, which may include the establishment of a fee to be paid by a program
26 consultant, a program supplier or a municipality or group of municipalities
27 implementing a community choice aggregation program, to ensure that an investor-
28 owned transmission and distribution utility will not incur any costs to implement the
29 requirements of this section; and

30 J. Provisions to minimize to the greatest extent practicable impacts to default service.

31 Notwithstanding Title 5, section 8071, rules adopted pursuant to this subsection are routine
32 technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

33 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
34 number to read consecutively.

35 SUMMARY

36 This amendment replaces the bill. It authorizes a municipality or a group of
37 municipalities to establish a community choice aggregation program, which permits the
38 aggregation of the electric load of residential and small commercial electricity customers
39 within a municipality or group of municipalities for the purpose of procuring electricity on
40 behalf of those customers. Electricity customers are enrolled in the plan on an opt-out basis

1 except for customers participating in net energy billing or a front of the meter distributed
2 energy resource program, customers receiving generation service from a competitive
3 electricity provider and customers receiving low-income assistance. Prior to implementing
4 a community choice aggregation program, the program plan must be approved by the voters
5 in the municipality or municipalities, the legislative body or governing board of each
6 municipality and the Public Utilities Commission. The amendment establishes
7 requirements for customer notifications and protections and directs the commission to
8 adopt rules to implement the legislation, including rules governing community choice
9 aggregation program approvals, opt-in and opt-out procedures and consumer safeguards.
10 The amendment also provides that federally recognized Indian tribes in the State may
11 establish community choice aggregation programs.

12 **FISCAL NOTE REQUIRED**

13 **(See attached)**