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ENERGY, UTILITIES AND TECHNOLOGY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

132ND LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to S.P. 281, L.D. 597, “An Act Concerning Energy, Utilities and Technology”

Amend the bill by striking out the title and substituting the following:

'An Act to Direct the Public Utilities Commission to Conduct Procurements for Energy or Renewable Energy Credits'

Amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, it is critically important that Maine citizens have continued access to low-cost, locally generated power through the timely procurement of long-term contracts administered by the Public Utilities Commission; and

Whereas, delays in the procurement process will jeopardize rural jobs in the forest products industry and place at risk applications to connect in a cost-effective manner to the New England grid unless the Public Utilities Commission acts prior to the expiration of the 90-day period; 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,'

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

'Sec. 1. 35-A MRSA §3149 is enacted to read:

§3149. Negative pricing

The commission may not approve a contract for energy resulting from a competitive solicitation conducted by the commission under this Title unless the contract includes a provision that requires the reduction of payments to the bidder by the stranded costs arising

1 from energy produced during negative price intervals. The commission may grant an
2 exception from the inclusion of such a negative price provision if the bidder demonstrates
3 good cause for the exception and the commission finds that the contract is cost-effective,
4 includes other price protections for ratepayers and will avoid to the maximum extent
5 possible the curtailment of existing renewable resource generators.

6 **Sec. 2. 35-A MRSA §3210, sub-§12,** as enacted by PL 2023, c. 321, §2, is
7 repealed.

8 **Sec. 3. 35-A MRSA §3210-J, sub-§2,** as enacted by PL 2023, c. 321, §3, is
9 amended to read:

10 **2. Competitive procurement.** The commission shall direct investor-owned
11 transmission and distribution utilities to enter into one or more contracts for energy ~~and~~ or
12 renewable energy credits from eligible Class IA resources or combined projects in
13 accordance with this section. Customers who have made an election pursuant to section
14 3210, subsection 10 are subject to prohibitions on bidding on or obtaining a contract under
15 this section as provided in section 3210, subsection 10 for contracts under section 3210-G.

16 A. The commission shall ~~initiate~~ conduct competitive solicitations for contracts under
17 this ~~paragraph~~ subsection for energy ~~and~~ or renewable energy credits equal to 5% of
18 the retail electricity sales in this State for the period from January 1, 2021 to December
19 31, 2021 plus any amount determined pursuant to paragraph B.

20 B. The commission shall determine the amount of energy or renewable energy credits
21 from Class IA resources selected for contracts pursuant to section 3210-G that have not
22 been fulfilled and shall add this amount to the amount of energy and renewable energy
23 credits to be contracted under paragraph A.

24 ~~C. The commission shall initiate the first competitive solicitation to select eligible~~
25 ~~Class IA resources or combined projects for contract under this section by January 1,~~
26 ~~2024.~~

27 C-1. The commission shall initiate a competitive solicitation for energy or renewable
28 energy credits described in paragraph A and shall select eligible Class IA resources or
29 combined projects as expeditiously as possible, taking into account a bidder's ongoing
30 interconnection costs and ability to receive federal tax credits.

31 D. For any amount of energy or renewable energy credits required to be procured
32 under paragraph A that are not procured in the ~~first~~ competitive solicitation required
33 by paragraph C-1, the commission shall ~~may~~ initiate a 2nd an additional competitive
34 solicitation within 12 months of the conclusion of the ~~first~~ solicitation required by
35 paragraph C-1. The commission shall ~~may~~ initiate additional solicitations in the same
36 manner until contracts have been approved to procure eligible Class IA resources or
37 combined projects in accordance with paragraph A.

38 E. The commission shall require each bidder to demonstrate in the bid proposal the
39 economic and community benefits the proposal will provide, including but not limited
40 to:

- 41 (1) Jobs that will be created;
42 (2) Excise, income, property and sales taxes that will be paid; and
43 (3) Goods and services that will be purchased.

F. In conducting a solicitation and selecting eligible Class IA resources or combined projects for contracts under this section, the commission shall:

(1) Consider the expected effect of eligible Class IA resources on other renewable resources, as defined in section 3210, subsection 2, paragraph C, due to congestion and curtailment;

(2) Select only those eligible Class IA resources or combined projects for contracts that will benefit ratepayers, as determined by the commission in accordance with subsection 2-A; and

(3) Of those eligible Class IA resources or combined projects that benefit ratepayers, give preference to eligible Class IA resources or combined projects as follows:

(a) Primary preference to those eligible Class IA resources or combined projects that are located on contaminated land; and

(b) Secondary preference to those eligible Class IA resources or combined projects that minimize use of farmland that is not contaminated land and minimize use of forested land.

G. In conducting a solicitation and selecting combined projects for contracts under this section, the commission shall:

(1) Require 2 separate bid proposals, one with the energy storage system and one without; and

(2) Require an energy storage system selected for a contract to remain stationary and under the same ownership throughout the contract term.

H. The commission may establish a process by rule to allow an energy storage system to apply to the commission to be paired with and added to a contract awarded to an eligible Class IA resource after that resource has been awarded a contract.

Sec. 4. 35-A MRSA §3210-J, sub-§2-A is enacted to read:

2-A. Ratepayer benefits. The commission may not make a determination that a contract will benefit ratepayers as required by subsection 2, paragraph F, subparagraph (2), unless the commission determines that the contract is more likely than not to produce benefits to ratepayers that exceed the costs to ratepayers associated with the contract.

Sec. 5. 35-A MRSA §3210-J, sub-§4, as enacted by PL 2023, c. 321, §3, is repealed.

Sec. 6. 35-A MRSA §3210-J, sub-§5, as enacted by PL 2023, c. 321, §3, is amended to read:

5. Rules. The commission ~~shall~~ may adopt rules to implement this section. Rules adopted in accordance with this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 7. 35-A MRSA §3210-K is enacted to read:

§3210-K. Renewable energy procurement; repowering and continued maintenance of existing resources

1. Definition. As used in this section, "eligible Class IA resource" means a Class IA resource as defined in section 3210, subsection 2, paragraph A-3 that began commercial operation on or before June 30, 2019.

2. Competitive procurement. The commission shall conduct one competitive solicitation in order to select eligible Class IA resources for contracts under this section. The commission shall initiate the competitive solicitation by December 31, 2025.

A. Through a competitive solicitation under this section, the commission shall procure an amount of energy or renewable energy credits or a combination of energy and renewable energy credits from eligible Class IA resources that is equal to 5% of the retail electricity sales in this State for the period from January 1, 2023 to December 31, 2023, as determined by the commission.

B. In conducting the solicitation and selecting eligible Class IA resources for contracts under this section, the commission shall consider the benefits to ratepayers and to the economy as set forth in section 3210-G, subsection 1, paragraph C, subparagraph (2) and must determine that the contract award is more likely than not to produce benefits to ratepayers that exceed costs to ratepayers in the State.

C. If the commission concludes that the solicitation is not competitive or, following a review of bids received, that approval of a contract or contracts is not in the public interest, the commission must make a determination not to award a contract.

3. Contract requirements. A contract entered into pursuant to this section must:

A. Be for a term of 10 years unless the commission finds a contract for a longer term to be prudent; and

B. Require that payments to the bidder under the contract be reduced by the stranded costs arising from energy produced during negative price intervals.

Sec. 8. Commission procurement; timing. The Public Utilities Commission shall initiate the competitive solicitation required by the Maine Revised Statutes, Title 35-A, section 3210-J, subsection 2, paragraph C-1 within 30 days of the effective date of this Act.'

Amend the bill by adding before the summary the following:

'Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.'

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

This amendment replaces the bill, which is a concept draft, changes the title and adds an emergency preamble and emergency clause. The amendment does the following.

1. It amends the section of law requiring the Public Utilities Commission to conduct a renewable energy procurement to direct the commission to conduct a competitive

1 solicitation for energy or renewable energy credits within 30 days of enactment of the
2 legislation. The commission may initiate an additional competitive solicitation within 12
3 months of the first solicitation. The amendment also clarifies that, to select a contract that
4 will benefit ratepayers, the commission must determine that the contract is more likely than
5 not to produce benefits to ratepayers that exceed the costs to ratepayers associated with the
6 contract.

7 2. It requires the commission to conduct one competitive solicitation to procure energy
8 or renewable energy credits from eligible Class IA resources as defined in the amendment
9 in an amount equal to 5% of the retail electricity sales in this State for the period from
10 January 1, 2023 to December 31, 2023, as determined by the commission. If the
11 commission concludes that the solicitation is not competitive or, following a review of bids
12 received, that approval of a contract or contracts is not in the public interest, the
13 commission must decide not to award a contract.

14 3. It requires that an energy contract resulting from a competitive solicitation conducted
15 by the commission include a provision that requires payments under the contract to the
16 bidder be reduced by the stranded costs arising from energy produced during negative price
17 intervals. The commission may grant an exception from the inclusion of such a negative
18 price provision if the bidder demonstrates good cause and the commission finds that the
19 contract is cost-effective, includes other price protections for ratepayers and will avoid to
20 the maximum extent possible that curtailment of existing renewable resource generators.

21 **FISCAL NOTE REQUIRED**

22 **(See attached)**