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Date: (Filing No. H-)

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION**

HOUSE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to H.P. 861, L.D. 1347, “An Act to Eliminate the Current Net Energy Billing Policy in Maine”

Amend the amendment by striking out the 2nd instructional paragraph and inserting the following:

'Amend the bill by striking out all of the emergency preamble.'

Amend the amendment by striking out all of the emergency preamble.

Amend the amendment by striking out the 3rd instructional paragraph and inserting the following:

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

Amend the amendment by striking out all of sections 2 and 3.

Amend the amendment by inserting after section 3 the following:

'Sec. 4. 35-A MRSA §3209-A, sub-§2, as enacted by PL 2019, c. 478, Pt. A, §3, is amended to read:

2. Financial interest required. ~~The Except as otherwise provided in this section, the commission shall allow a customer to participate in net energy billing if the customer has a financial interest in a distributed generation resource or in a generation resource that has a net energy billing arrangement ~~on the effective date of this section,~~ including facility ownership, a lease agreement or a power purchase agreement.~~

Sec. 5. 35-A MRSA §3209-A, sub-§2-A is enacted to read:

2-A. Net energy billing termination. Except as provided in subsections 10 and 11 and notwithstanding any provision of law to the contrary, after December 31, 2044, a person may not participate in net energy billing under this section.'

Amend the amendment by striking out all of section 5 and inserting the following:

'Sec. 5. 35-A MRSA §3209-A, sub-§3-A is enacted to read:

3-A. Shared financial interest; 20-customer limitation. Beginning October 1, 2023, the following limitations apply.

HOUSE AMENDMENT

1 A. Except as provided in paragraph B, no more than 20 customers of an investor-
2 owned transmission and distribution utility may share a financial interest in a
3 distributed generation resource and participate in net energy billing under this section.
4 In order to qualify to participate in net energy billing under this paragraph, the
5 distributed generation resource must be located on the same side of a meter as one of
6 the 20 customers and serve the electric load of that customer and at least 50% of the
7 net energy billing credits associated with the output of the distributed generation
8 resource must be allocated to the retail account of that customer.

9 B. The limitation under paragraph A does not apply to:

10 (1) A customer participating in net energy billing under this section pursuant to a
11 net energy billing agreement that was entered into prior to October 1, 2023; or

12 (2) A municipality participating in net energy billing under this section in
13 connection with a distributed generation resource if the distributed generation
14 resource is located on the same side of a meter as the municipality and serves the
15 electric load of that municipality and at least 25% of the net energy billing credits
16 associated with the output of the distributed generation resource are allocated to
17 the retail account of that municipality.

18 An amendment, revision or reissuance of an agreement under this paragraph that occurs
19 after October 1, 2023 may not be interpreted to affect the date on which the agreement
20 was initially executed.'

21 Amend the amendment by striking out all of section 7 and inserting the following:

22 '**Sec. 7. 35-A MRSA §3209-A, sub-§4-A** is enacted to read:

23 **4-A. System size beginning October 1, 2023.** Beginning October 1, 2023, the
24 following limitations apply.

25 A. Except as provided in paragraph B, the nameplate capacity of a distributed
26 generation resource that may be used for net energy billing under this section may not
27 be more than one megawatt, except that, if a municipality is the customer participating
28 in net energy billing, the nameplate capacity of a distributed generation resource
29 located in that municipality that may be used for the net energy billing may be greater
30 than one megawatt as long as not more than one megawatt of metered electricity from
31 the resource is used for net energy billing.

32 B. The limitation under paragraph A does not apply to a customer participating in net
33 energy billing under this section pursuant to a net energy billing agreement that was
34 entered into prior to October 1, 2023.

35 **Sec. 8. 35-A MRSA §3209-A, sub-§9** is enacted to read:

36 **9. Applicability to projects between one megawatt and 2 megawatts.** A distributed
37 generation resource with a nameplate capacity of greater than one megawatt and not more
38 than 2 megawatts may be used for net energy billing under this section only if the
39 requirement of paragraph A is met.

40 A. On or before December 31, 2024, the proposed distributed generation resource must
41 reach commercial operation by the date specified in the net energy billing agreement
42 or by the date specified with an allowable modification to that agreement.

1 An entity proposing the development of a distributed generation resource that does not
2 meet the requirement of paragraph A may petition the commission for a good-cause
3 exemption due to external delays outside of the entity's control, which the commission may
4 grant if it finds that without the external delays the entity could reasonably have been
5 expected to meet the requirement, except that a distributed generation resource that receives
6 a good-cause exemption may not be used for net energy billing under this section unless it
7 has reached commercial operation by December 31, 2025.

8 **Sec. 9. 35-A MRSA §3209-A, sub-§10** is enacted to read:

9 **10. Consumer-owned small project exception; rules.** In accordance with this
10 subsection, the commission may approve the use of a consumer-owned small project in net
11 energy billing under this section.

12 A. For the purposes of this subsection, "consumer-owned small project" means a
13 distributed generation resource with a nameplate capacity of one megawatt or less that
14 is wholly owned by the customers receiving the net energy billing credits associated
15 with the output of the distributed generation resource.

16 B. A consumer-owned small project is not subject to the limitations established in
17 subsections 2-A and 3-A.

18 C. The commission may not approve more than 10 consumer-owned small projects
19 under this subsection.

20 D. The commission may adopt rules to implement this subsection. Rules adopted
21 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
22 subchapter 2-A.

23 Nothing in this subsection prohibits the use of a distributed generation resource for net
24 energy billing if that distributed generation resource qualifies for net energy billing under
25 subsection 3-A or 4-A.

26 **Sec. 10. 35-A MRSA §3209-A, sub-§11** is enacted to read:

27 **11. Single customer exception.** Notwithstanding any provision of this section to the
28 contrary, a distributed generation resource may be used for net energy billing if the
29 distributed generation resource:

30 A. Is owned by a customer;

31 B. Is used to serve the electric load of that customer only; and

32 C. Meets the criterion that 100% of the net energy billing credits associated with the
33 output of the distributed generation resource are allocated to the retail account of that
34 customer.'

35 Amend the amendment by striking out all of section 9 and inserting the following:

36 '**Sec. 9. 35-A MRSA §3209-B, sub-§3-A** is enacted to read:

37 **3-A. System size beginning October 1, 2023.** Beginning October 1, 2023, the
38 following limitations apply.

39 A. Except as provided in paragraph B, the nameplate capacity of a distributed
40 generation resource that may be used for net energy billing under this section may not
41 be more than one megawatt.

1 B. The limitation under paragraph A does not apply to a customer participating in net
2 energy billing under this section pursuant to a net energy billing agreement that was
3 entered into prior to October 1, 2023.'

4 Amend the amendment by striking out all of section 11 and inserting the following:

5 '**Sec. 11. 35-A MRSA §3209-B, sub-§4-A** is enacted to read:

6 **4-A. Shared financial interest; 20-customer limitation beginning October 1, 2023.**
7 Beginning October 1, 2023, the following limitations apply.

8 A. Except as provided in paragraph B, no more than 20 customers of an investor-
9 owned transmission and distribution utility may share a financial interest in a
10 distributed generation resource and participate in net energy billing under this section.
11 In order to qualify to participate in net energy billing under this paragraph, the
12 distributed generation resource must be located on the same side of a meter as one of
13 the 20 customers and serve the electric load of that customer and at least 50% of the
14 net energy billing credits associated with the output of the distributed generation
15 resource must be allocated to the retail account of that customer.

16 B. The limitation under paragraph A does not apply to:

17 (1) A customer participating in net energy billing under this section pursuant to a
18 net energy billing agreement that was entered into prior to October 1, 2023; or

19 (2) A municipality participating in net energy billing under this section in
20 connection with a distributed generation resource if the distributed generation
21 resource is located on the same side of a meter as the municipality and serves the
22 electric load of that municipality and at least 25% of the net energy billing credits
23 associated with the output of the distributed generation resource are allocated to
24 the retail account of that municipality.

25 An amendment, revision or reissuance of an agreement under this paragraph that occurs
26 after October 1, 2023 may not be interpreted to affect the date on which the agreement was
27 initially executed.

28 **Sec. 12. 35-A MRSA §3209-B, sub-§5, ¶D,** as enacted by PL 2019, c. 478, Pt. A,
29 §4, is amended to read:

30 D. A customer participating in the program who remains eligible to participate in the
31 program must be allowed to receive a bill credit based on the tariff rate for a period of
32 no less than 20 years from the date of first receiving the credit or through December
33 31, 2044, whichever is first to occur.

34 **Sec. 13. 35-A MRSA §3209-B, sub-§5-A** is enacted to read:

35 **5-A. Net energy billing termination.** Notwithstanding any provision of law to the
36 contrary, after December 31, 2044 a person may not participate in net energy billing under
37 this section.

38 **Sec. 14. 35-A MRSA §3209-B, sub-§7,** as enacted by PL 2021, c. 390, §2, is
39 amended to read:

40 **7. Applicability.** The applicability of this section is limited by the requirements of
41 section 3209-A, subsection subsections 7 and 9.'

1 Amend the amendment in section 12 in §3209-C by inserting after the headnote the
2 following:

3 'Notwithstanding the provisions of sections 3209-A and 3209-B, the commission may
4 periodically review and by rule alter the amount of compensation that a customer with a
5 financial interest in a distributed generation resource receives as a result of participating in
6 net energy billing in accordance with this section and section 101.'

7 Amend the amendment in section 12 in §3209-C in subsection 1 in the first 2 lines
8 (page 5, lines 14 and 15 in amendment) by striking out the following: "Notwithstanding
9 the provisions of sections 3209-A and 3209-B, the" and inserting the following: 'The'

10 Amend the amendment in section 12 in §3209-C in subsection 2 in the first line (page
11 5, line 24 in amendment) by striking out the following: "Notwithstanding the provisions of
12 sections 3209-A and 3209-B, the" and inserting the following: 'The'

13 Amend the amendment by striking out all of section 13 and inserting the following:

14 '**Sec. 13. 35-A MRSA §3209-D** is enacted to read:

15 **§3209-D. Distributed generation procurement**

16 The commission may direct an investor-owned transmission and distribution utility to
17 enter into one or more contracts for energy or renewable energy credits from distributed
18 generation resources in accordance with this section. The commission may not require a
19 distributed generation resource to contract for the sale of energy or renewable energy
20 credits under this section.

21 **1. Definition.** As used in this section, unless the context otherwise indicates, the
22 following term has the following meaning.

23 A. "Distributed generation resource" means an electric generating facility that uses a
24 renewable fuel or technology under section 3210, subsection 2, paragraph B-3, is
25 located in the service territory of a transmission and distribution utility in the State and:

26 (1) Has met or is reasonably likely to meet the requirements of section 3209-A,
27 subsection 7, paragraph E, as determined by the commission; or

28 (2) Has a nameplate capacity of at least one megawatt and not more than 2
29 megawatts and:

30 (a) Is a member of a cluster study conducted by the transmission and
31 distribution utility with which the distributed generation resource is seeking to
32 interconnect; or

33 (b) Is likely to receive required transmission approval from the New England
34 independent system operator on or before April 30, 2024.

35 **2. Competitive solicitations and initial procurement.** The commission shall conduct
36 one or more competitive solicitations in order to select distributed generation resources for
37 contracts under this subsection.

38 A. No later than November 1, 2023, the commission shall initiate the first competitive
39 solicitation in order to select distributed generation resources for contracts pursuant to
40 this subsection.

1 B. The commission shall select for a contract under this section any bid relating to a
2 distributed generation resource that the commission finds will result in substantial
3 savings to ratepayers as compared to the cost of the distributed generation resource
4 remaining in a net energy billing arrangement under section 3209-A or 3209-B. In
5 reviewing bids and establishing a contract price under this subsection, the commission
6 shall determine and consider the levelized cost of the energy that will be purchased
7 under the contract.

8 **3. Additional contracting authority.** After conducting one or more competitive
9 solicitations under subsection 2, the commission may direct an investor-owned
10 transmission and distribution utility to enter into one or more additional contracts for
11 energy or renewable energy credits from distributed generation resources if the commission
12 finds that such contracts are in the public interest.

13 A. A contract for energy or renewable energy credits from a distributed generation
14 resource under this subsection may not establish a price for such energy or renewable
15 energy credits that is greater than the highest price established in the procurements
16 under subsection 2.

17 **4. Contract terms.** A contract entered into pursuant to this section must be for a term
18 of no more than 20 years unless the commission finds a contract for a longer term to be in
19 the public interest.

20 **5. Net energy billing agreement termination.** A distributed generation resource that
21 is awarded a contract under this section is ineligible for net energy billing under section
22 3209-A or section 3209-B and the commission shall require that all net energy billing
23 arrangements or agreements be terminated as a condition of awarding a contract under this
24 section.

25 **6. Report.** The commission shall include in its biennial report required by section
26 3210-G, subsection 3 information regarding the status of contracts for energy or renewable
27 energy credits from distributed generation resources pursuant to this section, including, but
28 not limited to, the number of distributed generation resources that have been awarded
29 contracts, the total capacity of those resources and the estimated ratepayer savings as a
30 result of those contracts.'

31 Amend the amendment by striking out all of section 15 and inserting the following:

32 '**Sec. 15. 35-A MRSA §3209-F** is enacted to read:

33 **§3209-F. Net energy billing cost recovery**

34 The commission shall ensure that benefits of distributed generation under net energy
35 billing are reported and net energy billing costs are allocated in accordance with this
36 section.

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

39 A. "Benefits of distributed generation under net energy billing" means all benefits
40 determined by the commission to be reasonably attributable to distributed generation
41 projects under sections 3209-A and 3209-B, including but not limited to:

42 (1) **Avoided energy and capacity costs.** In determining avoided energy and
43 capacity costs, the commission shall use reasonable estimates of energy and

1 capacity market prices and account for transmission and distribution line losses.
2 The commission may determine different avoided costs for different time periods,
3 including, but not limited to, peak and off-peak periods and summer and winter
4 periods;

5 (2) Avoided transmission and distribution costs. In determining avoided
6 transmission and distribution costs, the commission shall use estimates of the
7 marginal transmission and distribution costs and may determine different avoided
8 costs for different time periods;

9 (3) Avoided fossil fuel costs. The commission shall determine avoided fossil fuel
10 costs based on estimated reductions in oil, gas or other fossil fuel use and estimated
11 market prices for these fuels;

12 (4) Avoided transmission and distribution line losses;

13 (5) Demand reduction induced price effects;

14 (6) Transmission and distribution plant extensions or upgrades funded by net
15 energy billing customers; and

16 (7) Any other benefits identified by the commission.

17 B. "Net energy billing" means net energy billing arrangements under section 3209-A
18 or 3209-B.

19 C. "Net energy billing costs" means all legitimate and verifiable costs incurred by a
20 transmission and distribution utility directly attributable to net energy billing. "Net
21 energy billing costs" does not include any costs incurred by a project sponsor as defined
22 in section 3209-A, subsection 1, paragraph D, a net energy billing customer or any
23 other entity, as determined by the commission by rule.

24 **2. Determination of costs and benefits.** The commission annually shall determine the
25 net energy billing costs and benefits of distributed generation under net energy billing for
26 the previous year.

27 A. When determining the benefits of distributed generation under net energy billing,
28 the commission shall use any available regional avoided energy supply cost study that
29 the commission finds to be applicable to the determination and that has been developed
30 through a transparent process, with input from state agencies, public advocates and
31 utilities or energy efficiency administrators from at least 3 other states in New England.
32 When relevant information specific to this State is not provided in the regional study,
33 the commission may use the regional information in the regional study or information
34 from other sources supported by evidence in the commission's record.

35 B. The commission shall allocate to each investor-owned transmission and distribution
36 utility its pro rata share of net energy billing costs. The allocation must be based on
37 each utility's total retail kilowatt-hour energy sales to ratepayers that pay net energy
38 billing costs. The commission may determine the means to be used for the allocation
39 required under this subsection, and those means may include the direct transfer of funds
40 between transmission and distribution utilities.

41 **3. Reporting of costs and benefits.** The commission shall submit an annual report no
42 later than March 31st to the joint standing committee of the Legislature having jurisdiction
43 over utilities matters describing net energy billing costs and benefits of distributed

1 generation under net energy billing determined by the commission under subsection 2. The
2 report must include, but is not limited to, costs authorized to be collected by transmission
3 and distribution utilities in rates and benefits directly received by ratepayers. The
4 commission shall distinguish costs and benefits that are monetized from costs and benefits
5 that are not monetized. If costs or benefits are monetized, the commission shall specify the
6 entities to which the monetized value accrues, which may include, but are not limited to,
7 electricity customers, electricity supply providers and transmission and distribution
8 utilities.

9 **4. Rules.** The commission shall adopt rules necessary to implement this section. Rules
10 adopted by the commission under this subsection are routine technical rules as defined in
11 Title 5, chapter 375, subchapter 2-A.

12 **Sec. 16. 35-A MRSA §3210-G, sub-§3,** as enacted by PL 2019, c. 477, §2, is
13 amended to read:

14 **3. Report.** No later than March 31, 2023 and biennially thereafter, the commission
15 shall submit a report regarding the status of contracts for Class IA resources under this
16 section and the status of contracts for energy or renewable energy credits from distributed
17 generation resources under section 3209-D to the joint standing committee of the
18 Legislature having jurisdiction over utilities and energy matters. The report must include,
19 but is not limited to, a description of Class IA resources participating in competitive
20 solicitations, information about the resources selected for contracts and the selection
21 process, the benefits and costs of the contracts and recommendations about how to further
22 stimulate investment in Class IA resources or achieve ratepayer benefits from Class IA
23 resources. The report may include information about benefits and costs of the contracts to
24 the State's economy, environmental quality or electricity consumers over both the short and
25 long terms. Any analysis of the benefits or costs of the contracts must be based on a forecast
26 of all avoided costs resulting from the contracts that is transparent and balanced over the
27 long term.'

28 Amend the amendment by striking out all of section 17 and inserting the following:

29 **'Sec. 17. Interconnection of energy storage.** In developing rules governing the
30 interconnection of renewable resources and energy storage pursuant to the Maine Revised
31 Statutes, Title 35-A, section 3474, subsection 3, the Public Utilities Commission shall
32 consider whether modification of an interconnection application for the sole purpose of
33 adding an energy storage system should materially impact the position of the project in an
34 interconnection queue.

35 **Sec. 18. Cost management report.** By December 1, 2024, the Public Utilities
36 Commission shall submit a report to the joint standing committee of the Legislature having
37 jurisdiction over energy matters regarding the proceedings and any actions taken under the
38 Maine Revised Statutes, Title 35-A, section 3209-E.

39 **Sec. 19. Appropriations and allocations.** The following appropriations and
40 allocations are made.

41 **EXECUTIVE DEPARTMENT**

42 **Distributed Solar and Energy Storage Program N470**

43 Initiative: Provides allocations to establish the program.

1	OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
2	All Other	\$500	\$500
3			
4	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$500</u>	<u>\$500</u>
5			
6	EXECUTIVE DEPARTMENT		
7	DEPARTMENT TOTALS	2023-24	2024-25
8			
9	OTHER SPECIAL REVENUE FUNDS	\$500	\$500
10			
11	DEPARTMENT TOTAL - ALL FUNDS	<u>\$500</u>	<u>\$500</u>
12	PUBLIC UTILITIES COMMISSION		
13	Public Utilities - Administrative Division 0184		
14	Initiative: Provides allocations for expenditures related to contracted consulting services		
15	and related STA-CAP.		
16	OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
17	All Other	\$385,735	\$0
18			
19	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$385,735</u>	<u>\$0</u>
20	Public Utilities - Administrative Division 0184		
21	Initiative: Provides allocations for expenditures related to updating a model of avoided		
22	energy costs.		
23	OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
24	All Other	\$0	\$50,511
25			
26	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$50,511</u>
27	Public Utilities - Administrative Division 0184		
28	Initiative: Provides allocations for expenditures related to contracted services.		
29	OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
30	All Other	\$101,020	\$0
31			
32	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$101,020</u>	<u>\$0</u>
33			
34	PUBLIC UTILITIES COMMISSION		
35	DEPARTMENT TOTALS	2023-24	2024-25
36			
37	OTHER SPECIAL REVENUE FUNDS	\$486,755	\$50,511
38			
39	DEPARTMENT TOTAL - ALL FUNDS	<u>\$486,755</u>	<u>\$50,511</u>
40			
41	SECTION TOTALS	2023-24	2024-25

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OTHER SPECIAL REVENUE FUNDS	\$487,255	\$51,011
SECTION TOTAL - ALL FUNDS	\$487,255	\$51,011

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

SUMMARY

This amendment makes the following changes to Committee Amendment "A".

1. It removes the emergency preamble and clause.
2. It provides that a person is prohibited from participating in the kilowatt-hour credit and tariff rate net energy billing programs after December 31, 2044.
3. It changes the effective date of the limitation on the number of customers who may share a financial interest in a distributed generation resource in the kilowatt-hour credit and tariff rate net energy billing programs to October 1, 2023 and increases the limit from 10 customers to 20 customers. The amendment creates an exception from the limitation for a municipality if the distributed generation resource is on the same side of the meter as the municipality and at least 25% of the net energy billing credits associated with the output of the distributed generation resource are allocated to the municipality.
4. Beginning October 1, 2023, it limits the nameplate capacity of a distributed generation resource participating in the kilowatt-hour credit or tariff rate net energy billing program to one megawatt or less unless the customer of the distributed generation resource is a municipality. It establishes an exception for customers participating in accordance with an agreement entered into prior to October 1, 2023.
5. It establishes limitations on participation in the kilowatt-hour credit and tariff rate net energy billing programs for distributed generation resources with a nameplate capacity of greater than one megawatt and not more than 2 megawatts.
6. It creates a limited exception from the kilowatt-hour credit net energy billing program limitations to allow a distributed generation resource with a nameplate capacity of less than or equal to one megawatt to participate in net energy billing if the distributed generation resource is wholly owned by the customers receiving the net energy billing credits associated with the output of the distributed generation resource. This exception is limited to a total of 10 distributed generation resources.
7. It allows a distributed generation resource to be used in the kilowatt-hour credit net energy billing program if the distributed generation resource is owned by the customer and is used to serve the electric load of that customer only and 100% of the net energy billing credits associated with the distributed generation resource are allocated to the retail account of that customer.
8. It provides that a customer participating in the tariff rate net energy billing program who remains eligible to participate in the program may receive a bill credit based on the tariff rate for a period of no less than 20 years from the date of first receiving the credit or through December 31, 2044, whichever is first to occur.

