



130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 1202

H.P. 880

House of Representatives, March 22, 2021

An Act To Establish a Wood-fired Combined Heat and Power Program

Received by the Clerk of the House on March 18, 2021. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative WADSWORTH of Hiram.
Cosponsored by Representatives: DUNPHY of Old Town, ZEIGLER of Montville.

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

2 **Sec. 1. 5 MRSA §1766-A**, as amended by PL 2009, c. 329, Pt. A, §1, is further
3 amended to read:

4 **§1766-A. Electricity purchases for state buildings**

5 No later than January 1, 2010, all electricity consumed in state-owned buildings must
6 be supplied by renewable resources. For purposes of this section, "renewable resource"
7 has the same meaning as in Title 35-A, section 3210, subsection 2, paragraph C. In
8 purchasing electricity for state-owned buildings, the State may give preference to
9 electricity generated by community-based renewable energy projects, as defined in Title
10 35-A, section 3602, subsection 1 and electricity generated by combined heat and power
11 projects, as defined in Title 35-A, section 3622, subsection 1.

12 **Sec. 2. 35-A MRSA §3212, sub-§4-E** is enacted to read:

13 **4-E. Combined heat and power energy.** The commission may incorporate energy
14 generated by combined heat and power projects as defined in section 3622, subsection 1
15 into the supply of standard-offer service. The commission shall encourage entities based
16 in this State that are not otherwise either a standard-offer service provider or its affiliate to
17 participate in supplying energy from combined heat and power projects pursuant to this
18 subsection.

19 **Sec. 3. 35-A MRSA c. 36-A** is enacted to read:

20 **CHAPTER 36-A**

21 **WOOD-FIRED COMBINED HEAT AND POWER ACT**

22 **§3621. Short title**

23 This chapter may be known and cited as "the Wood-fired Combined Heat and Power
24 Act."

25 **§3622. Definitions**

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

28 **1. Combined heat and power project.** "Combined heat and power project" means a
29 facility that uses wood fuel to generate electric heat and power that is used for industrial or
30 space heating purposes.

31 **2. Net generating capacity.** "Net generating capacity" means the electric output of
32 an electricity generating facility delivered to the transmission and distribution utility
33 system. "Net generating capacity" does not include any energy consumed by the generator
34 to operate the electricity generating facility or any energy consumed for facility lighting,
35 power and auxiliary facilities.

36 **3. Program participant.** "Program participant" means a combined heat and power
37 project that is participating in the combined heat and power program established in section
38 3623.

1 **4. Wood fuel.** "Wood fuel" means wood residue from wood product manufacturing
2 or other biomass derived from trees and other woody plants that were grown or processed
3 domestically.

4 **§3623. Combined heat and power program**

5 **1. Program established.** The combined heat and power program, referred to in this
6 chapter as "the program," is established to encourage the development in the State of
7 combined heat and power projects. The program is administered by the commission.

8 **2. Program scope; limits on net generating capacity.** The commission shall limit
9 participation in the program in accordance with this subsection.

10 A. The net generating capacity of a program participant may not be less than 3
11 megawatts or more than 10 megawatts.

12 B. The total net generating capacity of all program participants combined may not
13 exceed 50 megawatts.

14 The commission may modify the amount of total net generating capacity stipulated
15 under this paragraph based on program experience.

16 **3. Program eligibility criteria.** To be eligible to participate in the program, a
17 combined heat and power project must:

18 A. Be connected to the electric grid of this State;

19 B. Have an in-service date after October 1, 2021; and

20 C. Satisfy the limits on net generating capacity established in subsection 2, paragraph

21 A.

22 The commission shall prescribe an application form or procedure that must be used to apply
23 to the program under this chapter, which must include any information that the commission
24 determines necessary for the purpose of administering the program. The commission shall,
25 within 30 days of receipt of a completed application, determine whether the combined heat
26 and power project qualifies for participation in the program and respond in writing.

27 **§3624. Long-term contracts for combined heat and power**

28 **1. Investor-owned transmission and distribution utilities; required participation.**
29 Notwithstanding section 3204, the commission may direct an investor-owned transmission
30 and distribution utility to enter into long-term contracts with one or more program
31 participants located within the service territory of the utility for energy, capacity resources
32 or renewable energy credits. The commission may direct investor-owned transmission and
33 distribution utilities to enter into contracts under this subsection only as agents for their
34 customers and only in accordance with this section. An investor-owned transmission and
35 distribution utility shall sell energy, capacity resources or renewable energy credits
36 purchased pursuant to this subsection into the wholesale electricity market or take other
37 action relative to such energy, capacity resources or renewable energy credits as directed
38 by the commission.

39 **2. Consumer-owned transmission and distribution utilities; voluntary**
40 **participation.** A consumer-owned transmission and distribution utility may, at the option
41 of the utility, enter into long-term contracts with one or more program participants located
42 within the service territory of the utility for energy, capacity resources or renewable energy

1 credits. Consumer-owned transmission and distribution utilities may enter into contracts
2 under this subsection only as agents for their customers and only in accordance with this
3 section.

4 **3. Sale of energy; contract procedures.** Energy, capacity resources or renewable
5 energy credits contracted through long-term contracts pursuant to this section may be sold
6 into the wholesale electricity market in conjunction with solicitations for standard-offer
7 supply bids under section 3212 or solicitations for green power offer bids under section
8 3212-A. To the greatest extent possible, the commission shall develop procedures for long-
9 term contracts for transmission and distribution utilities under this section having the same
10 legal and financial effect as the procedures used for standard-offer service pursuant to
11 section 3212 for transmission and distribution utilities.

12 **4. Contract term.** A contract entered into pursuant to this section may not be for
13 more than 20 years.

14 **5. Contract pricing; cost containment.** The commission shall establish a contract
15 price that applies to all combined heat and power project contracts entered into pursuant to
16 this section, which may not exceed the tariff rate for commercial and institutional net
17 energy billing projects, as established by the commission by rule and in accordance with
18 section 3209-B, in the year the contract price is established plus annual cost escalators
19 adopted by the commission.

20 **6. Cost and benefit allocation.** The commission shall ensure that all costs and
21 benefits associated with contracts involving investor-owned transmission and distribution
22 utilities entered into under this section are allocated to electricity consumers in accordance
23 with section 3210-F.

24 **7. Contract payments.** Contracts for capacity and related energy entered into
25 pursuant to this section must provide that payments will be made only after contracted
26 amounts of energy have been provided.

27 **8. Ratepayer protection.** The commission shall ensure that mechanisms are
28 established to provide protections for ratepayers over the term of contracts entered into
29 pursuant to this section.

30 **§3625. Rules**

31 The commission shall adopt rules to implement this chapter. Rules adopted pursuant
32 to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter
33 2-A.

34 **§3626. Tracking; biennial report**

35 The commission shall develop and administer a system to register and track the
36 development of combined heat and power projects under this chapter and by January 15,
37 2022, and biennially thereafter, shall report to the joint standing committee of the
38 Legislature having jurisdiction over utilities and energy matters on the program and the
39 development of combined heat and power projects. The report must include, but is not
40 limited to:

41 **1. Combined heat and power project development.** Documentation of the progress
42 of combined heat and power project development, including the number of such projects

1 in the State, the net generating capacity of those projects and the kilowatt-hours of
2 electricity purchased from those projects; and

3 **2. Program implementation; assessment; recommendations.** Actions taken by the
4 commission to implement the program, an assessment of the effectiveness of the program
5 with respect to encouraging the sustainable development of combined heat and power
6 projects in the State and recommendations, including any necessary implementing
7 legislation, to improve the program.

8 **§3627. Regulatory approvals; use of public resources**

9 **1. Regulatory approval.** The development, siting and operation of a combined heat
10 and power project is subject to all applicable regulatory reviews and approvals required by
11 governmental entities, including, but not limited to, municipalities and state agencies,
12 pursuant to law, ordinance or rule.

13 **2. Use of publicly owned land, water or facilities.** Nothing in this chapter limits the
14 authority of the State or a political subdivision of the State to use publicly owned land,
15 water or facilities in the development and operation of a combined heat and power project
16 or to lease publicly owned land, water or facilities to other qualifying owners for the
17 development and operation of a combined heat and power project.

18 **SUMMARY**

19 This bill establishes the combined heat and power program, administered by the Public
20 Utilities Commission, to encourage the sustainable development of combined heat and
21 power projects that use wood fuel in the State. Participation in the program is limited to
22 50 megawatts of net generating capacity across all projects, and each individual project
23 may not be less than 3 megawatts or more than 10 megawatts of net generating capacity.

24 The bill authorizes the commission to direct investor-owned transmission and
25 distribution utilities to enter into long-term contracts with program participants located
26 within the service territory of each utility for energy, capacity resources or renewable
27 energy credits. A long-term contract entered into under the combined heat and power
28 program cannot be for a contract term greater than 20 years, and the contract price may not
29 exceed the tariff rate established by the commission for commercial and institutional net
30 energy billing projects in the year the contract price is established, plus annual cost
31 escalators adopted by the commission. It allows consumer-owned transmission and
32 distribution utilities, at their own option, to enter into such contracts. It also requires the
33 commission to ensure that mechanisms are established to protect electricity ratepayers over
34 the contract term.

35 It requires the commission to report biennially to the joint standing committee of the
36 Legislature having jurisdiction over utilities and energy matters regarding the
37 implementation and effectiveness of the combined heat and power program and the overall
38 development of combined heat and power program projects in the State.

39 Lastly, it authorizes, but does not require, the State to give preference to electricity
40 generated by combined heat and power projects when purchasing electricity for the State
41 and authorizes, but does not require, the commission to incorporate energy generated by
42 combined heat and power projects into the supply of standard-offer service.