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## **An Act To Amend the Electric Utility Industry Laws as They Relate to Renewable Resources**

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

**Sec. 1. 35-A MRSA §3210, sub-§2, ¶B**, as repealed and replaced by PL 1999, c. 398, Pt. I, §2, is amended to read:

B. "Eligible resource" means a source of electrical generation whose total power production capacity does not exceed 100 megawatts and that:

(1) Generates power that can physically be delivered to the control region in which the New England Power Pool, or its successor as approved by the Federal Energy Regulatory Commission, has authority over transmission, or to the Maritimes Control Area; and

(2) Is either a renewable resource or, an efficient resource, a source of electrical generation that is fueled by municipal solid waste in conjunction with recycling or a source of electrical generation that qualifies as a small power production facility under the Federal Energy Regulatory Commission rules, 18 Code of Federal Regulations, Part 292, Subpart B, as in effect on January 1, 1997.

**Sec. 2. 35-A MRSA §3210, sub-§2, ¶B-1**, as enacted by PL 2007, c. 403, §2, is amended to read:

B-1. "~~New renewable capacity resources~~resource" ~~has the same meaning as in section 3210-C, subsection 1, paragraphs C and E.~~means a renewable resource whose total power production capacity does not exceed 100 megawatts, except that this 100-megawatt capacity limit does not apply to wind power installations, and that:

(1) Has an in-service date after September 1, 2005;

(2) Was added to an existing facility after September 1, 2005;

(3) For at least 2 years was not operated or was not recognized by the New England independent system operator as a capacity resource and, after September 1, 2005, resumed operation or was recognized by the New England independent system operator as a capacity resource; or

(4) Was refurbished after September 1, 2005 and is operating beyond its previous useful life or is employing an alternate technology that significantly increases the efficiency of the generation process.

For the purposes of this paragraph, "capacity resource" has the same meaning as in section 3210-C, subsection 1, paragraph A.

**Sec. 3. 35-A MRSA §3210, sub-§2, ¶B-2**, as enacted by PL 2007, c. 403, §3, is amended to read:

B-2. "Renewable energy credit" means a tradable instrument that represents an amount of electricity generated from renewable capacity resources as defined in section 3210-C, subsection 1, paragraph E.

**Sec. 4. 35-A MRSA §3210, sub-§2, ¶C**, as repealed and replaced by PL 1999, c. 398, Pt. I, §2, is repealed and the following enacted in its place:

C. "Renewable resource" means a source of electrical generation that relies on one or more of the following:

(1) Fuel cells;

(2) Tidal power;

(3) Solar arrays and installations;

(4) Wind power installations;

(5) Geothermal installations;

(6) Hydroelectric generators that meet all state and federal fish passage requirements;

(7) Biomass generators, including generators fueled by anaerobic digestion of agricultural products, by-products or wastes; and

(8) Landfill gas.

**Sec. 5. 35-A MRSA §3210, sub-§3-A**, as corrected by RR 2007, c. 2, §20, is amended to read:

**3-A. Portfolio requirements; new renewable resources.** Portfolio requirements for new renewable capacity resources are governed by this subsection.

A. Except as provided in paragraph B, beginning January 1, 2008, as a condition of licensing pursuant to section 3203, each competitive electricity provider in this State must demonstrate in a manner satisfactory to the commission that the percentage of its portfolio of supply sources for retail electricity sales in this State accounted for by new renewable capacity resources is as follows:

- (1) One percent for the period from January 1, 2008 to December 31, 2008;
- (2) Two percent for the period from January 1, 2009 to December 31, 2009;
- (3) Three percent for the period from January 1, 2010 to December 31, 2010;
- (4) Four percent for the period from January 1, 2011 to December 31, 2011;
- (5) Five percent for the period from January 1, 2012 to December 31, 2012;
- (6) Six percent for the period from January 1, 2013 to December 31, 2013;
- (7) Seven percent for the period from January 1, 2014 to December 31, 2014;
- (8) Eight percent for the period from January 1, 2015 to December 31, 2015;
- (9) Nine percent for the period from January 1, 2016 to December 31, 2016; and
- (10) Ten percent for the period from January 1, 2017 to December 31, 2017.

New renewable capacity resources used to satisfy the requirements of this paragraph may not be used to satisfy the requirements of subsection 3.

B. Suspensions of scheduled increases in the portfolio requirements as provided in paragraph A are governed by this paragraph.

- (1) If by March 31st of the years 2010, 2012, 2014 and 2016 the commission determines that investment in new renewable capacity resources in the preceding 2 calendar years has not been sufficient for competitive electricity providers to meet the portfolio requirements under paragraph A and that the resulting use of renewable energy credits pursuant to subsection 8 or the alternative compliance payment mechanism pursuant to subsection 9, or both of these

methods, has burdened electricity customers in the State without providing the benefits of new renewable capacity resources, the commission may suspend all or some of the future scheduled increases in the portfolio requirements under paragraph A.

(2) If the commission finds that alternative compliance payments are made pursuant to subsection 9 in 3 consecutive calendar years, the commission shall temporarily suspend all or some of the future scheduled increases in the portfolio requirements under paragraph A.

(3) If the commission suspends any scheduled increases in the portfolio requirements under paragraph A pursuant to subparagraph (1) or (2), the commission may resume increases, limited to no more than one percentage point per year over the previous year, in the portfolio requirements after a minimum of one year.

C. No later than March 31, 2008 and annually thereafter, the commission shall submit a report regarding the status of new renewable capacity resources in the State and compliance with the portfolio requirements under paragraph A to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. The report must include, but is not limited to, a description of new renewable capacity resources available to meet the portfolio requirements under paragraph A, documentation of the loss of any existing renewable generation capacity in the State, the status of implementation of the new renewable capacity resources portfolio requirements, including any suspensions pursuant to paragraph B, and recommendations to stimulate investment in new renewable capacity resources.

D. Retail electricity sales pursuant to a supply contract or standard-offer service arrangement executed by a competitive electricity provider that is in effect on the effective date of this subsection is exempt from the requirements of this subsection until the end date of the current term of the supply contract or standard-offer service arrangement.

The commission shall adopt rules to implement this subsection. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 6. 35-A MRS §3210, sub-§9**, as enacted by PL 2007, c. 403, §7, is amended to read:

**9. Alternative compliance payment; portfolio requirements for new renewable resources.** The commission shall allow competitive electricity providers to satisfy the portfolio requirements for new renewable capacity resources under subsection 3-A through an alternative compliance payment mechanism in accordance with this subsection.

A. The commission shall set the alternative compliance payment rate by rule and shall publish the alternative compliance payment rate by January 31st of each year. In setting the rate, the commission shall take into account prevailing market prices, standard-offer service prices for electricity, reliance on alternative compliance payments to meet the requirements of subsection 3-A and investment in new renewable capacity resources in the State during the previous calendar year.

B. The commission shall collect alternative compliance payments made by competitive electricity providers and shall deposit all funds collected under this paragraph in the Renewable Resource Fund established under subsection 6 to be used to fund research, development and demonstration projects relating to renewable energy technologies.

The commission shall adopt rules to implement this subsection. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 7. 35-A MRSA §3210-C, sub-§1, ¶E**, as amended by PL 2007, c. 293, §1, is further amended to read:

E. "Renewable capacity resource" means a renewable resource, as defined in section 3210, subsection 2, paragraph C, ~~except the maximum total power production capacity limit of 100 megawatts under section 3210, subsection 2, paragraph C does not apply and "renewable capacity resource" does not include:~~

~~(1) A generator fueled by municipal solid waste in conjunction with recycling; or~~

~~(2) A hydroelectric generator unless it meets all state and federal fish passage requirements applicable to the generator.~~

**Sec. 8. 35-A MRSA §3212-A, sub-§1**, as amended by PL 2009, c. 329, Pt. B, §2, is further amended to read:

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

A. "Green power supply" means electricity or renewable energy credits for electricity generated from renewable capacity resources as defined in section 3210-C, ~~subsection 1, paragraph E~~ or from a generator fueled by landfill gas 3210, subsection 2, paragraph C, including electricity generated by community-based renewable energy projects as defined in section 3602, subsection 1. "Green power supply" includes a biomass generator, whose fuel may include, but is not limited to, anaerobic digestion of agricultural products, byproducts or wastes.

B. "Renewable energy credit" has the same meaning as in section 3210, subsection 2, paragraph B-1B-2, ~~except that the total power production capacity limit of 100 megawatts under section 3210, subsection 2, paragraph C does not apply to wind power installations.~~

**Sec. 9. 35-A MRSA §3602, sub-§2**, as enacted by PL 2009, c. 329, Pt. A, §4, is amended to read:

**2. Eligible renewable resource.** "Eligible renewable resource" means a renewable resource as defined in section 3210, subsection 2, paragraph C, ~~except that "eligible renewable resource" does not include a generator fueled by municipal solid waste in conjunction with recycling and does include a generator fueled by landfill gas.~~ "Eligible renewable resource" includes a biomass generator whose fuel includes anaerobic digestion of agricultural products, byproducts or wastes.

## SUMMARY

This bill amends various definitions in the Maine Revised Statutes, Title 35-A relating to renewable resources. Specifically, this bill amends the law in the following ways.

1. The bill amends definitions of "eligible resource," "new renewable capacity resources," "renewable energy credit" and "renewable resource" in the law governing electrical generation portfolio requirements. These changes:

a. Limit all eligible resources qualifying under the basic 30% portfolio requirement, including cogeneration facilities, to those resources not exceeding 100 megawatts;

b. Add a new 100-megawatt limit on all new renewable resources that can qualify for the new renewable resource portfolio requirement above 30%;

c. Add a requirement that hydroelectric generators, other than those that qualify as small power production facilities under federal regulations, must meet state and federal fish passage requirements in order to qualify for the basic 30% portfolio requirement; and

d. Specify that biomass generators that qualify as renewable resources under the basic 30% portfolio requirement include those fueled by anaerobic digestion of agricultural products, by-products and wastes.

2. The bill clarifies the definition of "renewable capacity resource" in the law governing capacity resource adequacy and removes from the definition facilities that qualify as small power production facilities that don't otherwise qualify as renewable resources under Title 35-A, section 3210, subsection 2, paragraph C.

3. The bill modifies the law governing green power options to clarify that 100-megawatt capacity limits do not apply to resources that qualify as "green power supply" or for "renewable energy credit." Under current law, because of certain cross-references, it is unclear whether the 100-megawatt capacity limits apply to qualifying resources other than wind power or to all qualifying resources.

4. The bill amends the definition of "eligible renewable resource" in the law governing the community-based renewable energy pilot program to make it consistent with the changes to the definition of "renewable resource" in the law relating to electrical generation portfolio requirements.

5. The bill, by changing the definition of "renewable resource" in the law governing electrical generation portfolio requirements, also affects the definition of that term as it is used in Title 5, section 1766-A relating to renewable energy usage requirements for state buildings and in Title 35-A, section 3201, subsection 8-A and section 3210-A giving transmission and distribution utilities authority to administer purchase and sale agreements between competitive electricity providers and small generators, including those relying on renewable resources. In each case the changes result from these laws cross-

referencing the definition of "renewable resource" in the law governing electrical generation portfolio requirements. The changes in each case:

- a. Remove from qualifying as a renewable resource federally qualified small power production facilities that do not otherwise qualify as a renewable resource and generators fueled by municipal solid waste in conjunction with recycling;
- b. Add landfill gas as qualifying as a renewable resource;
- c. Require hydroelectric generators to meet federal and state fish passage requirements in order to qualify as a renewable resource; and
- d. Provide that biomass generators fueled by anaerobic digestion of agricultural products, by-products and wastes qualify as a renewable resource.

The changes also allow renewable resources over 100 megawatts to be used to meet the renewable energy usage required for state buildings under Title 5, section 1766-A.