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An Act To Amend the Legislative Findings in the Maine Wind Energy Act

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

Sec. 1. 35-A MRSA §3132, sub-§6, as amended by PL 2009, c. 615, Pt. A, §1 and c. 655, Pt. A, §4, is repealed and the following enacted in its place:

6. Commission order; certificate of public convenience and necessity. In its order, the commission shall make specific findings with regard to the public need for the proposed transmission line. Except as provided in subsection 6-A for a high-impact electric transmission line, if the commission finds that a public need exists, it shall issue a certificate of public convenience and necessity for the transmission line. In determining public need, the commission shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and recreational values, the proximity of the proposed transmission line to inhabited dwellings and alternatives to construction of the transmission line, including energy conservation, distributed generation or load management. If the commission orders or allows the erection of the transmission line, the order is subject to all other provisions of law and the right of any other agency to approve the transmission line. The commission shall, as necessary and in accordance with subsections 7 and 8, consider the findings of the Department of Environmental Protection under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed transmission line and any modifications ordered by the Department of Environmental Protection to lessen the impact of the proposed transmission line on the environment. A person may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as provided in subsection 4, before identifying a specific route or route options for the proposed transmission line. Except as provided in subsection 4, the commission may not consider the petition insufficient for failure to provide identification of a route or route options for the proposed transmission line. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the person to erect or construct was prudent. At the time of its issuance of a certificate of public convenience and necessity, the commission shall send to each municipality through which a proposed corridor or corridors for a transmission line extends a separate notice that the issuance of the certificate does not override, supersede or otherwise affect municipal authority to regulate the siting of the proposed transmission line. The commission may deny a certificate of public convenience and necessity for a transmission line upon a finding that the transmission line is reasonably likely to adversely affect any transmission and distribution utility or its customers.

Sec. 2. 35-A MRSA §3402, sub-§1, as amended by PL 2009, c. 615, Pt. A, §2, is repealed.

Sec. 3. 35-A MRSA §3402, sub-§2, as enacted by PL 2007, c. 661, Pt. A, §5, is amended to read:

2. Need for modification of regulatory process for siting wind energy developments. The Legislature finds that it is in the public interest to reduce the potential for controversy regarding siting of grid-scale wind energy development by expediting development in places where it is most compatible with existing patterns of development and resource values when considered broadly at the landscape level. Accordingly, the Legislature finds that certain aspects of the State's regulatory process for determining the environmental acceptability of wind energy developments should be modified to encourage the siting of wind energy developments in these areas. Such changes include, but are not limited to:

- A. Making wind energy development a permitted use within certain parts of the State's unorganized and deorganized areas;
- B. Refining certain procedures of the Department of Environmental Protection and the Maine Land Use Regulation Commission; and
- C. Because the Legislature recognizes that wind turbines are potentially a highly visible feature of the landscape that will have an impact on views, judging the effects of wind energy development on scenic character and existing uses related to scenic character based on whether the development significantly compromises views from a scenic resource of state or national significance such that the development has an unreasonable adverse effect on the scenic character or existing uses related to the scenic character of that resource.

The Legislature further finds that, while wind energy may be developed at many sites with minimal site-specific environmental impacts, wind energy developments may have, in addition to their beneficial environmental effects and potential scenic impacts, specific adverse environmental effects that must be addressed in state permitting decisions pursuant to approval criteria tailored to address issues presented by wind energy development. Nothing in this section is meant to diminish the importance of addressing as appropriate site-specific impacts on natural values, including, but not limited to, wildlife, wildlife habitats and other ecological values.

The Legislature further finds that development of the State's wind energy resources should be undertaken in a manner that ensures significant tangible benefits to the people of the State, including, but not limited to, residents of communities that host wind energy facilities; ~~and that the State should seek to host a substantial amount of wind energy as part of a strategy to reduce greenhouse gas emissions and meet the goals established in the state climate action plan developed pursuant to Title 38, section 577.~~

Sec. 4. 35-A MRSA §3451, sub-§10, as amended by PL 2009, c. 642, Pt. A, §6, is further amended to read:

10. Tangible benefits. "Tangible benefits" means ~~environmental~~ or economic improvements or benefits to residents of this State attributable to the construction, operation and maintenance of an expedited wind energy development, including but not limited to: property tax payments resulting from the development; other payments to a host community, including, but not limited to, payments under a community benefit agreement; construction-related employment; local purchase of materials;

employment in operations and maintenance; reduced property taxes; reduced electrical rates; land or natural resource conservation; performance of construction, operations and maintenance activities by trained, qualified and licensed workers in accordance with Title 32, chapter 17 and other applicable laws; or other comparable benefits, with particular attention to assurance of such benefits to the host community or communities to the extent practicable and affected neighboring communities.

Sec. 5. 35-A MRSA §3454, first ¶, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

In making findings pursuant to Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3, the primary siting authority shall ~~presume that an expedited wind energy development provides energy and emissions-related benefits described in section 3402 and shall make additional~~ findings regarding other tangible benefits provided by the development. The Department of Labor, the Executive Department, State Planning Office and the Public Utilities Commission shall provide review comments if requested by the primary siting authority.

SUMMARY

This bill amends the Maine Wind Energy Act to amend the findings of the Legislature regarding the presumption of benefits of wind energy development. The bill also removes the requirement in the laws regarding expedited permitting of grid-scale wind energy development that a primary siting authority presume that a grid-scale wind energy development project provides energy and emissions-related benefits.

The bill also corrects a conflict created by Public Law 2009, chapters 615 and 655, which affected the same provision of law, by incorporating the changes made by both laws and removing the requirement that the Public Utilities Commission, when determining public need for a transmission line, consider state renewable energy generation goals.