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An Act To Create Jobs through the Establishment of the Renewable Energy Resources Feed-in Tariff Program

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

Sec. 1. 35-A MRSA §3218 is enacted to read:

§ 3218. Renewable Energy Resources Feed-in Tariff Program

1. Program established. The Renewable Energy Resources Feed-in Tariff Program is established.

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

A. "Load pocket" means an area where there is insufficient transmission capability to reliably supply the required electric load without relying on generation capacity that is physically located in that area.

B. "Program" means the Renewable Energy Resources Feed-in Tariff Program.

C. "Project owner" means a person or entity that owns a renewable energy project.

D. "Renewable energy project" means a system for the generation of electricity that is no greater than 20 megawatts in size and is fueled by one of the following renewable energy resources in this State:

(1) Solar power;

(2) Wind power;

(3) Hydroelectric power; or

(4) Tidal power.

3. Administration. The commission shall administer the program as follows.

A. The commission shall limit participation in the program in accordance with this paragraph.

(1) A renewable energy project must have an in-service date after January 1, 2012 and may not be part of a larger system or project.

(2) A renewable energy project may not simultaneously subscribe to both the program and net energy billing as defined in commission rules. A renewable energy project may participate in net energy billing at the expiration of a program contract.

B. The commission shall prescribe an application form or procedure to apply to the program under this section. The commission shall, within 45 days of receipt of a completed application, determine in writing whether a renewable energy project qualifies to participate in the program.

C. The commission shall exempt a consumer-owned transmission and distribution utility from the program's requirements, if the utility so requests.

4. Connection to electric distribution system. A transmission and distribution utility shall connect a renewable energy project to the utility's transmission or distribution systems within 120 days of such a request by a project owner.

A. The commission shall establish standards for the interconnection of renewable energy projects with the transmission and distribution systems of transmission and distribution utilities. The standards must be consistent with generally accepted industry practices and guidelines and ensure the reliability of electric service and the safety of customers, utility employees and the general public.

B. The costs associated with the interconnection of a renewable energy project must be included in the surcharge under subsection 7, paragraph A, as long as electric transmission lines already exist at the location of or within 100 feet of the renewable energy project. If the renewable energy project is more than 100 feet from existing electric transmission lines, the project owner must bear the cost of interconnection.

C. A transmission and distribution utility that fails to connect a renewable energy project to the utility's transmission or distribution systems is subject to fines of not more than \$100 per day that the transmission and distribution utility is in violation of this subsection.

5. Standard contract. After the commission has developed and adopted a standard contract pursuant to paragraph A, a transmission and distribution utility shall enter into a power purchase agreement for a term of not less than 20 years to purchase all electricity generated by an approved renewable energy project. A transmission and distribution utility must purchase the electricity generated by a renewable energy project at a fixed rate, as determined by the commission.

A. Within 6 months of the effective date of this section, the commission shall develop and adopt a standard contract to be used in all power purchase agreements under this section. The contract must include the prices paid for each kilowatt-hour generated and the duration of the contract.

B. The contract must set the prices to be paid for each kilowatt-hour generated by each class, as described in subsection 6, paragraph A, of approved renewable energy projects.

C. Executed contracts must be site-specific and transferable.

(1) If a renewable energy project under a standard contract is transferred to a new project owner, the new project owner must notify the transmission and distribution utility within 30 days of the transfer in order to continue receiving payments under existing terms of the previous project owner's standard contract for the electricity generated from the renewable energy project.

6. Rates and terms. The commission shall set just and reasonable rates sufficient to provide revenues to operate and to attract necessary capital and investment for renewable energy projects to be paid by transmission and distribution utilities to project owners under the standard contract.

A. The rates must establish specific classes of renewable energy projects, both by type of renewable resource used and by amount of annual electrical output, and for specific time periods of the contract's duration.

B. The commission shall adopt fixed rates for each class of renewable energy project to equal the average generation costs of each renewable energy project plus a rate of return of no more than 3.5%. With regard to solar-powered renewable energy projects, that rate of return applies only to projects sited within load pockets. For all other solar-powered renewable energy projects, the rate equals the average generation costs, without a rate of return. The commission shall include, but is not limited to, the following factors in calculating the average generation cost of a renewable energy project:

(1) The requirements of chapter 3;

(2) Installed capital costs;

(3) Fixed and variable operation and management expenses;

(4) Fuel costs;

(5) Cost of financing;

(6) Insurance;

(7) Transmission and interconnection costs; and

(8) Estimated project life and projected generation degradation.

In developing the rate, the commission shall ensure the rate is reasonable and fair to the project owner and to ratepayers. For purposes of calculating the average generation costs for each class of renewable energy project, the commission shall assume that the project is sited and designed in an optimal manner, such that only the most cost-effective projects within a class are likely to realize a 3.5% rate of return.

C. The transmission and distribution utility shall retain any credits or payments for the nongeneration aspects of a renewable energy project under the program, including but not limited to:

(1) Renewable energy credits as defined in section 3210, subsection 2, paragraph B-2;

(2) Payments under the forward capacity market, as defined in section 10102, subsection 6, administered by the regional transmission organization, as defined in section 10102, subsection 8, or other capacity payments; and

(3) Voluntary carbon market payments or credits under chapter 97.

7. Cost recovery. The commission shall, after notice and hearing, annually approve a mandatory renewable energy surcharge payable by customers of transmission and distribution utilities.

A. The commission shall set the surcharge at a level sufficient to pay the costs of electricity purchased under subsection 6 and any interconnection costs under subsection 4, taking into account factors including but not limited to avoided costs attributable to the program; the value of any of the payments and credits described in subsection 6, paragraph C; and any systemwide financial benefit that the program provides for ratepayers.

B. An electricity customer receiving service at transmission or subtransmission voltage levels, as defined in section 10110, subsection 6, is not eligible to participate in the program and is not required to pay in rates any amount associated with the surcharge imposed under paragraph A.

8. Review. The commission shall review the rates established in subsection 6 annually and shall adjust those rates for new contracts as necessary to assist in the profitable development of renewable energy projects, prevent excessive profits for project owners and prevent unnecessary costs to ratepayers. The commission shall reduce the rates in subsection 6 to reflect any governmental subsidies, tax credits or other incentives that a project owner may receive.

9. Report. In each of the first 2 years of the program and every 4 years thereafter, the commission shall file a report with the Governor and Legislature that includes the following:

A. The kilowatt-hours of electricity purchased from eligible electricity generators;

B. The number of new eligible electricity generators in this State and the environmental effects of the addition of those generators;

- C. Recommendations for legislation and changes to the rates and terms of the standard contract; and
- D. Actions taken by the commission to implement this section.

Project owners shall, upon request, provide the commission with any information that may be relevant to the commission's performing its duties under this section.

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

SUMMARY

This bill requires the Public Utilities Commission to establish a renewable energy resources feed-in tariff program to encourage the rapid and sustainable development of renewable energy resources and technology for the clean generation of electricity. It requires that transmission and distribution utilities purchase electricity produced by renewable energy systems at commission-prescribed rates that give high-performing generators a rate of return of no more than 3.5%. It requires that utilities enter into standard contracts with qualified project owners. It includes provisions for commission and legislative oversight of the program.