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## **An Act To Protect Maine's Biomass and Forest Products Industries by Allowing Biomass Generators To Enter into Short-term Contracts**

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

**Sec. 1. 35-A MRSA §3602, sub-§4-A** is enacted to read:

**4-A. Qualifying biomass generator.** "Qualifying biomass generator" means a stand-alone electricity generating facility whose total power production capacity does not exceed 100 megawatts, that is fueled by wood or wood waste and that meets the eligibility requirements of section 3603, subsection 3, paragraph F.

**Sec. 2. 35-A MRSA §3602, sub-§5, ¶¶E and F,** as enacted by PL 2009, c. 329, Pt. A, §4, are amended to read:

E. A nonprofit corporation, organized under the laws of the State, including a unit ~~ownersowner's~~ association organized under Title 33, section 1603-101; ~~or~~

F. A business corporation, organized under the laws of the State, at least 51% of which is owned by one or more residents of the State; ~~or~~

**Sec. 3. 35-A MRSA §3602, sub-§5, ¶G** is enacted to read:

**G. A business corporation that owns a qualifying biomass generator.**

**Sec. 4. 35-A MRSA §3603, sub-§2,** as enacted by PL 2009, c. 329, Pt. A, §4, is amended to read:

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

A. The installed generating capacity of a program participant may not exceed 10 megawatts.

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

C. The total installed generating capacity of program participants within the service territory of a single investor-owned transmission and distribution utility may not exceed 25 megawatts, unless a higher capacity limit is authorized by the utility and approved by the commission. The commission shall determine a generating capacity limit for the service territory of each investor-owned transmission and distribution utility at the outset of the program, taking into consideration the utility's electric load and share of electricity market in the State. The commission may modify the generating capacity limit under this paragraph based on program experience.

D. Of the 50-megawatt limit on total generating capacity under paragraph B, 10 megawatts must be reserved at the outset of the program for program participants that:

- (1) Have an installed generating capacity of less than 100 kilowatts; or
- (2) Are located in the service territory of a consumer-owned transmission and distribution utility.

The commission may modify the amount of generating capacity reserved under this paragraph based on program experience.

E. The total installed generating capacity of program participants that receive the renewable energy credit multiplier incentive under section 3605 may not exceed 10 megawatts.

This subsection does not apply to qualifying biomass generators.

**Sec. 5. 35-A MRSA §3603, sub-§3, ¶¶D and E**, as enacted by PL 2009, c. 329, Pt. A, §4, are amended to read:

D. Have~~Except for qualifying biomass generators, have~~ an in-service date after September 1, 2009; and

E. Satisfy~~Except for qualifying biomass generators, satisfy~~ the limits on generating capacity established in subsection 2-; and

**Sec. 6. 35-A MRSA §3603, sub-§3, ¶F** is enacted to read:

F. In the case of a qualifying biomass generator, demonstrate that the qualifying biomass generator creates one or more of the following benefits to the community and region in which the qualifying biomass generator operates:

- (1) Jobs;
- (2) Wood waste disposal;
- (3) Local transmission and distribution system voltage support; or
- (4) Support to the local economy.

**Sec. 7. 35-A MRSA §3603, sub-§4**, as enacted by PL 2009, c. 329, Pt. A, §4, is amended to read:

**4. Program incentives.** Subject to the requirements of subsection 2, a program participant may elect one of the following program incentives:

- A. A long-term contract for community-based renewable energy pursuant to section 3604; or
- B. The renewable energy credit multiplier pursuant to section 3605.

If the program participant is a qualifying biomass generator, it is not eligible for the incentives described in paragraphs A and B but is eligible for a short-term contract for community-based renewable energy pursuant to section 3604-A.

**Sec. 8. 35-A MRSA §3604-A** is enacted to read:

**§ 3604-A. Short-term contracts for community-based renewable energy**

Short-term contracts with qualifying biomass generators for community-based renewable energy are governed by this section. As used in this section, "short-term contract" means a contract having a term of no longer than 3 years.

**1. Investor-owned transmission and distribution utilities; required participation.**

Notwithstanding section 3204, the commission shall direct investor-owned transmission and distribution utilities to enter into short-term contracts with qualifying biomass generators located within the service territory of the utility for energy, capacity resources or renewable energy credits. The commission shall direct investor-owned transmission and distribution utilities to enter into contracts under this subsection only as agents for their customers and only in accordance with this section. An investor-owned transmission and distribution utility shall sell energy, capacity resources or renewable energy credits purchased pursuant to this subsection into the wholesale electricity market or take other action relative to such energy, capacity resources or renewable energy credits as directed by the commission.

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

**3. Contract pricing; cost containment.** The commission shall ensure that in any contract entered into pursuant to this section the price for the capacity resources and renewable energy credits sold by a qualifying biomass generator does not exceed the projected market price for capacity resources and renewable energy credits at the time of delivery. The average price of energy per kilowatt-hour within each contract year may not exceed the lesser of:

- A. A rate that, together with revenues from any sales of capacity resources and renewable energy credits, is sufficient for the qualifying biomass generator to be financially capable of normal operations; and

B. Two cents per kilowatt-hour over the projected wholesale market price of energy at the time of delivery.

Projected market prices may be determined by the commission at the time a contract is authorized, using recognized and reasonable industry forecasting methodologies.

**4. Contract negotiation; large generators.** A qualifying biomass generator with a generating capacity of at least one megawatt may submit proposals to the commission for short-term contracts. The commission shall review and approve a proposal if the commission determines that a short-term contract is necessary in order to ensure that the qualifying biomass generator is financially capable of normal operations and is able to achieve the benefits described in section 3603, subsection 3, paragraph F. The commission shall negotiate short-term contracts with a qualifying biomass generator that submits an approved proposal on terms that are commercially reasonable and that commit all parties to commercially reasonable behavior.

**5. Cost recovery.** The commission shall ensure that a transmission and distribution utility recovers in rates all costs of contracts entered into under this section, including, but not limited to, any effects on the utility's costs of capital. A price differential existing at any time during the term of the contract between the contract price and the prevailing market price at which the energy is sold must be reflected in rates and may not be considered to be imprudent.

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

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

## SUMMARY

This bill authorizes the Public Utilities Commission to enter into short-term contracts with qualifying biomass generators. This bill limits the price for the capacity and renewable energy credits generated by a qualifying biomass generator to the projected market price at the time of delivery. The average price of energy generated by a qualifying biomass generator may not exceed the lesser of a rate that, together with revenues from any sales of capacity resources and renewable energy credits, is sufficient for the qualifying biomass generator to be financially capable of normal operations, and 2¢ per kilowatt-hour over the projected wholesale market price of energy at the time of delivery.