

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## An Act To Reduce Energy Costs

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

**Sec. 1. 2 MRSA §9, sub-§3, ¶I**, as enacted by PL 2007, c. 656, Pt. C, §1, is amended to read:

I. Monitor energy transmission capacity planning and policy affecting this State and the regulatory approval process for the development of energy infrastructure pursuant to Title 35-A, ~~section 122~~chapter 19 and make recommendations to the Governor and the Legislature as necessary for changes to the relevant laws and rules to facilitate energy infrastructure planning and development; and

**Sec. 2. 2 MRSA §9, sub-§3, ¶J**, as amended by PL 2011, c. 55, §2, is further amended to read:

J. Take action as necessary to carry out the goals and objectives of the state energy plan prepared pursuant to paragraph C including lowering the total cost of energy to consumers in this State; and

**Sec. 3. 2 MRSA §9, sub-§3, ¶K** is enacted to read:

K. Execute energy cost-reduction contracts in accordance with Title 35-A, chapter 19.

**Sec. 4. 2 MRSA §9, sub-§4**, as enacted by PL 2009, c. 655, Pt. C, §2, is amended to read:

**4. Advice to state agencies.** The director shall advise state agencies regarding energy-related principles for agencies to consider, along with the laws and policies governing those agencies, in conjunction with the sale, lease or other allowance for use of state-owned land or assets for the purpose of development of energy infrastructure. ~~For the purposes of this subsection, "state-owned" and "energy infrastructure corridor" have the same meanings as in Title 35-A, section 122, subsection 1.~~ At a minimum, the director shall consider the following principles in advising state agencies under this subsection:

A. The principles for the determination of the long-term public interest of the State as specified in Title 35-A, ~~section 122, subsection 1-D, paragraph B~~chapter 19;

B. Avoiding wherever possible the use of lands subject to the provisions of the Constitution of Maine, Article IX, Section 23; and

C. Maximizing the benefit realized from the State's strategic location within New England and the northeastern region; and

~~D. Complying with the provisions of the memorandum of agreement between the Maine Turnpike Authority and the Department of Transportation under Title 35-A, section 122, subsection 1-C, when applicable.~~

Nothing in this subsection alters any of the responsibilities or limits any of the authority of the Department of Administrative and Financial Services, Bureau of General Services pursuant to Title 5. Nothing in this subsection alters or limits the ability of departments or agencies of the State, along with the Bureau of General Services pursuant to Title 5, to generate or cogenerate energy at state facilities for use on site and elsewhere.

**Sec. 5. 5 MRSA §282, sub-§7**, as amended by PL 2009, c. 372, Pt. F, §1, is further amended to read:

**7. Value of fringe benefits.** To ensure that all publications that state the salary of an employee or of a position in State Government also include a statement of the dollar value of the fringe benefit package provided. For purposes of this subsection, "fringe benefits" includes an employer's cost of an employee's health insurance, dental insurance and retirement but does not include the amount paid to cover any unfunded liability; and

**Sec. 6. 5 MRSA §282, sub-§8**, as amended by PL 2009, c. 372, Pt. F, §2, is further amended to read:

**8. Serve as director of Clean Government Initiative.** To serve as a director, along with the Commissioner of Environmental Protection, of the Clean Government Initiative established in Title 38, section 343-H; and.

**Sec. 7. 5 MRSA §282, sub-§9**, as amended by PL 2011, c. 652, §1 and affected by §14, is repealed.

**Sec. 8. 5 MRSA §12004-G, sub-§30-D**, as enacted by PL 2009, c. 655, Pt. A, §1, is repealed.

**Sec. 9. 5 MRSA §12004-I, sub-§74-A-2** is enacted to read:

74-A-2.

Public Utilities

Energy Cost  
Reduction Oversight  
Board

Not Authorized

35-A MRSA §1905

**Sec. 10. 10 MRSA §963-A, sub-§11-A** is enacted to read:

**11-A. Energy cost-reduction contract.** "Energy cost-reduction contract" means a contract executed in accordance with Title 35-A, chapter 19 to procure natural gas pipeline capacity.

**Sec. 11. 10 MRSA §1041, sub-§2-A** is enacted to read:

**2-A. Securities for energy cost-reduction contracts.** Issue revenue obligation securities to pay the cost of or to provide financial assistance for an energy cost-reduction contract in accordance with section 1056.

**Sec. 12. 10 MRSA §1056** is enacted to read:

## **§ 1056. Energy cost-reduction contracts**

If directed by the director of the Governor's Energy Office established in Title 2, section 9, subsection 1, the authority shall issue revenue obligation securities for the amount necessary to fund the State's obligations under an energy cost-reduction contract pursuant to Title 35-A, section 1908, subsection 1. The authority may request from the Public Utilities Commission funds from the Energy Cost Reduction Trust Fund established in Title 35-A, section 1907, subsection 1 to make payments on bond obligations under this section. If there are not sufficient funds in the Energy Cost Reduction Trust Fund to make those payments, the authority may request that the Public Utilities Commission recover the costs of the bond in the rates of utilities pursuant to Title 35-A, section 1908, subsection 2, paragraph A.

**Sec. 13. 12 MRSA §685-A, sub-§11**, as amended by PL 2007, c. 656, Pt. A, §1, is further amended to read:

**11. Exemptions.** Real estate used or to be used by a public utility, as defined in Title 35-A, section 102, subsection 13, or a person who ~~is issued a certificate by the Public Utilities Commission~~enters an energy cost-reduction contract to lease the use of property, lands or waters of the State for the purposes of gas, water or electricity transmission corridors under Title 35-A, section 122~~chapter 19~~ may be wholly or partially exempted from regulation to the extent that the commission may not prohibit such use but may impose terms and conditions for use consistent with the purpose of this chapter, when, upon timely petition, notice and public hearing, the Public Utilities Commission determines that such exemption is necessary or desirable for the public welfare or convenience. The Public Utilities Commission shall adopt by rule procedures to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 14. 23 MRSA §1803-C, sub-§2, ¶A**, as enacted by PL 2011, c. 652, §7 and affected by §14, is repealed.

**Sec. 15. 30-A MRSA §4352, sub-§4**, as amended by PL 2009, c. 615, Pt. G, §1, is further amended to read:

**4. Exemptions.** Real estate used or to be used by a public utility, as defined in Title 35-A, section 102, subsection 13, by a person who ~~is issued a certificate by the Public Utilities Commission~~enters an energy cost-reduction contract to lease the use of property, lands or waters of the State for the purposes of gas, water or electricity transmission corridors under Title 35-A, section 122~~chapter 19~~ or by a renewable ocean energy project as defined in Title 12, section 1862, subsection 1, paragraph F-1 is wholly or partially exempt from an ordinance only when on petition, notice and public hearing the Public Utilities Commission determines that the exemption is reasonably necessary for public welfare and convenience. The Public Utilities Commission shall adopt by rule procedures to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 16. 35-A MRSA §122**, as amended by PL 2011, c. 652, §13 and affected by §14; amended by c. 655, Pt. MM, §§14 to 16 and affected by §26; and amended by c. 682, §38, is repealed.

**Sec. 17. 35-A MRSA c. 19** is enacted to read:

## **CHAPTER 19**

### **THE MAINE ENERGY COST REDUCTION ACT**

#### **§ 1901. Short title**

This chapter may be known and cited as "the Maine Energy Cost Reduction Act."

#### **§ 1902. Definitions**

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

**1. Board.** "Board" means the Energy Cost Reduction Oversight Board established in Title 5, section 12004-I, subsection 74-A-2.

**2. Director.** "Director" means the Director of the Governor's Energy Office established in Title 2, section 9, subsection 1.

**3. Energy cost-reduction contract.** "Energy cost-reduction contract" means a contract executed in accordance with this chapter to procure natural gas pipeline capacity or a contract to lease the use of property, lands or waters of the State for the purposes of gas, water or electricity transmission corridors.

**4. Investor-owned transmission and distribution utility.** "Investor-owned transmission and distribution utility" has the same meaning as in section 3104, subsection 1, paragraph A.

**5. ISO-NE region.** "ISO-NE region" means the independent system operator of the New England bulk power system or a successor organization.

**6. Pipeline capacity holder.** "Pipeline capacity holder" means any person owning rights to natural gas pipeline capacity.

**7. Trust fund.** "Trust fund" means the Energy Cost Reduction Trust Fund established under section 1907, subsection 1.

#### **§ 1903. Legislative findings**

The Legislature finds that:

**1. Electricity prices.** It is in the public interest to decrease prices of electricity and natural gas for consumers in this State;

**2. Natural gas expansion.** The expansion of natural gas transmission capacity into this State and other states in the ISO-NE region would result in lower natural gas prices and, by extension, lower electricity prices for consumers in this State;

**3. Interstate transmission.** Electricity transmission facilities built in this State connecting electricity production facilities in Canada and load centers in the ISO-NE region would require the use of and would diminish the value of the State's resources, including lands and waters owned by the State and its instrumentalities; and

**4. Benefits for the use of state land.** The State's citizens should be compensated for the costs imposed upon resources of the State and for their contribution to the benefits achieved by Canadian electricity production resources and ISO-NE region load centers that are achieved through the use of the State's resources.

### **§ 1904. Energy cost-reduction contracts**

The director may execute an energy cost-reduction contract in accordance with this section.

**1. Director determination of benefits.** The director may submit an energy cost-reduction contract proposal to the board if the director has determined that the agreement is commercially reasonable and in the public interest and that the price paid for the natural gas pipeline capacity is not above average prevailing rates as determined by the commission by rule for such agreements in this State or the ISO-NE region and:

A. In the case of a contract to procure natural gas transmission pipeline capacity, that the contract is reasonably likely to:

(1) Materially enhance natural gas transmission opportunities within and into the State or the ISO-NE region;

(2) Lead to the development or expansion of a natural gas transmission pipeline that will have the effect of reducing electricity rates or other energy costs for residents and businesses within the State;

(3) Lead to the continued operation of a natural gas transmission pipeline that has the effect of reducing electricity rates or other energy costs for residents and businesses within the State; or

(4) Increase the energy reliability, security and independence of the State or the ISO-NE region; and

B. In the case of a contract to lease the use of property, lands or waters of the State for the purposes of gas, water or electricity transmission corridors, that the amount, duration and certainty of the compensation for that use fully reflects the value of the use of the property, lands or waters of the State for those purposes, as well as the loss of value of the property, lands or waters for other public purposes.

**2. Submission to the commission.** The director may submit an energy cost-reduction contract proposal to the commission for approval if a majority of the board members agree that the contract is reasonably likely to meet the requirements in subsection 1.

**3. Report to the Legislature.** Within 10 days of submitting an energy cost-reduction contract proposal to the commission under subsection 2, the director shall submit a report to the joint standing committee of the Legislature having jurisdiction over public utilities matters that describes in detail the energy cost-reduction contract proposal, including the benefits and risks to the citizens of the State if the proposed contract is executed.

**4. Execution of the contract.** The director may execute an energy cost-reduction contract if, pursuant to section 1906, an order is issued by the commission approving the contract.

**5. Resale of natural gas pipeline capacity.** The director may negotiate and enter into contracts for the resale of all or a portion of the reserved natural gas transmission pipeline capacity acquired through an energy cost-reduction contract pursuant to this section as long as all of the revenue received as a result of the resale is deposited into the trust fund.

**6. Joint contracts.** If the director concludes that an energy cost-reduction contract can be achieved with the participation of other entities, the director may propose to contract jointly with other entities, including other state agencies and instrumentalities, governments in other states and nations, utilities and generators, when submitting an energy cost-reduction contract proposal to the board or the commission.

**7. Contract evaluation and administration.** The director is responsible for assessing, analyzing, negotiating, implementing and monitoring compliance with energy cost-reduction contracts. The commission shall provide funds for this purpose from the trust fund or by just and reasonable assessments placed on an investor-owned transmission and distribution utility, a gas utility or a natural gas pipeline utility pursuant to section 1908, subsection 2, paragraph C.

## **§ 1905. Energy Cost Reduction Oversight Board**

The Energy Cost Reduction Oversight Board, established in Title 5, section 12004-I, subsection 74-A-2, consists of the Public Advocate, one person nominated by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over public utilities matters and confirmed by the Senate and the Attorney General or the Attorney General's designee.

**1. Duties.** The board shall review all energy cost-reduction contract proposals submitted by the director. If a majority of the board members agree that a contract is reasonably likely to meet the requirements in section 1904, subsection 1, the director may submit the proposal to the commission for review.

## **§ 1906. Commission review of energy cost-reduction contracts**

The commission in an adjudicatory proceeding shall issue an order approving or rejecting an energy cost-reduction contract submitted by the director pursuant to section 1904, subsection 2 in accordance with this section.

**1. Standards for approval.** The commission shall issue an order approving an energy cost-reduction contract if the commission finds that the contract is reasonably likely to:

A. In the case of a contract to procure natural gas transmission pipeline capacity:

(1) Materially enhance natural gas transmission opportunities within and into the State or the ISO-NE region;

(2) Materially increase the availability and diversity of natural gas supplies in the State;

(3) Lead to the development or expansion of a natural gas transmission pipeline that will have the effect of reducing electricity rates or natural gas costs for residents and businesses within the State;

(4) Lead to the continued operation of a natural gas transmission pipeline that has the effect of reducing electricity rates or natural gas costs for residents and businesses within the State; or

(5) Increase the energy reliability, security and independence of the State or the ISO-NE region;  
and

B. In the case of a contract to lease the use of property, lands or waters of the State for the purposes of gas, water or electricity transmission corridors, that the amount, duration and certainty of the compensation for that use fully reflects the value of the use of the property, lands or waters of the State for those purposes, as well as the loss of value of the property, lands or waters for other public purposes.

**2. Public hearing.** The commission shall seek public input regarding whether or not a contract meets the standards under subsection 1 and shall conduct an adjudicatory proceeding regarding approval of the contract prior to issuing an order under subsection 4.

**3. Utility participation.** The commission may direct an investor-owned transmission and distribution utility, a gas utility or a natural gas pipeline utility to be a counterparty to a contract and to enter agreements to purchase natural gas pipeline capacity from a natural gas pipeline company on a natural gas pipeline if the commission finds that such an agreement is commercially reasonable and in the public interest and that the price paid for the natural gas pipeline capacity is not above average prevailing rates for such agreements in the State or the ISO-NE region as determined by the commission.

Any economic loss, including but not limited to any effects on the cost of capital resulting from an energy cost-reduction contract for an investor-owned transmission and distribution utility, a gas utility or a natural gas pipeline utility, is deemed to be prudent and must be reflected in rates. The commission may direct an investor-owned transmission and distribution utility, a gas utility or a natural gas pipeline utility to implement an assessment to collect funds from ratepayers for the purposes of funding an energy cost-reduction contract pursuant to section 1908, subsection 2, paragraph B.

Any profit, as determined by the commission by rule or order, resulting from an energy cost-reduction contract must be deposited into the trust fund.

**4. Order.** The commission shall complete its review of the proposed energy cost-reduction contract and issue an order approving or disapproving the contract as promptly as possible without compromising the legitimate interests of parties participating in the review, but no later than 120 days following the submission of the proposed contract by the director.

### **§ 1907. Revenues from energy cost-reduction contracts**

Revenues received from an energy cost-reduction contract to lease the use of property, lands or waters of the State for the purposes of gas, water or electricity transmission corridors, profit as determined by the commission by rule received by an investor-owned transmission and distribution utility, a gas utility or a natural gas pipeline utility pursuant to section 1906, subsection 3 and revenues received from the resale of a natural gas pipeline capacity acquired through an energy cost-reduction contract under section 1904, subsection 5 must be used in accordance with this section.

**1. Establishment of Energy Cost Reduction Trust Fund.** The Energy Cost Reduction Trust Fund is established as a nonlapsing fund administered by the commission for the purposes of this section. The commission is authorized to receive and shall deposit in the trust fund and expend in accordance with this section revenues received from an energy cost-reduction contract to lease the use of property, lands or waters of the State for the purposes of gas, water or electricity transmission corridors, profit as determined by the commission by rule received by an investor-owned transmission and distribution utility, a gas utility or a natural gas pipeline utility pursuant to section 1906, subsection 3 and revenues received from the resale of a natural gas pipeline capacity acquired through an energy cost-reduction contract under section 1904, subsection 5.

The funds are held in trust for the purposes of reducing the energy costs of consumers in the State except as described in subsection 2 and may not be used for any other purposes.

**2. Distribution of funds.** The commission shall distribute funds in the trust fund according to the following priorities:

- A. As a first priority, to the costs of monitoring and administering a contract pursuant to section 1904, subsection 7;
- B. As a 2nd priority, to the repayment of any bond obligations under section 1908, subsection 1; and

C. As a 3rd priority, at the commission's discretion, to utilities and other entities to reduce energy costs for electricity and natural gas ratepayers. The commission may distribute funds to benefit ratepayers of one or more investor-owned transmission and distribution utilities, natural gas pipeline utilities or gas utilities in a manner that the commission finds is equitable, just and reasonable.

### **§ 1908. Funding an energy cost-reduction contract**

An energy cost-reduction contract to procure natural gas transmission pipeline capacity may be funded in accordance with this section.

**1. Bonds.** The director may direct the Finance Authority of Maine, established in Title 5, section 12004-F, subsection 1, to issue revenue obligation securities in the amount necessary to fund the State's obligations under an energy cost-reduction contract to procure natural gas transmission pipeline capacity.

**2. Assessments.** The commission may direct an investor-owned transmission and distribution utility, a gas utility or a natural gas pipeline utility to collect an assessment from ratepayers for the following purposes:

A. At the request of the Finance Authority of Maine, pursuant to Title 10, section 1056, to pay the obligations of a bond issued under subsection 1;

B. To finance the participation of an investor-owned transmission and distribution utility, a gas utility or a natural gas pipeline utility in an energy cost-reduction contract pursuant to section 1906, subsection 3; and

C. To pay the costs of energy cost-reduction contract evaluation and administration under section 1904, subsection 7.

All assessments must be just and reasonable as determined by the commission and must be identified as an energy cost-reduction contract charge on a ratepayer's utility bill.

### **§ 1909. Exemption from state purchasing agent rules**

Notwithstanding any other provision of law, agreements and contracts entered into pursuant to this chapter are not subject to the competitive bid requirements of the State Purchasing Agent.

### **§ 1910. Market power investigation**

The commission may on its own motion, with or without notice, summarily investigate the exercise of market power by a natural gas pipeline utility, gas utility or pipeline capacity holder. If, after the summary investigation, the commission determines it necessary, it may hold a public hearing in accordance with section 1304. Notwithstanding section 1304 and Title 5, section 9052, the commission must notify the utility under investigation in writing of the matter under investigation and 7 days after the commission has given notice the commission may set the time and place for the public hearing.

### **§ 1911. Rulemaking**

The commission may adopt rules to implement this chapter. When adopting rules, the commission shall consider the financial implications of this chapter for investor-owned transmission and distribution utilities, natural gas pipeline utilities and gas utilities. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 18. 35-A MRSA §3131, sub-§4-A**, as enacted by PL 2009, c. 655, Pt. A, §3, is amended to read:

**4-A. High-impact electric transmission line.** "High-impact electric transmission line" means a transmission line greater than 50 miles in length ~~that is not located in a statutory corridor, as defined in section 122, subsection 1, paragraph F-4, or a petitioned corridor, as defined in section 122, subsection 1, paragraph D-1,~~ that is not the result of an energy cost-reduction contract under chapter 19 and that is:

A. Constructed to transmit direct current electricity; or

B. Capable of operating at 345 kilovolts or more and:

(1) Is not a generator interconnection transmission facility as defined in section 3132, subsection 1-B; and

(2) Is not constructed primarily to provide electric reliability, as determined by the commission.

**Sec. 19. 35-A MRSA §3132, sub-§6-A**, as enacted by PL 2009, c. 655, Pt. A, §5, is amended to read:

**6-A. High-impact electric transmission line; certificate of public convenience and necessity.** The commission shall evaluate and render a decision on any petition for a certificate of public convenience and necessity for a high-impact transmission line ~~in accordance with~~ using the standards in section 1221906, subsection 1-D1.

**Sec. 20. 35-A MRSA §10103, sub-§4**, as amended by PL 2009, c. 655, Pt. B, §3, is further amended to read:

**4. Program funding.** The board may apply for and receive grants from state, federal and private sources for deposit into appropriate program funds. The board may deposit in appropriate program funds the proceeds of any bonds issued for the purposes of programs administered by the trust. The board may receive and shall deposit in appropriate program funds revenue resulting from any forward capacity market or other capacity payments from the regional transmission organization that may be attributable to by those projects funded by those funds. ~~The board shall deposit into appropriate program funds revenue transferred to the trust from the energy infrastructure benefits fund pursuant to Title 5, section 282, subsection 9 for use in accordance with subsection 4-A.~~ The board may also deposit any grants or other funds received by or from any entity with which the trust has an agreement or contract pursuant to this chapter if the board determines that receipt of those funds is consistent with the purposes of this chapter.

**Sec. 21. 35-A MRSA §10103, sub-§4-A**, as enacted by PL 2009, c. 655, Pt. B, §4, is repealed.

## SUMMARY

This bill establishes the Energy Cost Reduction Oversight Board.

This bill gives the Finance Authority of Maine the authority to issue revenue obligation securities to finance an energy cost-reduction contract.

This bill gives the Director of the Governor's Energy Office the authority to submit energy cost-reduction contract proposals to procure natural gas pipeline capacity or to lease the use of property, lands or waters of the State for the purposes of gas, water or electricity transmission corridors to the Energy Cost Reduction Oversight Board and the Public Utilities Commission for approval.

This bill establishes the standards for the Energy Cost Reduction Oversight Board and the Public Utilities Commission to approve an energy cost-reduction contract.

This bill requires the Director of the Governor's Energy Office to notify the Legislature when an energy cost-reduction contract proposal is submitted to the Public Utilities Commission for approval.

This bill gives the Public Utilities Commission authority to direct an investor-owned transmission and distribution utility, a natural gas utility and a natural gas pipeline utility to assess ratepayers for the cost of an energy cost-reduction contract, the bonds associated with an energy cost-reduction contract and the administration of an energy cost-reduction contract.

This bill establishes the Energy Cost Reduction Trust Fund, to be administered by the Public Utilities Commission, to receive the revenue or profits generated from energy cost-reduction contracts and directs those funds towards initiatives to reduce energy costs for ratepayers.

This bill exempts energy cost-reduction contracts for the resale of natural gas pipeline capacity from the competitive bid requirements of the State Purchasing Agent.

This bill gives the Public Utilities Commission authority to investigate the exercise of market power by a gas utility, natural gas pipeline utility and any person who owns rights to natural gas pipeline capacity.

This bill authorizes the Public Utilities Commission to adopt rules to implement the provisions of this legislation.