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## **An Act To Promote Solar Energy Projects and Distributed Generation Resources in Maine**

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

### **PART A**

**Sec. A-1. 35-A MRSA §3201, sub-§11-A** is enacted to read:

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

**Sec. A-2. 35-A MRSA §3201, sub-§13-A** is enacted to read:

**13-A. Nameplate capacity.** "Nameplate capacity" means the installed or rated capacity of a power generator.

**Sec. A-3. 35-A MRSA §3209-A, sub-§§1 to 3** are enacted to read:

**1. Financial interest.** The commission shall allow a customer to participate in net energy billing if the customer has a financial interest in a distributed generation resource as defined in section 3471-A, subsection 5, including facility ownership, a lease agreement or a power purchase agreement. A financial interest under this subsection may be shared by multiple net energy billing customers that have distinct billing accounts with an investor-owned transmission and distribution utility.

**2. Limit on accounts.** Up to 200 customers may participate in net energy billing with a shared interest in a distributed generation resource, except that the number of eligible customers or meters is limited to 10 for a shared interest in an eligible facility located in the service territory of an investor-owned transmission and distribution utility located in an area administered by the independent system administrator for northern Maine or any successor of the independent system administrator for northern Maine unless the commission determines that the utility's billing system can accommodate more than 10 accounts or meters for the purpose of net energy billing.

**3. System size.** The maximum nameplate capacity of a distributed generation resource that may be used for net energy billing is one megawatt.

**4. Rules.** The commission may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. A-4. 35-A MRSA §3209-B** is enacted to read:

**§ 3209-B. Distributed generation resource rates**

**1. New distributed generation resources.** On or before January 1, 2020, the commission shall examine options to promote the development of new distributed generation resources of up to 2 megawatts in the most cost-effective manner possible, including minimizing costs to ratepayers. For the purpose of this section, "new distributed generation resource" means a distributed generation resource as defined by section 3471-A, subsection 5 that is installed after August 1, 2019.

**2. Distributed generation resource tariff rate.** If the commission determines that the most cost-effective method, including the minimization of costs to ratepayers, of promoting new distributed generation resources for nonresidential customers under subsection 1 is the establishment of a tariff rate for the nonresidential customers, the commission may establish a pilot program for a tariff rate effective January 1, 2020. The pilot program must be limited to no more than 40 megawatts in total. The pilot program tariff rate must be no more than the standard-offer service rate under section 3212 for the rate class that includes the smallest commercial customers plus as small a percentage of the effective transmission and distribution rate for the rate class that includes the smallest commercial customers as the commission determines will achieve the purpose of this section. A customer who elects the tariff rate is eligible for the rate for a period of no less than 20 years. The commission shall publish the tariff rate for new customers in the following year by December 1st each year or January 1st for use in the year 2020.

The commission shall allow a customer to participate in the pilot program if the customer has a financial interest in a distributed generation resource as defined in section 3471-A, subsection 5, including facility ownership, a lease agreement or a power purchase agreement.

**3. Report.** The commission shall submit a report on the benefits and costs of the pilot program under subsection 2 to the joint standing committee of the Legislature having jurisdiction over energy matters no later than January 1, 2025 and by January 1st for every subsequent 5 years that the pilot program is in effect. The report must provide information about the total value to the electrical system of output from distributed generation resources participating in the program and total costs to transmission and distribution utilities over both the short and long term. The commission may recommend modification of future tariff rates or discontinuance of the pilot program.

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

**Sec. A-5. 35-A MRS §3471-A** is enacted to read:

### **§ 3471-A. Definitions**

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

**1. Bid rate.** "Bid rate" means the rate proposed under a qualified bid for the output of a distributed generation resource in response to a competitive procurement solicitation.

**2. Clearing price.** "Clearing price" means the highest bid rate accepted by the commission received for a procurement target under this chapter.

**3. Commercial or institutional customer.** "Commercial or institutional customer" means a nonresidential customer of an investor-owned transmission and distribution utility in the State.

**4. Credit rate.** "Credit rate" means the per kilowatt-hour rate used to calculate the monetary value of a distributed generation resource. The credit rate is equal to the per kilowatt-hour rate in the long-term contracts entered into between a standard buyer or a transmission and distribution utility and a project sponsor and must be the same for all subscribers of a particular large-scale shared distributed generation resource.

**5. Distributed generation resource.** "Distributed generation resource" means an electric generating facility with a nameplate capacity of no more than 5 megawatts that uses a renewable fuel or technology under section 3210, subsection 2, paragraph B-3 and is located in the service territory of a transmission and distribution utility in the State.

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

**7. Kilowatt.** "Kilowatt" means 1,000 watts, measured in alternating current.

**8. Kilowatt-hour.** "Kilowatt-hour" means one kilowatt of power sustained for one hour.

**9. Large-scale shared distributed generation resource.** "Large-scale shared distributed generation resource" means a distributed generation resource that is selected in a procurement under section 3477 the beneficial use of the output of which is owned by or allocated to subscribers.

**10. Megawatt.** "Megawatt" means 1,000,000 watts, measured in alternating current. When used in reference to a generation resource, a megawatt is measured by the generator's nameplate capacity.

**11. Nameplate capacity.** "Nameplate capacity" means the installed or rated capacity of a power generator.

**12. Offer.** "Offer" means a proposal to install a distributed generation resource of a specified capacity in exchange for a contract with a standard buyer under section 3475.

**13. Output.** "Output" means energy, capacity, renewable energy certificates and all other environmental attributes and market products that are available or may become available from a distributed generation resource.

**14. Project sponsor.** "Project sponsor" means an entity or its successor or assignee that owns or operates a large-scale shared distributed generation resource on behalf of subscribers.

**15. Qualified bid.** "Qualified bid" means a bid offering the output from a distributed generation resource that the commission determines meets the minimum qualification requirements established by rule.

**16. Qualified person.** "Qualified person" means a person who installs photovoltaic equipment and who:

A. Possesses a license under Title 32, section 1202-A, subsection 2 or 4;

B. Is enrolled in a United States Department of Labor or Department of Labor registered electrical apprenticeship program and supervised by a person under paragraph A; or

C. Possesses a license under Title 32, section 1202-A, subsection 1 or 3 and is supervised by a person under paragraph A.

**17. Rate.** "Rate" means a price per kilowatt-hour of delivered energy as measured by a revenue-quality meter at a distributed generation resource's point of connection to the electric grid.

**18. Subscriber.** "Subscriber" means a retail customer of a transmission and distribution utility that owns or has the right to a subscription and that has identified an account to which the subscription is attributed.

**19. Subscription.** "Subscription" means a proportional interest in a large-scale shared distributed generation resource. Each subscription must be sized to represent at least one kilowatt of the resource's generating capacity.

**Sec. A-6. 35-A MRSA §3473, sub-§§3 to 6** are enacted to read:

**3. Procurements.** The commission shall procure distributed generation resources in the large-scale shared and commercial or institutional market segments using the targets and procurement methods described in this chapter.

**4. Participation in wholesale markets.** The commission and investor-owned transmission and distribution utilities shall take all commercially reasonable steps to promote the participation of distributed generation resources in serving the State's energy needs and in the wholesale electricity, capacity and ancillary service markets.

**5. Change in tax treatment.** If a change in federal tax laws, rules or policy materially modifies the burdens or costs to customers or utilities associated with the procurements under this chapter, the commission shall issue a report to the joint standing committee of the Legislature having jurisdiction over energy matters describing the impact of these changes and recommending any actions necessary to maintain the benefits of the procurements under this chapter.

**6. Timely interconnection.** The commission shall ensure the timely review and execution of interconnection requests and the timely completion of work needed for the safe, reliable and cost-effective interconnection of distributed generation resources. The commission shall establish by rule requirements on investor-owned transmission and distribution utilities governing the interconnection process for distributed generation resources and establishing financial penalties to assure timely actions by those utilities to achieve the procurements under sections 3476 and 3477. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. A-7. 35-A MRSA §§3475 to 3478** are enacted to read:

**§ 3475. Standard buyer**

A standard buyer designated pursuant to this section shall aggregate the output of the portfolio of distributed generation resources procured pursuant to this chapter and sell or use the output of the resources in a manner that maximizes the value of the portfolio of the resources to all ratepayers.

**1. Designation of standard buyer.** Each investor-owned transmission and distribution utility serves as the standard buyer in its service territory, except that the commission may designate another entity to serve as the standard buyer if the commission determines that the designation is in the best interest of customers in the service territory. The standard buyer is subject to the jurisdiction of the commission.

**2. Obligations of standard buyer.** A standard buyer shall:

- A. Serve as counterparty to long-term contracts with project sponsors pursuant to section 3477;
- B. If the standard buyer is not an investor-owned transmission and distribution utility, reimburse an investor-owned transmission and distribution utility for any bill credit or payment to a subscriber or project sponsor pursuant to section 3477;
- C. Establish reasonable measurement and verification requirements for distributed generation resources;
- D. Provide information needed to allocate costs and benefits pursuant to subsection 3; and
- E. Provide aggregate data regarding the output of distributed generation resources pursuant to sections 3476 and 3477.

**3. Standard buyer cost allocation.** The commission and each standard buyer designated pursuant to subsection 1 shall implement a transparent mechanism to track and recover or distribute the eligible costs and benefits under this subsection incurred by procuring distributed generation resources pursuant to this chapter. These eligible costs and benefits must be reviewed by the commission annually and allocated to and recovered from customers of the investor-owned transmission and distribution utility in whose territory the distributed generation resource is located through a process established by rule of the commission. The process established by the commission must be similar to the allocation of costs and benefits of long-term energy contracts in section 3210-F. Eligible costs and benefits include:

- A. Incremental costs of serving as the standard buyer;
- B. All payments or bill credits to customers, subscribers and project sponsors under each procurement pursuant to sections 3476 and 3477; and
- C. All revenue from sale of the output of distributed generation resources procured pursuant to this chapter.

**4. Rules.** The commission shall adopt rules to implement this section. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The commission shall ensure that the rules and procedures established under this chapter provide opportunities for entities other than the standard buyer to aggregate and sell the output of distributed generation resources in the applicable markets.

### **§ 3476. Commercial or institutional resources procurement**

**1. Procurement amounts.** By July 1, 2024, the commission shall procure 125 megawatts of the output of distributed generation resources associated with commercial or institutional customer accounts by conducting an initial competitive solicitation of 25 megawatts to establish market-based, declining block contract rates to procure the remaining 100 megawatts.

**2. Initial competitive procurement.** The following standards apply to the initial competitive procurement under subsection 1 of distributed generation resources from commercial or institutional customers:

A. On or before January 1, 2020, the commission shall publish rules for the initial competitive solicitation of 25 megawatts of distributed generation resources under subsection 1. The publication must include the form of contract provided under subsection 8;

B. The commission shall accept bids for 30 calendar days beginning on or before July 1, 2020 and review the bids based on the requirements under subsections 5, 6 and 7. The commission may select qualified bids in excess of 25 megawatts if the commission determines that the incremental procurement is in the public interest. If the commission selects qualified bids in excess of 25 megawatts, the commission shall reduce the quantity procured in subsequent block procurements. If the commission selects bids totaling less than 25 megawatts in the initial competitive procurement, the quantity procured in subsequent block procurements must increase by the difference between 25 megawatts and the number of megawatts submitted in the initial competitive procurement. If pursuant to subsections 5 and 6 no bids are accepted, the commission shall:

(1) Conduct a new initial competitive procurement under this subsection within 9 months; and

(2) Study the reasons for the inability of the procurement to secure the target amount and submit a report of its findings and any recommended legislation to the joint standing committee of the Legislature having jurisdiction over energy matters;

C. The commission shall issue a public notice of the procurement results no later than 30 calendar days after the bid acceptance period has ended. The public notice must include the name, sponsor, size and location of each selected project and the awarded contract price; and

D. The applicable standard buyer shall enter into a contract with the selected project or projects for a term of 20 years at a specified contract rate equal to the clearing price to be paid as a bill credit to the commercial or institutional customer.

**3. Subsequent block contract rate procurements.** Subsequent to the initial competitive procurement under subsection 2, the remaining procurement must proceed pursuant to the following:

A. The commission shall procure 4 additional blocks of contracted distributed generation resources to meet the overall procurement goal of subsection 1. Each procurement block size equals 1/4 of the difference between 125 megawatts and the quantity procured under subsection 2. These blocks are numbered sequentially, starting with 2. Subsequent procurements are assigned to a particular block, starting with procurement block 2 and finishing with procurement block 5;

B. The block contract rate for procurement block 2 must equal 97% of the clearing price determined in subsection 2. Each successive procurement block must have a block contract rate equal to 97% of the preceding block;

C. Blocks 2 to 5 must be opened immediately following the initial competitive procurement for bids qualifying under subsection 5;

D. The applicable standard buyer shall enter into a contract with each qualified project for a term of 20 years at a specified contract rate equal to the block contract rate of the procurement block then open and paid as a bill credit to the commercial or institutional customer; and

E. Each contract awarded pursuant to this subsection reduces the available capacity in a procurement block, with the earliest awards reducing the lowest numbered procurement block that has remaining capacity. If an awarded contract exceeds the remaining capacity of its procurement block, the contract rate is set at the block contract rate for the block filled by this award and any overprocurement in one block is subtracted from the quantity available in the next block. If a contract award exceeds the capacity of procurement block 5, the entire quantity of the offer is awarded at the block contract rate for procurement block 5 and no further contracts may be awarded except under subsection 8.

**4. Failure to complete timely procurement.** If any procurement block remains unfilled for more than 12 months from the time the previous block was filled:

A. The commission shall suspend procurements under subsection 3 pending completion of the process described in this subsection;

B. The commission shall review and may amend the rules published under subsection 2, paragraph A or the standard contract under subsection 8 for a new competitive procurement of long-term contracts for the output of at least 25 megawatts of distributed generation resources as part of the procurement goal in subsection 1. The commission shall publish any amendments and a new bid acceptance period for not less than 6 months and not more than 9 months;

C. The commission shall accept bids for 30 calendar days from the date established in paragraph B and review the bids based on the requirements set forth in subsections 5, 6 and 7 and the published rules. The commission may select qualified bids in excess of 25 megawatts if the commission determines that the incremental procurement is in the public interest and the incremental procurement reduces the quantity procured in subsequent procurements.

D. The commission shall issue a public notice of the procurement results no later than 30 calendar days after the bid acceptance period has ended. The public notice must include the name, sponsor, size and location of each selected project and the awarded contract price;

E. The applicable standard buyer shall enter into a contract with the selected project or projects for a term of 20 years at a specified contract rate equal to the highest selected offer rate as adjusted under subsection 7 to be paid as a bill credit to the commercial or institutional customer;

F. The commission shall reopen procurements under subsection 3 unless no contracts are awarded under paragraph E. The quantity procured under paragraph C must be subtracted from the current procurement block and the block contract rate for that procurement block must be set at the clearing price set under paragraph E. The block contract rate for each subsequent procurement block must be set at 97% of the newly established rate for the preceding procurement block; and

G. If no contracts are awarded under paragraph E, the commission shall conduct another competitive solicitation under this subsection with the bid acceptance period to open approximately 12 months after the bid acceptance period determined in paragraph B. The commission shall also examine the reasons for the inability of the procurement to secure the target amount and submit a report of its findings and any recommended legislation to the joint standing committee of the legislature having jurisdiction over energy matters.

**5. Bid or offer qualification.** The commission shall establish minimum requirements for bids or offers in a solicitation under this section, including:

A. Demonstration of site control;

B. If a participating commercial or institutional customer is not the party making the bid, an agreement from a customer that would receive bill credits under subsection 9;

C. A fully executed interconnection service agreement with an investor-owned transmission and distribution utility;

D. A plan and schedule to obtain all required federal, state and local permits and approvals for the project; and

E. The capacity to make a financial assurance deposit at the time a contract is signed.

A photovoltaic project must employ qualified persons for the complete installation and electrical maintenance of the distributed generation resource under standards required by the Electricians' Examining Board under Title 32, section 1153-A. A bid may not be accepted for a distributed generation resource located on prime farmland as defined by the United States Department of Agriculture and delineated by the Department of Agriculture, Conservation and Forestry. The commission may by rule require a bidder to pay a reasonable bidding fee to defray administrative costs.

**6. Ensuring competition.** Prior to each solicitation under subsections 2 to 4, the commission shall establish standards to ensure that the solicitation has a sufficient number of unique bidders and quantity of qualified bids to be determined competitive. If the commission concludes that a solicitation is not competitive, the commission may reduce the target procurement quantities to the highest level, including zero, that may be procured consistent with this subsection and shall defer to subsequent solicitations the capacity reduced in the solicitation.

**7. Bid selection.** Following a review of bids received in the solicitations under subsections 2 to 4, and after any adjustment to the target quantity under subsection 6, the commission shall select one or more winning bids that, in the aggregate, meet the target procurement quantity. If there are multiple qualified bids at the same offer rate, the commission shall give preference to the qualified bid or bids that minimize the cost to the standard buyers or, if there is no difference in cost, to the bid that was submitted first.

In evaluating bids in a competitive solicitation, the commission shall evaluate a qualified bid for a project that is located on previously developed or impacted land at 90% of the offered rate. Previously developed or impacted land must include areas covered by impervious surfaces, capped landfills or brownfield sites as defined by the Department of Environmental Protection. If a bid under this subsection is accepted, the contract rate for each accepted bid for a project located on previously developed or impacted land must be paid a rate equal to the clearing price.

**8. Standard contract and milestones.** Prior to a solicitation, the commission shall provide, in consultation with the standard buyer or standard buyers, a standard contract that commits the standard buyer and a project sponsor to commercially reasonable behavior and includes provisions including an interconnection fee list and interconnection schedule to ensure that the project proceeds to commercial operation on a reasonable timeline. The standard contracts for all standard buyers must be substantially identical to the extent commercially reasonable.

A qualified project must be mechanically operable within 18 months of being awarded a contract. The commission may grant an extension for good cause. If a project fails to meet a milestone, the project sponsor is in default and the sponsor's contract must be cancelled. The capacity associated with a cancelled project must be added to the currently open procurement block. If procurement block 5 has been filled and procurements closed, the defaulted quantity must be added to procurement block 5 and new offers must be accepted under subsection 3.

**9. Determination of bill credit.** The bill credit allocated to a commercial or institutional customer must be based on the total kilowatt-hours of energy production of the distributed generation resource for the previous month. For each billing month, the value of the credit must be calculated by multiplying the number of kilowatt-hours by the contract rate. A payment to a commercial or institutional customer must be credited against the customer's monthly electricity bill in accordance with section 3478. The monthly energy production must be determined by a revenue-grade meter installed and paid for by the participating commercial or institutional customer.

**10. Exemption.** A customer is not considered a public utility or competitive electricity provider solely as a result of entering into a contract with a standard buyer under this section.

**11. Rules.** The commission shall adopt rules to implement this section by January 1, 2020. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## **§ 3477. Large-scale shared resources procurement**

**1. Procurement amounts.** By July 1, 2024, the commission shall procure 250 megawatts of the output of large-scale shared distributed generation resources by conducting an initial competitive solicitation of 50 megawatts to establish market-based, declining block contract rates to procure the remaining 200 megawatts.

**2. Initial competitive procurement.** The following standards apply to the initial competitive procurement of large-scale shared distributed generation resources:

A. On or before January 1, 2020, the commission shall publish rules for the competitive solicitation of long-term contracts for the output of 50 megawatts of large-scale shared distributed generation resources under subsection 1. The publication must include the form of contract provided under subsection 8;

B. The commission shall accept bids for 30 calendar days, beginning on or before July 1, 2020, and review the bids based on the requirements under subsections 5, 6 and 7. The commission may select qualified bids in excess of 50 megawatts if the commission determines that the incremental procurement is in the public interest. If the commission selects qualified bids in excess of 50 megawatts, the commission shall reduce the quantity procured in subsequent block procurements. If the commission selects bids totaling less than 50 megawatts in the initial competitive procurement, the quantity procured in subsequent block procurements must increase by the difference between 50 megawatts and the number of megawatts submitted in the initial competitive procurement. If pursuant to subsections 5 and 6 no bids are accepted, the commission shall:

(1) Conduct a new initial competitive procurement under this subsection within 9 months; and

(2) Study the reasons for the inability of the procurement to secure the target amount and submit a report of its findings and any recommended legislation to the joint standing committee of the Legislature having jurisdiction over energy matters;

C. The commission shall issue a public notice of the procurement results no later than 30 calendar days after the bid acceptance period has ended. The public notice must include the name, sponsor, size and location of each selected project and the awarded contract price; and

D. The applicable standard buyer shall enter into a contract with the selected project or projects for a term of 20 years at the clearing price to be paid as a bill credit to the subscribers.

**3. Subsequent block contract rate procurements.** Subsequent to the procurement of capacity under subsection 2, the remaining procurement must proceed pursuant to the following:

A. The commission shall procure 4 additional blocks of contracted distributed generation resources to meet the overall procurement goal of subsection 1. Each procurement block size equals 1/4 of the difference between 250 megawatts and the quantity procured under subsection 2. These blocks are numbered sequentially, starting with 2. Subsequent procurements are assigned to a particular block, starting with procurement block 2 and finishing with procurement block 5;

B. The block contract rate for procurement block 2 must equal 97% of the clearing price determined in subsection 2. Each successive procurement block must have a block contract rate equal to 97% of the preceding block;

C. Blocks 2 to 5 must be open immediately following the initial competitive procurement for bids qualifying under subsection 5;

D. The applicable standard buyer shall enter into a contract with each qualified project for a term of 20 years at a specified contract rate equal to the block contract rate of the procurement block then open and paid as a bill credit to the subscribers; and

E. Each contract awarded pursuant to this subsection reduces the available capacity in a procurement block, with the earliest awards reducing the lowest numbered procurement block that has remaining capacity. If an awarded contract exceeds the remaining capacity of its procurement block, the contract rate is set at the block contract rate for the block filled by this award and any overprocurement in one block is subtracted from the quantity available in the next block. If a contract award exceeds the capacity of procurement block 5, the entire quantity of the offer is awarded at the block contract rate for procurement block 5 and no further contracts may be awarded except under subsection 8.

**4. Failure to complete timely procurement.** If any procurement block remains unfilled for more than 12 months from the time the previous block was filled:

A. The commission shall suspend procurements under subsection 3 pending completion of the process described in this subsection;

B. The commission shall review and may amend the rules published under subsection 2, paragraph A or the standard contract under subsection 8 for a new competitive procurement of long-term contracts for the output of at least 50 megawatts of large-scale shared distributed generation resources as part of the procurement goal in subsection 1. The commission shall publish any amendments and a new bid acceptance period in not less than 6 months and not more than 9 months;

C. The commission shall accept bids for 30 calendar days from the date established and review the bids based on the requirements set forth in subsections 5, 6 and 7 and the published rules. The commission may select qualified bids in excess of 50 megawatts if the commission determines that the incremental procurement is in the public interest and the incremental procurement reduces the quantity procured in subsequent procurements;

D. The commission shall issue a public notice of the procurement results no later than 30 calendar days after the bid acceptance period has ended. The public notice must include the name, sponsor, size and location of each selected project and the awarded contract price;

E. The applicable standard buyer shall enter into a contract with the selected project or projects for a term of 20 years at a specified contract rate equal to the highest selected bid rate as adjusted under subsection 7 to be paid as a bill credit to a subscriber;

F. The commission shall reopen procurements under subsection 3 unless no contracts are awarded under paragraph E. The quantity procured under paragraph C must be subtracted from the current procurement block and the block contract rate for that procurement block must be set at the clearing price set under paragraph E. The block contract rate for each subsequent procurement block must be set at 97% of the newly established rate for the preceding procurement block; and

G. If no contracts are awarded under paragraph E, the commission shall conduct another competitive solicitation under this subsection with the bid acceptance period to open approximately 12 months after the bid acceptance period determined in paragraph B. The commission shall also examine the reasons for the inability of the procurement to secure the target amount and submit a report of its findings and any recommended legislation to the joint standing committee of the Legislature having jurisdiction over energy matters.

**5. Bid qualification.** The commission shall establish minimum requirements for bids in a solicitation under this section, including:

A. Demonstration of site control;

B. Demonstration of experience fulfilling the obligation to subscribers of shared distributed generation resources;

C. A fully executed interconnection service agreement with an investor-owned transmission and distribution utility;

D. A plan and schedule to obtain all required federal, state and local permits and approvals for the project; and

E. The capacity to make a financial assurance deposit at the time a contract is signed.

A photovoltaic project must employ qualified persons for the complete installation and electrical maintenance of the distributed generation resource under standards required by the Electricians' Examining Board under Title 32, section 1153-A. A bid may not be accepted for a distributed generation resource located on prime farmland as defined by the United States Department of Agriculture and delineated by the Department of Agriculture, Conservation and Forestry. The commission may by rule require a bidder to pay a reasonable bidding fee to defray administrative costs.

**6. Ensuring competition.** Prior to each solicitation under subsections 2 to 4, the commission shall establish standards to ensure that the solicitation has a sufficient number of unique bidders and quantity of qualified bids to be determined competitive. If the commission concludes that a solicitation is not competitive, the commission may reduce the target procurement quantities to the highest level, including zero, that may be procured consistent with this subsection and shall defer to subsequent solicitations the capacity reduced in that solicitation.

**7. Bid selection.** Following a review of bids received in the solicitations under subsections 2 to 4, and after any adjustment to the target quantity under subsection 6, the commission shall select one or more winning bids that, in the aggregate, meet the target procurement quantity. If there are multiple qualified bids at the same bid rate, the commission shall give preference to the qualified bid or bids that minimize the cost to the standard buyers or, if there is no difference in cost, to the bid that was submitted first.

In evaluating bids in a competitive solicitation, the commission shall evaluate a qualified bid for a project that is located on previously developed or impacted land at 90% of the bid rate. Previously developed or impacted land must include areas covered by impervious surfaces, capped landfills or brownfield sites as defined by the Department of Environmental Protection. If a bid under this subsection is accepted, the contract rate for each accepted bid for a project located on previously developed or impacted land must be paid a rate equal the clearing price.

**8. Standard contract and milestones.** Prior to a solicitation, the commission shall provide, in consultation with the standard buyer or standard buyers, a standard contract that commits the standard buyer and a project sponsor to commercially reasonable behavior and includes provisions including an interconnection fee list and interconnection schedule to ensure that the project proceeds to commercial operation on a reasonable timeline. The standard contracts for all standard buyers must be substantially identical to the extent commercially reasonable.

A qualified project must be mechanically operable within 18 months of being awarded a contract. The commission may grant an extension for good cause. If a project fails to meet a milestone, the project sponsor is in default and the sponsor's contract must be cancelled. The capacity associated with a cancelled project must be added to the currently open procurement block. If procurement block 5 has been filled and procurements closed, the defaulted quantity must be added to procurement block 5 and new offers must be accepted under subsection 3.

**9. Payment and minimum subscription.** The project sponsor and subscribers must receive the contract rate for the output of a large-scale shared distributed generation resource that is fully subscribed. For any portion not subscribed, the project sponsor must receive the wholesale rate. Requirements for minimum subscriptions include:

A. At least 50% of the total nameplate capacity of a large-scale shared distributed generation resource must be subscribed by subscriptions of 25 kilowatts or less or at least 20% of the total nameplate capacity must be subscribed by subscriptions of 25 kilowatts or less if subscriptions

from a municipality or units of municipal government account for more than 30% of the total nameplate capacity, unless subscriptions from a municipality or units of municipal government account for more than 50% of the total nameplate capacity of a large-scale shared distributed generation resource; and

**B. At least:**

(1) Ten percent of the total nameplate capacity of a large-scale shared distributed generation resource must be subscribed by households with low or moderate income or by organizations serving low or moderate income households if the subscriptions serve to directly reduce the electricity costs for low or moderate income households; or

(2) If a municipality or unit of municipal government accounts for more than 50% of the subscriptions to a large-scale shared distributed generation resource, 5% of the total nameplate capacity of the large-scale shared distributed generation resource must be subscribed by households with low or moderate income or by organizations serving low or moderate income households if the subscriptions serve to directly reduce the electricity costs for low or moderate income households.

Subscriptions from municipalities or units of municipal government may not account for more than 70% of the nameplate capacity of a large-scale shared distributed generation resource. For the purposes of this subsection, "low or moderate income" means up to 80% the median income for the county or metropolitan area as determined by the Maine State Housing Authority.

**10. Determination of subscriber bill credit.** The bill credit allocated to each subscriber from a large-scale shared distributed generation resource must be based on the subscriber's percentage interest of the total production of the large-scale shared distributed generation resource for the previous month. For each billing month, the value of the credit allocated to a subscriber must be calculated by multiplying the number of kilowatt-hours constituting the subscriber's share by the contract rate. On a monthly basis, the project sponsor shall provide to the investor-owned transmission and distribution utility in a standardized and electronic format a list of subscribers and subscriber information required to calculate the bill credit to be provided to each subscriber. A credit to a subscriber must be applied against the subscriber's monthly electricity bill in accordance with section 3478 no later than one billing month following the month during which the energy was generated by the large-scale shared distributed generation resource. The investor-owned transmission and distribution utility shall provide a monthly record to the project sponsor of the credit applied to a subscriber within a month after the credits are applied to the subscriber's bill.

The monthly output available for allocation as subscribed or unsubscribed energy must be determined by a revenue-grade meter installed and paid for by the project sponsor.

**11. Exemption.** A project sponsor or subscriber is not considered a public utility or competitive electricity provider solely as a result of the project sponsor's or subscriber's interest or participation in a large-scale shared distributed generation resource.

**12. Renewable energy credits.** Prior to a project sponsor's entering into a contract with a subscriber under this section, the commission shall provide to the sponsor a standard disclosure to be distributed by the sponsor to all participating subscribers that describes the effect of selling the renewable attributes of exported electricity to the standard buyer and explains how a subscriber may participate in the voluntary renewable energy credit market. The commission shall establish a mechanism to allow a subscriber with a share of less than 25 kilowatts to purchase renewable energy credits up to the amount and of a substantially equivalent type to that the subscriber has sold to the standard buyer at a price equal to 80% of market value.

**13. Consumer protection.** The commission shall establish by rule consumer protection standards to protect subscribers from fraud and other unfair and deceptive business practices. The commission may impose administrative penalties under chapter 15 upon a project sponsor and may order restitution for any party injured by a violation for which a penalty may be assessed pursuant to chapter 15.

The commission through its own counsel or through the Attorney General may apply to the Superior Court of any county of the State to enforce any lawful order made or action taken by the commission pursuant to this subsection and the court may issue any preliminary or final order that the court determines proper.

**14. Disclosures.** Prior to the sale or resale of a subscription in a large-scale shared distributed generation resource or proposed large-scale shared distributed generation resource, a project sponsor selling or reselling the subscription shall provide a disclosure to potential subscribers that includes the following:

- A. A good faith estimate of the annual kilowatt-hours to be delivered by the large-scale shared distributed generation resource based on the size of the subscriber's interest;
- B. A plain language explanation of the terms under which the bill credit under section 3478 will be calculated;
- C. A plain language explanation of the contract provisions regulating the disposition or transfer of the subscription; and
- D. A plain language explanation of the costs and benefits to the potential subscriber, based on the subscriber's current usage and applicable tariff under section 3209-B for the term of the proposed contract.

The commission may establish a standard disclosure to be provided to potential subscribers by a project sponsor to disclose the information under this subsection and other information as the commission determines necessary to protect the interests of potential subscribers.

**15. Transfer of subscriptions.** A subscriber may transfer or assign a subscription to the associated project sponsor or to any person or entity that qualifies to be a subscriber in the large-scale shared distributed generation resource. A project sponsor must provide a process for assignment or transfer of a subscription. A project sponsor may not impose transfer fees on a subscriber that moves to a different location within the same utility service territory.

**16. Project sponsor report.** One year after commercial operation of a large-scale shared distributed generation resource commences, the project sponsor must submit to the commission a report detailing compliance with this subsection and subsections 10, 12, 14 and 15.

**17. Rules.** By January 1, 2020, the commission shall adopt rules to implement this section. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

### **§ 3478. Bill credits; utility costs paid by project sponsor**

**1. Credit assigned to a customer's bill.** If the value of a credit to be applied to a customer's bill under this chapter is less than the amount owed by the customer at the end of the applicable billing period, the customer must be billed for the difference between the amount shown on the bill and the value of the available credit. If the value of the credit to be applied to a customer's bill under this chapter is greater than the amount owed by the customer at the end of the billing period, the remaining value of the credit must carry over from month to month.

**2. Utility costs paid by project sponsor.** If a project sponsor pays an investor-owned transmission and distribution utility's costs associated with billing and collection from a subscriber, at the request of the project sponsor the utility shall bill the subscriber on behalf of the project sponsor. Costs under this subsection are subject to review by the commission.

**3. 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.

**Sec. A-8. Reports.** By December 1, 2021, the Public Utilities Commission shall provide a report to the joint standing committee of the Legislature having jurisdiction over energy matters on the status of metering and billing system capabilities for investor-owned transmission and distribution utilities in the State. The report must include capabilities of systems to reliably offer time-differentiated rates for delivery and supply of energy; the commission's level of confidence in metering and billing systems to provide accurate information to utilities, consumers and the commission; the capacity of systems to accommodate rates for bidirectional flow of power for customers with distributed energy resources; and the degree to which systems are being used to achieve the smart grid policy goals under the Maine Revised Statutes, Title 35-A, section 3143. The commission shall report on any changes to rates or rules or other changes the commission intends to adopt to increase the effectiveness of systems under this paragraph and may make recommendations to the joint standing committee.

The joint standing committee of the Legislature having jurisdiction over energy matters may report out legislation based on any recommendations under this section to the Second Regular Session of the 130th Legislature.

**Sec. A-9. Evaluation.** The Public Utilities Commission shall evaluate net energy billing under the Maine Revised Statutes, Title 35-A, section 3209-A, when the total amount of generation capacity involved in net energy billing in the State reaches 8% of the total maximum load of transmission and distribution utilities in the State. The commission shall evaluate the effectiveness of net energy billing in achieving state policy goals and providing benefits to ratepayers and submit a report to the joint standing committee of the Legislature having jurisdiction over energy matters with its findings. The joint standing committee may report out legislation based on the recommendations.

## **PART B**

### **Sec. B-1. Competitive solicitation; solar energy projects; long-term contracts.**

1. By October 1, 2019, in accordance with the Maine Revised Statutes, Title 35-A, section 3210-C, except as otherwise provided by this section, the Public Utilities Commission shall conduct one or more competitive solicitations for proposals for a long-term contract to supply installed capacity and associated renewable energy and renewable energy credits from one or more solar energy projects. Subject to the requirements of this section, the commission shall direct one or more transmission and distribution utilities to execute a long-term contract of up to 20 years for the installed capacity and associated renewable energy and renewable energy credits of one or more solar energy projects. For purposes of this section, "solar energy project" means a solar photovoltaic generation facility that is connected to the electrical transmission and distribution system located in the State.

2. Following a review of proposals submitted in response to a competitive solicitation under subsection 1, the commission shall negotiate with one or more potential suppliers to supply no less than an aggregate total of 100 megawatts and no more than an aggregate total of 400 megawatts of installed capacity and associated renewable energy and renewable energy credits from one or more solar energy projects. The commission may direct one or more transmission and distribution utilities to execute a long-term contract with a supplier under this subsection if the commission determines that:

- A. The potential supplier proposes the sale of renewable energy produced by a solar energy project;
- B. The potential supplier has the technical and financial capacity to develop, construct, operate and, to the extent consistent with applicable federal law, decommission and remove the solar energy project;
- C. The solar energy project will be constructed and operating within 5 years of the date the contract is executed, unless the commission and supplier negotiate a longer time period; and
- D. The proposed contract:
  - (1) Represents the lowest-cost means of procuring solar energy;
  - (2) Will provide benefits to ratepayers that exceed the proposed costs to ratepayers; and

(3) Provides for a nominal levelized cost that is not greater than 3.5 cents per kilowatt-hour over the term of the contract. For purposes of this paragraph, "levelized cost" means an economic assessment of the cost of an energy-generating system including all the costs over its lifetime: initial investment, operations and maintenance, fuel and capital measured at current value without adjusting for inflation.

3. If, following a competitive solicitation under subsection 1, the commission directs the execution of one or more contracts for an aggregate amount of capacity that is less than 400 megawatts, the commission shall conduct one or more further competitive solicitations pursuant to subsection 1 no less than every 24 months, unless the commission determines that a longer period of time between solicitations is likely to result in substantially lower contract prices. If the commission determines that the likely benefits to ratepayers resulting from a contract executed under the solicitation process will exceed the likely costs, the commission shall continue the solicitations until the aggregate amount of capacity contracted pursuant to this subsection reaches 400 megawatts.

4. To mitigate any adverse impacts on electric rates of a long-term contract executed under this section, the commission shall require the supplier, as part of the long-term contract, to take advantage of future federal support that may become available to the supplier's project over the contract term.

5. The commission may approve only long-term contracts under this section that in the aggregate would result in an increase in electric rates no larger than the amount of the assessment charged under the Maine Revised Statutes, Title 35-A, section 10110, subsection 4-A at the time that the contract is executed. The commission may assess to a rate class associated with a contract only costs in an amount consistent with Title 35-A, section 10110, subsection 4-A.

6. The commission may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined by the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

**Sec. B-2. Reporting; review of terms and conditions for long-term contracts for solar energy.** By January 1, 2020 and by every January 1st of subsequent years in which a contract under this Part is in effect, the commission shall submit a report to the joint standing committee of the Legislature having jurisdiction over energy matters on the procurement of transmission capacity, capacity resources, energy and renewable energy credits under section 1 in the preceding 12 months. The report must contain information, including, but not limited to, the number of requests for proposals by the commission for long-term contracts, the number of responses to requests for proposals pursuant to which a contract has been finalized, the number of executed term sheets or contracts resulting from the requests for proposals, the commission's initial estimates of ratepayer costs or savings associated with any approved term sheet, actual ratepayer costs or savings for the previous year associated with any procurement, the total ratepayer costs or savings at the time of the report and the megawatt-hours, renewable energy credits or capacity produced or procured through contracts. The report must also include a plan for any subsequent procurement of capacity resources, energy and renewable energy credits under this Part, including dates for requests for proposals, and types of resources to be procured.

**Sec. B-3. Recommendations for long-term contracts for installed capacity and associated renewable energy and renewable energy credits produced by solar energy projects.** No later than January 15, 2020, the Executive Department, Governor's Energy Office shall make a recommendation to the joint standing committee of the Legislature having jurisdiction over energy matters regarding terms and conditions for long-term contracts for installed capacity and associated renewable energy and renewable energy credits produced by solar energy projects under the Maine Revised Statutes, Title 35-A, section 3210-C. In making a recommendation under this section, the office shall, at a minimum, consider the following issues:

1. Risks to ratepayers associated with fossil fuel price volatility over the next 20 years;
2. State goals for the reduction of greenhouse gas emissions established in Title 38, section 576; and
3. Other potential benefits attributable to the development of solar energy projects, including but not limited to public health, job creation and other economic benefits and energy security.

## SUMMARY

This bill regards amendments and enactments of provisions regarding energy billing and the Maine Solar Energy Act, including:

1. Establishing parameters on the financial interest and limits of accounts for net energy billing;
2. Directing the Public Utilities Commission to establish a pilot program implementing a tariff rate for nonresidential customers of new distributed generation resources if the commission determines a tariff rate is the most cost-effective manner possible to promote the development of distributed generation resources;
3. Amending the Maine Solar Energy Act by:
  - A. Adding specific measures to support solar energy;
  - B. Establishing a standard buyer designation and detailing the standard buyer's obligations and cost allocation;
  - C. Directing the Public Utilities Commission to procure 125 megawatts for the output of distributed generation resources associated with commercial or institutional customer accounts through a bid solicitation process;
  - D. Directing the Public Utilities Commission to procure 250 megawatts for the output of large-scale shared distributed generation resources through a bid solicitation process; and
  - E. Detailing the process by which credits are applied to a customer's bill and how entities that own or operate a large-scale shared distributed generation resource on behalf of customers that own a proportional interest in the large-scale shared distributed generation resource may recover costs incurred on behalf of an investor-owned transmission and distribution utility;
4. Directing the Public Utilities Commission to report to the Legislature the results of the implemented tariff rates for distributed generation resources and the status of metering and billing system capabilities for investor-owned transmission and distribution utilities;

5. Directing the Public Utilities Commission to evaluate net energy billing when the total amount of generation capacity involved in net energy billing in the State reaches 8% of the total maximum load of transmission and distribution utilities in the State;

6. Directing the Public Utilities Commission to solicit bids for long-term contracts to supply up to 400 megawatts of electricity from solar energy projects; and

7. Directing the Executive Department, Governor's Energy Office to make recommendations to the Legislature regarding long-term contracts for installed capacity and associated renewable energy and renewable energy credits produced by solar energy projects.