**An Act To Establish a Wood-fired Combined Heat and Power Program**

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

**Sec.** **1. 5 MRSA §1766-A,** as amended by PL 2009, c. 329, Pt. A, §1, is further amended to read:

**§****1766-A.** **Electricity purchases for state buildings**

No later than January 1, 2010, all electricity consumed in state-owned buildings must be supplied by renewable resources. For purposes of this section, "renewable resource" has the same meaning as in Title 35-A, section 3210, subsection 2, paragraph C. In purchasing electricity for state-owned buildings, the State may give preference to electricity generated by community-based renewable energy projects, as defined in Title 35-A, section 3602, subsection 1 and electricity generated by combined heat and power projects, as defined in Title 35-A, section 3622, subsection 1.

**Sec.** **2. 35-A MRSA §3212, sub-§4-E** is enacted to read:

**4-E.** **Combined heat and power energy.**  The commission may incorporate energy generated by combined heat and power projects as defined in section 3622, subsection 1 into the supply of standard-offer service. The commission shall encourage entities based in this State that are not otherwise either a standard-offer service provider or its affiliate to participate in supplying energy from combined heat and power projects pursuant to this subsection.

**Sec.** **3. 35-A MRSA c. 36-A** is enacted to read:

**CHAPTER** **36-A**

**WOOD-FIRED COMBINED HEAT AND POWER ACT**

**§****3621.** **Short title**

This chapter may be known and cited as "the Wood-fired Combined Heat and Power Act."

**§****3622.** **Definitions**

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

**1.** **Combined heat and power project.**  "Combined heat and power project" means a facility that uses wood fuel to generate electric heat and power that is used for industrial or space heating purposes.

**2.** **Net generating capacity.** "Net generating capacity" means the electric output of an electricity generating facility delivered to the transmission and distribution utility system. "Net generating capacity" does not include any energy consumed by the generator to operate the electricity generating facility or any energy consumed for facility lighting, power and auxiliary facilities.

**3.** **Program participant.** "Program participant" means a combined heat and power project that is participating in the combined heat and power program established in section 3623.

**4.** **Wood fuel.** "Wood fuel" means wood residue from wood product manufacturing or other biomass derived from trees and other woody plants that were grown or processed domestically.

**§****3623.** **Combined heat and power program**

**1.** **Program established.** The combined heat and power program, referred to in this chapter as "the program," is established to encourage the development in the State of combined heat and power projects. The program is administered by the commission.

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

A. The net generating capacity of a program participant may not be less than 3 megawatts or more than 10 megawatts.

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

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

**3.** **Program eligibility criteria.** To be eligible to participate in the program, a combined heat and power project must:

A. Be connected to the electric grid of this State;

B. Have an in-service date after October 1, 2021; and

C. Satisfy the limits on net generating capacity established in subsection 2, paragraph A.

The commission shall prescribe an application form or procedure that must be used to apply to the program under this chapter, which must include any information that the commission determines necessary for the purpose of administering the program. The commission shall, within 30 days of receipt of a completed application, determine whether the combined heat and power project qualifies for participation in the program and respond in writing.

**§****3624.** **Long-term contracts for combined heat and power**

**1.** **Investor-owned transmission and distribution utilities; required participation.** Notwithstanding section 3204, the commission may direct an investor-owned transmission and distribution utility to enter into long-term contracts with one or more program participants located within the service territory of the utility for energy, capacity resources or renewable energy credits. The commission may 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.** **Consumer-owned transmission and distribution utilities; voluntary** **participation.** A consumer-owned transmission and distribution utility may, at the option of the utility, enter into long-term contracts with one or more program participants located within the service territory of the utility for energy, capacity resources or renewable energy credits. Consumer-owned transmission and distribution utilities may enter into contracts under this subsection only as agents for their customers and only in accordance with this section.

**3.** **Sale of energy; contract procedures.** Energy, capacity resources or renewable energy credits contracted through long-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 long-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.

**4.** **Contract term.** A contract entered into pursuant to this section may not be for more than 20 years.

**5.** **Contract pricing; cost containment.** The commission shall establish a contract price that applies to all combined heat and power project contracts entered into pursuant to this section, which may not exceed the tariff rate for commercial and institutional net energy billing projects, as established by the commission by rule and in accordance with section 3209-B, in the year the contract price is established plus annual cost escalators adopted by the commission.

**6.** **Cost and benefit allocation.** The commission shall ensure that all costs and benefits associated with contracts involving investor-owned transmission and distribution utilities entered into under this section are allocated to electricity consumers in accordance with section 3210‑F.

**7.** **Contract payments.** Contracts for capacity 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.

**8.** **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.

**§****3625.** **Rules**

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

**§****3626.** **Tracking; biennial report**

The commission shall develop and administer a system to register and track the development of combined heat and power projects under this chapter and by January 15, 2022, and biennially thereafter, shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on the program and the development of combined heat and power projects. The report must include, but is not limited to:

**1.** **Combined heat and power project development.** Documentation of the progress of combined heat and power project development, including the number of such projects in the State, the net generating capacity of those projects and the kilowatt-hours of electricity purchased from those projects; and

**2.** **Program implementation; assessment; recommendations.** Actions taken by the commission to implement the program, an assessment of the effectiveness of the program with respect to encouraging the sustainable development of combined heat and power projects in the State and recommendations, including any necessary implementing legislation, to improve the program.

**§****3627.** **Regulatory approvals; use of public resources**

**1.** **Regulatory approval.** The development, siting and operation of a combined heat and power project is subject to all applicable regulatory reviews and approvals required by governmental entities, including, but not limited to, municipalities and state agencies, pursuant to law, ordinance or rule.

**2.** **Use of publicly owned land, water or facilities.** Nothing in this chapter limits the authority of the State or a political subdivision of the State to use publicly owned land, water or facilities in the development and operation of a combined heat and power project or to lease publicly owned land, water or facilities to other qualifying owners for the development and operation of a combined heat and power project.

**SUMMARY**

This bill establishes the combined heat and power program, administered by the Public Utilities Commission, to encourage the sustainable development of combined heat and power projects that use wood fuel in the State. Participation in the program is limited to 50 megawatts of net generating capacity across all projects, and each individual project may not be less than 3 megawatts or more than 10 megawatts of net generating capacity.

The bill authorizes the commission to direct investor-owned transmission and distribution utilities to enter into long-term contracts with program participants located within the service territory of each utility for energy, capacity resources or renewable energy credits. A long-term contract entered into under the combined heat and power program cannot be for a contract term greater than 20 years, and the contract price may not exceed the tariff rate established by the commission for commercial and institutional net energy billing projects in the year the contract price is established, plus annual cost escalators adopted by the commission. It allows consumer-owned transmission and distribution utilities, at their own option, to enter into such contracts. It also requires the commission to ensure that mechanisms are established to protect electricity ratepayers over the contract term.

It requires the commission to report biennially to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding the implementation and effectiveness of the combined heat and power program and the overall development of combined heat and power program projects in the State.

Lastly, it authorizes, but does not require, the State to give preference to electricity generated by combined heat and power projects when purchasing electricity for the State and authorizes, but does not require, the commission to incorporate energy generated by combined heat and power projects into the supply of standard-offer service.