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ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 600, L.D. 881, Bill, “An Act To Allow the Public Utilities Commission To Contract for Liquefied Natural Gas Storage and Distribution”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 35-A MRSA §1902, sub-§2, as enacted by PL 2013, c. 369, Pt. B, §1, is amended to read:

2. Energy cost reduction contract. "Energy cost reduction contract" ~~or "contract"~~ means a contract executed in accordance with this chapter to procure capacity on a natural gas transmission pipeline, including, when applicable, compression capacity.

Sec. 2. 35-A MRSA §1902, sub-§§3-A, 3-B and 3-C are enacted to read:

3-A. Liquefied natural gas storage capacity. "Liquefied natural gas storage capacity" means storage capacity for liquefied natural gas installed in the State on or after January 1, 2016 that will benefit the State's energy consumers during times of regional supply constraint due to capacity limitations of interstate or intrastate pipelines or local distribution systems.

3-B. Physical energy storage capacity. "Physical energy storage capacity" means liquefied natural gas storage capacity.

3-C. Physical energy storage contract. "Physical energy storage contract" means a contract executed in accordance with this chapter for physical energy storage capacity.

Sec. 3. 35-A MRSA §1903, sub-§§1 and 2, as enacted by PL 2013, c. 369, Pt. B, §1, are amended to read:

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

COMMITTEE AMENDMENT

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

4 **Sec. 4. 35-A MRSA §1903, sub-§3** is enacted to read:

5 **3. Storage.** Liquefied natural gas storage located in this State, under certain
6 circumstances, may offer the potential to decrease energy costs by providing a hedge
7 against gas price volatility caused by gas supply constraints, which in turn may lower
8 natural gas prices and, by extension, lower electricity prices for consumers in this State.

9 **Sec. 5. 35-A MRSA §1904**, as amended by PL 2015, c. 329, Pt. E, §1, is further
10 amended to read:

11 **§1904. Energy cost reduction contracts; physical energy storage contracts**

12 The commission in consultation with the Public Advocate and the Governor's Energy
13 Office may execute an energy cost reduction contract or a physical energy storage
14 contract, or both, in accordance with this section. In no event may the commission
15 execute energy cost reduction contracts for the transmission of greater than a cumulative
16 total of 200,000,000 cubic feet of natural gas per day ~~or for a total amount that exceeds~~
17 ~~\$75,000,000 annually.~~ In no event may the commission execute physical energy storage
18 contracts for a total amount that exceeds \$25,000,000 annually, and in no event may the
19 total amount of all contracts entered into under this section exceed \$75,000,000 annually.

20 **1. Prior to executing an energy cost reduction contract.** Before executing an
21 energy cost reduction contract, the commission shall:

22 A. Pursue, in appropriate regional and federal forums, market and rule changes that
23 will reduce the basis differential for gas coming into New England and increase the
24 efficiency with which gas brought into New England and Maine is transmitted,
25 distributed and used. If the commission concludes that those market or rule changes
26 will, within the same time frame, achieve substantially the same cost reduction
27 effects for Maine electricity and gas customers as the execution of an energy cost
28 reduction contract, the commission may not execute an energy cost reduction
29 contract;

30 B. Explore all reasonable opportunities for private participation in securing
31 additional gas pipeline capacity that would achieve the objectives in subsection 2. If
32 the commission concludes that private transactions, within the same time frame,
33 achieve substantially the same cost reduction effects for Maine electricity and gas
34 customers as the execution of an energy cost reduction contract, the commission may
35 not execute an energy cost reduction contract; and

36 C. In consultation with the Public Advocate and the Governor's Energy Office, hire a
37 consultant with expertise in natural gas markets to make recommendations regarding
38 the execution of an energy cost reduction contract. The commission shall consider
39 those recommendations as part of an adjudicatory proceeding under subsection 2.

40 **1-A. Prior to executing a physical energy storage contract.** Before executing a
41 physical energy storage contract, the commission shall:

1 A. Pursue, in appropriate regional and federal forums, market and rule changes that
2 will reduce the reliability risk faced by off-system natural gas users or on-system
3 consumers and will provide a physical hedge to higher priced on-peak, winter period
4 natural gas supplies. If the commission concludes that those market or rule changes
5 will, within the same time frame, achieve substantially the same cost reduction
6 effects for the State's electricity and gas customers as the execution of a physical
7 energy storage contract, the commission may not execute a physical energy storage
8 contract; and

9 B. Explore all reasonable opportunities for private participation that would achieve
10 the objectives in subsection 2-A. If the commission concludes that private
11 transactions, within the same time frame, achieve substantially the same cost
12 reduction effects for the State's electricity and gas customers as the execution of a
13 physical energy storage contract, the commission may not execute a physical energy
14 storage contract.

15 **2. Commission determination of benefits for an energy cost reduction contract.**
16 After satisfying the requirements of subsection 1, the commission may execute or direct
17 one or more transmission and distribution utilities, gas utilities or natural gas pipeline
18 utilities to execute an energy cost reduction contract if the commission has determined, in
19 an adjudicatory proceeding, that the agreement is commercially reasonable and in the
20 public interest and that the contract is reasonably likely to:

21 A. Materially enhance natural gas transmission capacity into the State or into the
22 ISO-NE region and that additional capacity will be economically beneficial to ~~electric~~
23 electricity consumers, natural gas consumers or both in the State and that the overall
24 costs of the energy cost reduction contract are outweighed by its benefits to ~~electric~~
25 electricity consumers, natural gas consumers or both in the State; and

26 B. Enhance electrical and natural gas reliability in the State.

27 **2-A. Commission determination of benefits for a physical energy storage**
28 **contract.** After satisfying the requirements of subsection 1-A, the commission may
29 execute or direct one or more transmission and distribution utilities, gas utilities or natural
30 gas pipeline utilities to execute a physical energy storage contract if the commission has
31 determined, in an adjudicatory proceeding, that the physical energy storage contract is
32 commercially reasonable and in the public interest and that the contract is reasonably
33 likely to:

34 A. Materially enhance liquefied natural gas storage capacity in the State or the ISO-
35 NE region and ensure that additional physical energy storage capacity will be
36 economically beneficial to electricity consumers, natural gas consumers or both in the
37 State and that the overall costs of the contract are outweighed by its benefits to
38 electricity consumers, natural gas consumers or both in the State;

39 B. Provide the opportunity for access to lower cost natural gas at times of regional
40 peak demand for natural gas supplies or in the event of upstream natural gas
41 infrastructure disruption; and

42 C. Enhance electrical and natural gas reliability in the State.

1 **3. Parties to an energy cost reduction contract or a physical energy storage**
2 **contract.** The commission may execute, or direct to be executed, an energy cost
3 reduction contract or a physical energy storage contract, or both, that ~~contains~~ contain the
4 following provisions.

5 A. The commission may direct one or more transmission and distribution utilities,
6 gas utilities or natural gas pipeline utilities to be a counterparty to an energy cost
7 reduction contract or a physical energy storage contract, or both. In determining
8 whether and to what extent to direct a utility to be a counterparty to ~~a contract one or~~
9 more contracts under this subsection, the commission shall consider the anticipated
10 reduction in the price of gas or electricity or a reduction in the on-peak winter period
11 price of gas or electricity, as applicable, accruing to the customers of the utility as a
12 result of ~~the contract one or more contracts~~ as determined by the commission in an
13 adjudicatory proceeding.

14 Any economic loss, including but not limited to any effects on the cost of capital
15 resulting from an energy cost reduction contract or a physical energy storage contract
16 for a transmission and distribution utility, a gas utility or a natural gas pipeline utility,
17 is deemed to be prudent and the commission shall allow full recovery through the
18 utility's rates.

19 B. If the commission concludes that an energy cost reduction contract or a physical
20 energy storage contract can be achieved with the participation of other entities, the
21 commission may contract jointly with other entities, including other state agencies
22 and instrumentalities, governments in other states and nations, utilities and
23 generators.

24 C. The commission may execute an energy cost reduction contract or a physical
25 energy storage contract as a principal and counterparty.

26 **4. Approval by the Governor.** The commission may not execute or direct the
27 execution of an energy cost reduction contract or a physical energy storage contract
28 unless the Governor has in writing approved the execution of the energy cost reduction
29 contract or a physical energy storage contract.

30 **Sec. 6. 35-A MRSA §§1905 to 1907,** as enacted by PL 2013, c. 369, Pt. B, §1,
31 are amended to read:

32 **§1905. Funding of an energy cost reduction contract or a physical energy storage**
33 **contract**

34 ~~An energy cost reduction contract~~ Contracts under this chapter may be funded in
35 accordance with this section.

36 **1. Assessments on ratepayers.** The commission may direct one or more
37 transmission and distribution utilities, gas utilities or natural gas pipeline utilities to
38 collect an assessment from ratepayers for the following purposes:

39 A. To finance the participation of a transmission and distribution utility, a gas utility
40 or a natural gas pipeline utility in an energy cost reduction contract or a physical
41 energy storage contract; and

1 B. To pay the costs of energy cost reduction contract or physical energy storage
2 contract evaluation and administration under section 1906, subsection 2.

3 All assessments must be just and reasonable as determined by the commission and must
4 be identified as an energy cost reduction contract charge or a physical energy storage
5 contract charge on a ratepayer's utility bill. When determining just and reasonable
6 assessments, the commission shall consider the anticipated reduction in the price of gas or
7 electricity, as applicable, accruing to different categories of ratepayers as a result of the
8 contract.

9 **2. Assessments on utilities.** If the commission is the principal and counterparty on
10 ~~the~~ an energy cost reduction contract or a physical energy storage contract, the
11 commission may:

12 A. Assess one or more transmission and distribution utilities, gas utilities and natural
13 gas pipeline utilities in proportion to the anticipated reduction in the price of gas or
14 electricity, as applicable, accruing as a result of ~~the~~ an energy cost reduction contract
15 or a physical energy storage contract to the customers of the utility for any and all net
16 costs to the commission of the commission's performance of the contract as
17 determined by the commission in an adjudicatory proceeding. The cost to the utility
18 of the assessment may be recovered by the utility in rates in the same manner as any
19 other prudently incurred cost.

20 **3. Volumetric fee.** The commission may establish and direct the payment to the
21 trust fund of a volumetric fee on the use of gas by a consumer of natural gas obtained
22 from a source other than a gas utility or a natural gas pipeline utility of this State in
23 proportion to the anticipated reduction in the price of gas accruing to that consumer as a
24 result of ~~the~~ an energy cost reduction contract or a physical energy storage contract as
25 determined by the commission in an adjudicatory proceeding.

26 **§1906. Contract resale and administration**

27 The following provisions govern the resale and evaluation and administration of an
28 energy cost reduction contract or a physical energy storage contract.

29 **1. Resale of natural gas pipeline capacity.** The commission may negotiate and
30 enter into contracts for the resale of all or a portion of the reserved natural gas
31 transmission pipeline capacity acquired through an energy cost reduction contract. All of
32 the revenue received as a result of the resale must be deposited into the trust fund.

33 **1-A. Resale of physical energy storage capacity.** The commission may negotiate
34 and enter into contracts for the resale of all or a portion of the physical energy storage
35 capacity acquired through a physical energy storage contract. All of the revenue received
36 as a result of the resale must be deposited into the trust fund.

37 **2. Contract evaluation and administration.** The commission is responsible for
38 assessing, analyzing, negotiating, implementing and monitoring compliance with energy
39 cost reduction contracts and physical energy storage contracts. The commission may use
40 funds for this purpose from the trust fund or may collect funds for this purpose through
41 just and reasonable assessments placed on a transmission and distribution utility, a gas
42 utility or a natural gas pipeline utility pursuant to section 1905, subsection 1, paragraph
43 B.

1 Nothing in this section precludes a transmission and distribution utility, gas utility or
2 natural gas pipeline utility from taking or having an interest in any facility subject to an
3 energy cost reduction contract or a physical energy storage contract.

4 **§1907. Revenues from energy cost reduction contracts and physical energy storage**
5 **contracts**

6 Revenues received from the resale of natural gas pipeline capacity acquired through
7 an energy cost reduction contract or physical energy storage capacity acquired through a
8 physical energy storage contract must be used in accordance with this section.

9 **1. Establishment of Energy Cost Reduction Trust Fund.** The Energy Cost
10 Reduction Trust Fund is established as a nonlapsing fund administered by the
11 commission for the purposes of this chapter. The commission is authorized to receive and
12 shall deposit in the trust fund and expend in accordance with this section revenues
13 received from an energy cost reduction contract and revenues received from the resale of
14 natural gas pipeline capacity acquired through an energy cost reduction contract. The
15 commission is authorized to receive and shall deposit in the trust fund and expend in
16 accordance with this section revenues received from a physical energy storage contract
17 and revenues received from the resale of physical energy storage capacity acquired
18 through a physical energy storage contract.

19 The funds in the trust fund are held in trust for the purpose of reducing the energy costs of
20 consumers in the State and may not be used for any other purpose, except as described in
21 subsection 2.

22 **2. Distribution of funds.** The commission shall distribute funds in the trust fund in
23 the following order of priority:

24 A. As a first priority, to the costs of monitoring and administering a contract
25 pursuant to section 1906, subsection 2; and

26 B. As a 2nd priority, to utilities and other entities to reduce energy costs for
27 electricity and natural gas ratepayers and consumers subject to a volumetric fee under
28 section 1905, subsection 3. The commission may distribute funds to benefit
29 ratepayers of one or more transmission and distribution utilities, gas utilities or
30 natural gas pipeline utilities or consumers subject to a volumetric fee under section
31 1905, subsection 3 in a manner that the commission finds is equitable, just and
32 reasonable.

33 **Sec. 7. 35-A MRSA §§1911 and 1912**, as enacted by PL 2013, c. 369, Pt. B, §1,
34 are amended to read:

35 **§1911. Reports**

36 The commission shall include in its annual report under section 120, subsection 3 a
37 description of its efforts to pursue, in appropriate regional and federal forums, market and
38 rule changes that will reduce the basis differential for natural gas coming into New
39 England and data and analysis regarding leak emissions of greenhouse gases from
40 liquefied natural gas storage that has been contracted for through a physical energy
41 storage contract.

1 **§1912. Limitation**

2 The commission may not execute ~~an energy cost reduction contract~~ under this chapter
3 a physical energy storage contract after June 1, 2017 or an energy cost reduction contract
4 after December 31, 2018. The commission may continue to administer existing physical
5 energy storage contracts and enter into agreements regarding the resale of physical energy
6 storage capacity purchased through a physical energy storage contract after June 1, 2017.
7 The commission may continue to administer existing energy cost reduction contracts and
8 enter into agreements regarding the resale of natural gas pipeline capacity purchased
9 through an energy cost reduction contract after December 31, 2018.

10 **Sec. 8. Limitation on effectiveness and contracting authority.** Prior to
11 September 1, 2016, the Public Utilities Commission may not initiate a proceeding for a
12 physical energy storage contract on its own initiative or on the petition of any person,
13 unless the commission has issued an order in the adjudicatory proceeding initiated under
14 the Maine Revised Statutes, Title 35-A, chapter 19, pending as of February 1, 2016, for
15 consideration of approval for one or more energy cost reduction contracts that includes a
16 determination of the contract amounts to be purchased. The enactment of this Act may
17 not be construed to reflect any legislative findings about the meaning of Public Law
18 2013, chapter 369, Part B, section 1, nor to have any substantive or procedural effect on
19 the commission proceeding for consideration of approval for one or more energy cost
20 reduction contracts pending as of February 1, 2016.'

21 **SUMMARY**

22 This amendment replaces the bill. It amends the Maine Energy Cost Reduction Act
23 by giving the Public Utilities Commission the authority to execute an additional contract
24 under the Act called a physical energy storage contract, which is a contract for physical
25 storage capacity of liquefied natural gas. As in the Act, for energy cost reduction
26 contracts, the commission may only execute a contract in consultation with the
27 Governor's Energy Office and the Public Advocate. A contract or contracts for physical
28 energy storage under this amendment may not exceed in total \$25,000,000 annually and
29 the total of all contracts entered into under the Maine Energy Cost Reduction Act may not
30 exceed \$75,000,000 annually. This amendment makes the process for the determination
31 and execution of a contract for physical energy storage consistent with the requirements
32 for an energy cost reduction contract. The amendment specifies that prior to September 1,
33 2016, the Public Utilities Commission may not initiate a proceeding for a physical energy
34 storage contract unless the commission has issued an order in the adjudicatory proceeding
35 initiated under the Maine Revised Statutes, Title 35-A, chapter 19, pending as of
36 February 1, 2016, for consideration of approval for one or more energy cost reduction
37 contracts that includes a determination of the contract amounts to be purchased. The
38 amendment further specifies that the enactment of this amendment is not to be construed
39 to reflect legislative findings on Public Law 2013, chapter 369, Part B, section 1, nor to
40 have any substantive or procedural effect on the commission proceeding for consideration
41 of approval for one or more energy cost reduction contracts pending as of February 1,
42 2016.

43 **FISCAL NOTE REQUIRED**

44 **(See attached)**