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**ENERGY, UTILITIES AND TECHNOLOGY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 692, L.D. 936, “An Act To Amend State Laws Relating to Net Energy Billing and the Procurement of Distributed Generation”

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

**'Sec. 1. 35-A MRSA §3209-A, sub-§5** is enacted to read:

**5. Applicability.** A distributed generation resource with a nameplate capacity of at least 2 megawatts and not more than 5 megawatts may be used for net energy billing under this section only if the requirements of paragraph A or B are met and all the requirements of paragraphs C and D are met.

A. In order for a distributed generation resource to be used for net energy billing, one of the following must have been met on or before December 31, 2020:

(1) There is a signed interconnection agreement between the entity proposing the development of the distributed generation resource and a transmission and distribution utility governing the connection of the resource to the utility's system and the ongoing operation of the resource after it is connected to the system; or

(2) There is a net energy billing agreement between the entity proposing the development of the distributed generation resource and the transmission and distribution utility.

An amendment, revision or reissuance of an agreement under this paragraph that occurs after December 31, 2020 may not be interpreted to affect the date on which the initial agreement was signed.

B. In order for a distributed generation resource to be used for net energy billing, one of the following must have been met on or before April 30, 2021:

(1) A complete application for a customer net energy billing agreement has been submitted for the distributed generation resource and a customer has or customers have financial interest in 90% or more of the capacity of that distributed generation resource; or

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1           (2) There is a fully executed net energy billing agreement between a customer or  
2           sponsor of the distributed generation resource and the transmission and distribution  
3           utility for the distributed generation resource and a customer has or customers have  
4           financial interest in 90% or more of the capacity of that distributed generation  
5           resource.

6           C. In order for a distributed generation resource to be used for net energy billing, all  
7           of the following must be met on or before December 31, 2021:

8           (1) There is a fully executed interconnection agreement between the entity  
9           proposing the development of the distributed generation resource and the  
10           transmission and distribution utility;

11           (2) The entity proposing the development of the distributed generation resource  
12           certifies to the commission that the entity has submitted all applicable permit  
13           applications to the Department of Environmental Protection and the department  
14           has accepted those applications for processing; and

15           (3) The entity proposing the development of the distributed generation resource  
16           certifies to the commission that the entity has received all necessary local,  
17           nonministerial permits. For purposes of this subparagraph, "nonministerial permit"  
18           means a permit for which one or more officials consider various factors and  
19           exercise discretion in deciding whether to issue or deny the permit.

20           An amendment, revision or reissuance of an agreement under this paragraph that occurs  
21           after December 31, 2021 may not be interpreted to affect the date on which the  
22           agreement was initially executed.

23           D. In order for a distributed generation resource to be used for net energy billing, the  
24           following must be met on or before December 31, 2024:

25           (1) The proposed distributed generation resource must reach commercial operation  
26           by the date specified in the net energy billing agreement or by the date specified  
27           with an allowable modification to that agreement.

28           An entity proposing the development of a distributed generation resource that does not  
29           meet one or more of the requirements of this subsection may petition the commission for a  
30           good-cause exemption due to external delays outside of the entity's control, which the  
31           commission may grant if it finds that, without the external delays, the entity could  
32           reasonably have been expected to meet the requirements.

33           The goal for development of commercially operational distributed generation resources  
34           under this subsection and section 3209-B, subsection 7 is 750 total megawatts.

35           **Sec. 2. 35-A MRSA §3209-B, sub-§7** is enacted to read:

36           **7. Applicability.** The applicability of this section is limited by the requirements of  
37           section 3209-A, subsection 5.

38           **Sec. 3. 35-A MRSA §3482, sub-§1**, as enacted by PL 2019, c. 478, Pt. B, §1, is  
39           amended to read:

40           **1. Procurements.** The commission ~~shall~~ may not procure distributed generation  
41           resources in the shared distributed generation and commercial or institutional distributed

1 generation market segments using the targets and procurement methods described in this  
2 chapter.

3 **Sec. 4. Stakeholder group; distributed generation project programs.** In  
4 coordination with the Public Utilities Commission, the Governor's Energy Office shall  
5 convene a stakeholder group to consider various distributed generation project programs to  
6 be implemented between 2024 and 2028 and the need for improved grid planning. The  
7 stakeholder group shall assist in the development and production of the interim and final  
8 reports required under subsections 2 and 3. For the purposes of this section, "distributed  
9 generation project" means a renewable energy project with a nameplate capacity of no more  
10 than 5 megawatts that has identified residential, commercial and institutional customers  
11 and includes, but is not limited to, net energy billing arrangement projects.

12 1. The stakeholder group established under this section must include, but is not limited  
13 to, the following stakeholders:

- 14 A. The Public Advocate, or the Public Advocate's designee;
- 15 B. A representative from the large energy consumer community;
- 16 C. A representative of a conservation organization;
- 17 D. A representative of an organization focused on low-income consumers or  
18 historically underrepresented communities;
- 19 E. A representative of a large transmission and distribution utility;
- 20 F. An individual with expertise in ground-mounted solar development;
- 21 G. An individual with expertise in community solar development;
- 22 H. A representative of a statewide renewable energy organization; and
- 23 I. An individual with expertise in analyzing energy economics.

24 2. By January 1, 2022, the Governor's Energy Office shall submit an interim report to  
25 the Joint Standing Committee on Energy, Utilities and Technology that identifies issues  
26 that need further consideration or require additional resources including funding to  
27 complete and that includes recommendations and any proposed legislation to implement  
28 those recommendations that are supported by a majority of stakeholders regarding:

- 29 A. How the State should undertake the adoption and implementation of a forward-  
30 looking, holistic grid planning process that allows for input from stakeholders and  
31 provides key actors with the ability to more strategically make system operations,  
32 planning and investment decisions;
- 33 B. The optimum total amount of distributed generation for the program period  
34 calculated using 7% of total load based on operational capacity;
- 35 C. How to cost-effectively incentivize net energy billing arrangement project diversity  
36 by:
  - 37 (1) Identifying the percentage of the optimum total amount of distributed  
38 generation that should be allocated to net energy billing arrangement projects;
  - 39 (2) Developing a mechanism to adjust the calculated optimum total amount of  
40 distributed generation described in paragraph B by subtracting the total amount of  
41 megawatts of commercially operational distributed generation resources

- 1 developed in excess of the goal established in the Maine Revised Statutes, Title  
2 35-A, section 3209-A, subsection 5;
- 3 (3) Considering all types of distributed generation, including, but not limited to,  
4 net energy billing arrangements paired with energy storage;
- 5 (4) Determining the appropriate duration for long-term contracts;
- 6 (5) Identifying mechanisms that prioritize distributed generation that are sited to:  
7 (a) Limit impacts by being located on previously developed or impacted land,  
8 including areas covered by impervious surfaces, reclaimed gravel pits, capped  
9 landfills or brownfield sites as defined by the Department of Environmental  
10 Protection;
- 11 (b) Serve load within a low-income to moderate-income community;
- 12 (c) Directly serve customer load; or
- 13 (d) Optimize grid performance or serve a nonwires alternative function; and
- 14 (6) Including recommendations regarding how information from a holistic grid  
15 planning process can be included to improve a distributed generation project  
16 program until its conclusion; and
- 17 D. How to support the successful development of distributed generation by small  
18 companies based in the State.
- 19 The committee may report out a bill to the Second Regular Session of the 130th Legislature  
20 based on the information and recommendations included in the interim report.
- 21 3. By January 1, 2023, the Governor's Energy Office shall submit a final report to the  
22 joint standing committee of the Legislature having jurisdiction over energy and utility  
23 matters that includes, subject to available resources, the following:
- 24 A. Identification of the recommended optimum total amount of distributed generation  
25 for the program period represented as a percentage of total load;
- 26 B. An estimation of the net ratepayer impacts, including all on-bill benefits and costs,  
27 expected as a result of the development of distributed generation resources under the  
28 Maine Revised Statutes, Title 35-A, section 3209-A, subsection 5 and Title 35-A,  
29 section 3209-B, subsection 7, accounting for projects that have reached or are expected  
30 to reach full maturity and load growth trends;
- 31 C. Identification of a method or methods that can be used to balance the impact of the  
32 development of distributed generation resources under the Maine Revised Statutes,  
33 Title 35-A, sections 3209-A and 3209-B with load growth to mitigate potential  
34 electricity rate increases as a result of this development of distributed generation  
35 resources;
- 36 D. Updates to the finance enabling policies in the "Maine Distributed Solar Valuation  
37 Study" prepared for the Public Utilities Commission by Clean Power Research,  
38 including the costs and benefits of on-bill and off-bill financing;
- 39 E. Consideration of the feasibility of implementing innovations to increase the net  
40 ratepayer value of distributed generation, including, but not limited to, time-  
41 differentiated rates and 2-way energy flows;

1 F. Consideration of the use of declining net energy billing arrangement bill credit rates,  
2 including the use of reduced bill credit rates for distributed generation that is not  
3 located on one of the prioritized sites identified in the interim report pursuant to  
4 subsection 2, paragraph C, subparagraph (5); and

5 G. Consideration of the feasibility of standardizing the classification of distributed  
6 generation as load reducers, regardless of whether the bill credit is in the form of  
7 kilowatt-hour credits or monetary credits.

8 The committee may report out a bill to the First Regular Session of the 131st Legislature  
9 based on the information and recommendations included in the final report.

10 **Sec. 5. Rules.** Notwithstanding the Maine Revised Statutes, Title 35-A, section  
11 3209-A, rules initially adopted pursuant to section 3209-A, subsection 5 are routine  
12 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

13 **Sec. 6. Appropriations and allocations.** The following appropriations and  
14 allocations are made.

15 **PUBLIC UTILITIES COMMISSION**

16 **Public Utilities - Administrative Division 0184**

17 Initiative: Provides funding for one Utility Analyst position and related All Other costs.

18 <b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
19 POSITIONS - LEGISLATIVE COUNT	1.000	1.000
20 Personal Services	\$104,561	\$145,312
21 All Other	\$6,577	\$8,880
22		
23 OTHER SPECIAL REVENUE FUNDS TOTAL	\$111,138	\$154,192

24  
25 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
26 number to read consecutively.

27 **SUMMARY**

28 This amendment replaces the bill, which is a concept draft. It specifies the  
29 requirements that must be met for a distributed generation resource with a nameplate  
30 capacity of at least 2 megawatts and no more than 5 megawatts to be able to participate in  
31 net energy billing under the Maine Revised Statutes, Title 35-A, sections 3209-A and  
32 3209-B. It also specifies a goal for the development of commercially operational distributed  
33 generation resources of 750 total megawatts. It prohibits the Public Utilities Commission  
34 from procuring distributed generation under Title 35-A, chapter 34-C.

35 It also requires the Governor's Energy Office in coordination with the Public Utilities  
36 Commission to convene a stakeholder group to consider various distributed generation  
37 project programs to be implemented between 2024 and 2028 and the need for improved  
38 grid planning. It defines, for the purposes of this stakeholder process, "distributed  
39 generation project" as a renewable energy project with a nameplate capacity of no more  
40 than 5 megawatts that has identified residential, commercial and institutional customers,  
41 including but not limited to net energy billing arrangement projects. It specifies those  
42 stakeholders that must be included and requires both an interim report and final report. The

# COMMITTEE AMENDMENT

1 amendment includes what must be examined for each report. It allows the Joint Standing  
2 Committee on Energy, Utilities and Technology to report out a bill during the Second  
3 Regular Session of the 130th Legislature based on the interim report and the joint standing  
4 committee of the Legislature having jurisdiction over energy and utility matters to report  
5 out a bill to the First Regular Session of the 131st Legislature based on the final report.

6 The amendment adds an appropriations and allocations section.

7 **FISCAL NOTE REQUIRED**

8 **(See attached)**