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Date: (Filing No. S-)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
SENATE
131ST LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 799, L.D. 1963, “An Act Regarding the Future of Renewable Energy Transmission in Northern Maine”

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

Sec. 1. 12 MRSA §685-B, sub-§2-D is enacted to read:

2-D. Transmission line or lines under Northern Maine Renewable Energy Development Program. A transmission line or lines developed under the Northern Maine Renewable Energy Development Program pursuant to Title 35-A, section 3210-I, subsection 2 and proposed within unorganized or deorganized areas of the State is reviewed and permits are issued by the Department of Environmental Protection under Title 38, section 489-A-1.

Sec. 2. 35-A MRSA §3201, sub-§8-C is enacted to read:

8-C. Employer and employee harmony agreement. "Employer and employee harmony agreement" means an agreement between an employer and one or more labor organizations representing or seeking to represent the employer's employees that includes:

- A. A guarantee against strikes, lockouts and similar disruptions;
- B. Mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work and safety and health; and
- C. Mutually binding procedures for resolving labor disputes.

Sec. 3. 35-A MRSA §3210-I, sub-§1, ¶B, as enacted by PL 2021, c. 380, §1 and reallocated by RR 2021, c. 1, Pt. A, §38, is amended to read:

B. ~~Develop~~ Plan for and develop the transmission infrastructure necessary for the State to expeditiously meet its renewable energy and climate goals using, to the extent practicable, renewable energy resources located in the State;

Sec. 4. 35-A MRSA §3210-I, sub-§1, ¶D, as enacted by PL 2021, c. 380, §1 and reallocated by RR 2021, c. 1, Pt. A, §38, is amended to read:

COMMITTEE AMENDMENT

1 D. Promote energy equity, high-quality jobs and the development of a skilled
2 workforce, with particular consideration given to the economic circumstances and
3 opportunities in the State's socially vulnerable counties and communities. For the
4 purposes of this paragraph, "socially vulnerable counties and communities" means
5 those counties and communities in the State containing populations that are
6 disproportionately burdened by existing social inequities or lack the capacity to
7 withstand new or worsening burdens; ~~and~~

8 **Sec. 5. 35-A MRSA §3210-I, sub-§1, ¶E**, as enacted by PL 2021, c. 380, §1 and
9 reallocated by RR 2021, c. 1, Pt. A, §38, is amended to read:

10 E. Recognize that, in advancing the renewable energy and climate policies and goals
11 of the State, the near-term development of the transmission and other infrastructure
12 necessary to reduce greenhouse gas emissions is in the public interest; and

13 **Sec. 6. 35-A MRSA §3210-I, sub-§1, ¶F** is enacted to read:

14 F. In collaboration with the Governor's Energy Office, established in Title 2, section
15 9, seek to partner with other states, governmental entities or utilities within New
16 England in the development of requests for proposals and the evaluation of proposals
17 received in response to a request for proposals for a transmission line or lines under
18 subsection 2 and renewable energy generation projects under subsection 3.

19 **Sec. 7. 35-A MRSA §3210-I, sub-§2**, as enacted by PL 2021, c. 380, §1 and
20 reallocated by RR 2021, c. 1, Pt. A, §38, is amended to read:

21 **2. Request for proposals; ~~generation-connection transmission line or lines~~.** The
22 commission shall issue a request for proposals for the development and construction of a
23 ~~345-kilovolt double-circuit generation-connection line, or, in the commission's discretion,~~
24 ~~a transmission line or lines of greater capacity, to connect~~ transmission line or lines
25 necessary to connect at least 1,200 megawatts of renewable energy resources located in
26 northern Maine and developed pursuant to subsection 3 with the electric grid operated by
27 the New England independent system operator, referred to in this section as "the ISO-New
28 England system." The commission may issue preliminary requests for information from
29 utilities and private developers or release draft requests for proposals or draft transmission
30 services agreements to gather information to inform the program.

31 A. The proposals must be required to cover a contract term of 30 years, except that the
32 commission may, in its discretion, approve a contract term of a different duration, and
33 must include provisions for the construction, development and subsequent commercial
34 operation of the transmission line or lines described in this subsection.

35 A-1. The commission may coordinate with other states, governmental entities or
36 utilities within New England in the development of a request for proposals pursuant to
37 this subsection and in the evaluation of proposals received in response to a request for
38 proposals. The commission shall allow the Governor's Energy Office and the Office of
39 the Public Advocate to review the proposals submitted pursuant to this subsection. The
40 Governor's Energy Office and the Office of the Public Advocate may provide input to
41 the commission upon review of the proposals, which may include an assessment as to
42 whether any proposals submitted are consistent with the goals of the program as
43 described in this section. If a proposal includes confidential or proprietary information,
44 trade secrets or similar matters as provided by the Maine Rules of Civil Procedure,

1 Rule 26(c), the commission may issue appropriate protective orders in accordance with
2 section 1311-A with respect to those portions of the proposal.

3 B. The commission shall evaluate the proposals received based, at a minimum, on the
4 following factors: cost, economic benefit to northern Maine, the qualifications of the
5 bidder or bidders, the long-term viability of each proposal and the anticipated
6 contribution of each proposal toward the achievement by the State of its renewable
7 energy goals under section 3210. The commission shall disqualify any proposal that,
8 in the commission's determination, fails to demonstrate the bidder's technical and
9 financial capacity to successfully construct, develop and operate the transmission line
10 or lines described in this subsection and to pursue, negotiate and contract for its
11 interconnection with the ISO-New England system.

12 B-1. The commission may consider proposals that include mechanisms to mitigate and
13 allocate risks associated with development and operation of any transmission line or
14 lines and renewable energy generation project under subsection 3 to be developed
15 under the program.

16 C. The commission shall give preference to proposals that:

17 (1) In the commission's determination, in the aggregate with proposals received
18 under subsection 3, demonstrate the most cost-effective and efficient transmission
19 access to renewable energy resources in northern Maine in a manner that best
20 supports the achievement of the State's renewable energy goals under section 3210
21 and that maximize benefits to the State;

22 (2) ~~Favor~~ Provide community engagement plans and favor use, where to the extent
23 practicable, of existing utility and other rights-of-way and other existing
24 transmission corridors in the construction of the transmission line or lines
25 described in this subsection; and

26 (3) In the commission's determination, are likely to provide a reduction in
27 transmission costs and costs to ratepayers for electricity over time as more energy
28 is transmitted using the transmission line or lines described in this subsection.;

29 (4) Adequately demonstrate project viability within a commercially reasonable
30 time frame; and

31 (5) Maximize federal tax credits by including agreements described in 29 United
32 States Code, Section 158(f) and by committing to entering into an employer and
33 employee harmony agreement with a labor organization seeking to represent the
34 transmission line or lines operations and maintenance workers. An employer and
35 employee harmony agreement must bind all contractors and subcontractors, other
36 than employees who work on a temporary basis for the employer, to the terms of
37 the agreement. The agreement must be designed to ensure that all work on the
38 transmission line or lines, including but not limited to work performed in the
39 manufacturing, fabrication or maintenance of the transmission line or lines or
40 operations associated with the transmission line or lines, is uninterrupted, prompt
41 and safe.

42 D. The commission may consider and, in accordance with the applicable provisions of
43 this subsection and subsection 3, select a proposal or proposals that include both the
44 development and construction of the transmission line or lines described in this

1 subsection and the development and construction of one or more qualified renewable
2 energy generation projects described in subsection 3.

3 D-1. The bidder that submits a proposal selected by the commission in accordance
4 with this subsection must, upon the issuance by the commission of a certificate of
5 public convenience and necessity in accordance with section 3132, be considered a
6 transmission and distribution utility, except that the commission may limit the rights
7 of the utility to the extent necessary to protect ratepayers from financial risks and such
8 limitations must be specified in a contract executed pursuant to paragraph E.

9 E. ~~No later than November 1, 2022, the~~ The commission shall approve a contract or
10 contracts between one or more transmission and distribution utilities and the bidder of
11 any proposal selected by the commission in accordance with this subsection, except
12 that, if at the close of the competitive bidding process the commission determines that
13 no proposal meets the requirements of this subsection or that approval of a contract or
14 contracts that otherwise meet the requirements of this subsection is not in the public
15 interest, the commission may reject all proposals and may open a new competitive
16 bidding process under this subsection.

17 **Sec. 8. 35-A MRSA §3210-I, sub-§3,** as enacted by PL 2021, c. 380, §1 and
18 reallocated by RR 2021, c. 1, Pt. A, §38, is amended to read:

19 **3. Request for proposals; renewable energy generation projects.** The commission
20 shall issue a request for proposals for the development and construction of qualified
21 renewable energy generation projects in northern Maine designed to connect to and
22 transmit generated power using the transmission line or lines to be constructed pursuant to
23 subsection 2. The commission shall make every effort to ensure that the competitive
24 bidding process directed by this subsection results in the approval of contracts pursuant to
25 paragraph E ~~no later than November 1, 2022.~~ As part of the request for proposals under
26 this subsection, the commission shall make available to potential bidders any relevant
27 information submitted to the commission by the bidder or bidders whose proposal or
28 proposals were approved for contracting under subsection 2. Except as provided in
29 paragraph B, subparagraph (2), renewable energy generation projects on which
30 construction commenced prior to ~~September 30, 2022~~ July 31, 2024 are not qualified for
31 the purposes of this subsection.

32 A. The proposals must be required to cover a contract term of 20 years, except that the
33 commission may, in its discretion, approve a contract term of a different duration, and
34 must include provisions for the construction, development and subsequent commercial
35 operation of one or more qualified renewable energy generation projects in northern
36 Maine that will be designed to connect to and transmit generated power using the
37 transmission line or lines to be constructed pursuant to subsection 2. The commission
38 may consider only proposals for the construction of Class I and Class IA resources, as
39 defined in section 3210, subsection 2, and energy storage systems, except that the
40 commission may not consider proposals for the construction of biomass generators
41 fueled by landfill gas or by anaerobic digestion of agricultural products, by-products
42 or waste, or waste-to-energy generation facilities fueled by municipal solid waste. For
43 the purposes of this section, "energy storage system" means a commercially available
44 technology that uses mechanical, chemical or thermal processes for absorbing energy
45 and storing it for a period of time for use at a later time.

1 A-1. The commission may coordinate with other states, governmental entities or
2 utilities within New England in the development of a request for proposals pursuant to
3 this subsection and in the evaluation of proposals received in response to a request for
4 proposals. The commission shall allow the Governor's Energy Office and the Office of
5 the Public Advocate to review the proposals submitted pursuant to this subsection. The
6 Governor's Energy Office and the Office of the Public Advocate may provide input to
7 the commission upon review of the proposals, which may include an assessment as to
8 whether any proposals submitted are consistent with the goals of the program as
9 described in this section. If a proposal includes confidential or proprietary information,
10 trade secrets or similar matters as provided by the Maine Rules of Civil Procedure,
11 Rule 26(c), the commission may issue appropriate protective orders in accordance with
12 section 1311-A with respect to those portions of the proposal.

13 B. The commission may, in its discretion, consider and select in accordance with the
14 applicable requirements of this subsection:

15 (1) One or more contracts for capacity, renewable energy or renewable energy
16 credits, or any combination thereof, from a qualified renewable energy generation
17 project described in this subsection; or

18 (2) One or more contracts for renewable energy generation projects on which
19 construction commenced prior to ~~September 30, 2022~~ July 31, 2024, if the
20 commission determines that:

21 (a) Such a project or projects otherwise meets the requirements of this
22 subsection;

23 (b) Additional line capacity remains available on the transmission line or lines
24 to be constructed pursuant to subsection 2; and

25 (c) There are no commercially viable proposals remaining for consideration
26 for qualified renewable energy generation projects on which construction
27 commenced or will commence on or after ~~September 30, 2022~~ July 31, 2024.

28 C. The commission shall evaluate the proposals received based, at a minimum, on the
29 following factors: cost, economic benefit to northern Maine, the qualifications of the
30 bidder or bidders and, as determined by the commission, the short-term, medium-term
31 and long-term viability of the proposals.

32 C-1. The commission may consider proposals that include mechanisms to mitigate and
33 allocate risks associated with development and operations of any transmission line or
34 lines under subsection 2 and renewable energy generation project to be developed
35 under the program.

36 D. The commission shall give greatest preference to proposals that, ~~in the~~
37 ~~commission's determination, in the aggregate with proposals received under subsection~~
38 ~~2, demonstrate the most cost-effective and efficient development of renewable energy~~
39 ~~resources in northern Maine in a manner that best supports the achievement of the~~
40 ~~State's renewable energy goals under section 3210 and maximize benefits to the State.;~~

41 (1) In the commission's determination, in the aggregate with proposals received
42 under subsection 2, demonstrate the most cost-effective and efficient development
43 of renewable energy resources in northern Maine in a manner that best supports

1 the achievement of the State's renewable energy goals under section 3210 and
2 maximize benefits to the State; and

3 (2) Maximize federal tax credits by including agreements described in 29 United
4 States Code, Section 158(f) and by committing to entering into an employer and
5 employee harmony agreement with a labor organization seeking to represent the
6 project's operations and maintenance workers. An employer and employee
7 harmony agreement must bind all contractors and subcontractors, other than
8 employees who work on a temporary basis for the employer, to the terms of the
9 agreement. The agreement must be designed to ensure that all work on the
10 renewable energy generation project, including but not limited to work performed
11 in the manufacturing, fabrication or maintenance of the project or operations
12 associated with the project, is uninterrupted, prompt and safe.

13 E. The commission shall approve a contract or contracts between one or more investor-
14 owned transmission and distribution utilities and the bidder of any proposal selected
15 by the commission in accordance with this subsection. If at the close of the competitive
16 bidding process the commission determines that no proposal meets the requirements of
17 this subsection, that additional line capacity remains available or that approval of a
18 contract or contracts that otherwise meet the requirements of this subsection is not in
19 the public interest, the commission may reject all proposals and may open a new
20 competitive bidding process under this subsection.

21 F. In selecting contracts pursuant to this subsection, the commission shall make every
22 effort to ensure that at least one such contract supports the construction and
23 development in northern Maine of a biomass generator fueled by wood or wood waste.
24 In considering any proposal under this subsection for a qualified renewable energy
25 generation project that is a biomass generator fueled by wood or wood waste, the
26 commission shall consider the waste reduction benefits to the State's forest products
27 industry associated with the operation of the biomass generator, including, but not
28 limited to, the avoidance of methane emissions.

29 G. In selecting contracts pursuant to this subsection, the commission shall consider the
30 effect of a contract or contracts selected on the viability of the transmission line or lines
31 to be developed and constructed pursuant to subsection 2 and the effect on the success
32 of the program.

33 Notwithstanding any provision of law to the contrary, the commission may in its discretion
34 approve and order a contract or contracts under this subsection for the purchase, beginning
35 on or after January 1, 2024, of capacity, renewable energy or renewable energy credits, or
36 any combination thereof, in an amount that is at least 18% of the retail electric load in the
37 State for the period from January 1, 2019 to December 31, 2019. To the extent practicable,
38 the commission shall approve and order such contract or contracts on a staggered basis
39 consistent with its expectations for the development during the years of 2024 to 2045 of
40 beneficial electrification as defined in section 10102, subsection 3-A and climate mitigation
41 activities in the State and shall ensure the purchase of capacity, renewable energy or
42 renewable energy credits necessary to achieve beneficial electrification from facilities and
43 technology that are located in the State.

44 **Sec. 9. 35-A MRSA §3210-I, sub-§3-B** is enacted to read:

1 **3-B. Term sheet award; effect.** Notwithstanding any provision of law that requires
2 a developer of a proposed transmission line or lines under subsection 2 or a renewable
3 energy generation project under subsection 3 to demonstrate title, right or interest before a
4 permitting agency will accept and begin processing an application for any permit or
5 approval required for such a project, a term sheet awarded by the commission to a bidder
6 for such a project must be considered sufficient title, right or interest for the permitting
7 agency to accept and begin processing the application. Nothing in this subsection may be
8 construed to except a transmission line or lines or a renewable energy generation project
9 awarded a term sheet by the commission from any requirement for title, right or interest
10 necessary for the issuance of such a permit or approval or to deem such requirements for
11 title, right or interest satisfied by the award of a term sheet.

12 In an order awarding a term sheet to a bidder selected under subsection 2, the commission
13 shall provide an explanation of the commission's considerations and findings regarding the
14 costs and benefits associated with the development and construction of the transmission
15 line or lines.

16 **Sec. 10. 35-A MRSA §3210-I, sub-§5** is enacted to read:

17 **5. Public involvement and coordination.** The commission and the Department of
18 Environmental Protection shall ensure coordinated public notification and opportunities for
19 public participation, including explanation of all public participation procedures, in
20 connection with regulatory approvals and permitting under this Title and Title 38 for a
21 transmission line or lines and renewable energy generation projects under the program.

22 **Sec. 11. 38 MRSA §346, sub-§4**, as repealed and replaced by PL 2011, c. 420, Pt.
23 A, §34, is amended to read:

24 **4. Appeal of decision.** A judicial appeal of final action by the board or commissioner
25 regarding an application for an expedited wind energy development, as defined in Title
26 35-A, section 3451, subsection 4, an application for a transmission line or lines developed
27 pursuant to Title 35-A, section 3210-I, subsection 2 or a general permit pursuant to section
28 480-HH or section 636-A must be taken to the Supreme Judicial Court sitting as the Law
29 Court. The Law Court has exclusive jurisdiction over request for judicial review of final
30 action by the commissioner or the board regarding expedited wind energy developments,
31 an application for a transmission line or lines developed pursuant to Title 35-A, section
32 3210-I, subsection 2 or a general permit pursuant to section 480-HH or section 636-A.
33 These appeals to the Law Court must be taken in the manner provided in Title 5, chapter
34 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

35 **Sec. 12. 38 MRSA §485-A, sub-§1-D** is enacted to read:

36 **1-D. Hearing required; transmission line.** If an application for the development and
37 construction of a transmission line or lines requiring approval under this article is received
38 by the department, the department or the board, as applicable, shall hold a hearing in
39 accordance with section 486-A and may not issue an order without a hearing.

40 **Sec. 13. 38 MRSA §486-A, sub-§2-A** is enacted to read:

41 **2-A. Developer; route analysis; public participation.** The department shall require
42 an applicant who has submitted an application pursuant to section 485-A related to the
43 development and construction of a transmission line or lines requiring approval under this
44 article to demonstrate to the department that the applicant conducted one or more public

1 meetings regarding the transmission line or lines prior to the submission of its application.
2 The public meetings must include the presentation of information regarding the proposed
3 transmission line or lines, including but not limited to proposed route information, and
4 provide an opportunity for public participation and comment. Information presented and
5 public comments received at the public meetings must be made publicly available and be
6 part of the record of any department or board proceeding.'

7 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
8 number to read consecutively.

9 SUMMARY

10 This amendment, which is a majority report of the committee, replaces the bill, which
11 is a concept draft, and does the following.

12 1. It provides that a transmission line or lines developed under the Northern Maine
13 Renewable Energy Development Program pursuant to the Maine Revised Statutes, Title
14 35-A, section 3210-I, subsection 2 and proposed within the unorganized or deorganized
15 areas of the State is reviewed and permits are issued by the Department of Environmental
16 Protection.

17 2. It defines an "employer and employee harmony agreement" and provides that the
18 Public Utilities Commission must give preference to proposals for the development and
19 operation of a transmission line or lines or renewable generation projects under Title 35-A,
20 section 3210-I, that maximize federal tax credits by including agreements described in 29
21 United States Code, Section 158(f) and commit to entering into an employer and employee
22 harmony agreement with a labor organization seeking to represent workers on those
23 projects.

24 3. In administering the Northern Maine Renewable Energy Development Program
25 established by Title 35-A, section 3210-I, the amendment directs the commission, in
26 collaboration with the Governor's Energy Office, to seek to partner with other states,
27 governmental entities or utilities within New England.

28 4. It provides that the Public Utilities Commission's request for proposals under Title
29 35-A, section 3210-I, subsection 2 must be for the development and construction of a
30 transmission line or lines necessary to connect at least 1,200 megawatts of renewable
31 energy resources located in northern Maine, instead of for the development and
32 construction of a 345-kilovolt double circuit generation connection line, or, in the
33 commission's discretion, a transmission line or lines of greater capacity.

34 5. It allows the Public Utilities Commission to consider, under Title 35-A, section
35 3210-I, proposals for the development and construction of a transmission line or lines and
36 renewable energy generation projects that include mechanisms to mitigate and allocate
37 risks associated with development and operation of those projects.

38 6. It provides that the bidder that submits a proposal selected by the Public Utilities
39 Commission for the development and construction of a transmission line or lines, upon the
40 issuance by the commission of a certificate of public convenience and necessity, is
41 considered a transmission and distribution utility, except that the commission may limit the
42 rights of the utility to the extent necessary to protect ratepayers from financial risks.

43 7. It updates dates and terminology within Title 35-A, section 3210-I.

