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Date: (Filing No. S-)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
SENATE
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 815, L.D. 1986, “An Act Relating to Net Energy Billing and Distributed Solar and Energy Storage Systems”

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

'Sec. 1. 2 MRSA §9, sub-§6-A is enacted to read:

6-A. Distributed Solar and Energy Storage Program. The Distributed Solar and Energy Storage Program, referred to in this subsection as "the program," is established to provide funding to foster the continued growth of cost-effective distributed solar facilities and energy storage systems in this State. The office, as funding allows, shall develop the program no later than July 1, 2024.

A. As used in this subsection, the following terms have the following meanings.

(1) "Distributed solar facility" means a solar generating facility interconnected to a transmission and distribution utility as defined in Title 35-A, section 102, subsection 20-B.

(2) "Energy storage system" has the same meaning as in Title 35-A, section 3481, subsection 6.

B. The program must be designed to obtain and provide available federal funds to support cost-effective distributed solar facilities and energy storage systems. The office shall consult with the Public Utilities Commission in developing and administering the program.

C. In order to support the office's activities in administering the program, the office may request funds from the Public Utilities Commission for the office's administrative costs, which may include, but are not limited to, costs associated with hiring consultants and office personnel and contracting for technical analysis. Notwithstanding Title 35-A, section 117, if the office requests funding in accordance with this paragraph, the commission may provide funding, to the extent available, from the Public Utilities Commission Reimbursement Fund under section 117. If the Public

COMMITTEE AMENDMENT

1 Utilities Commission Reimbursement Fund does not have sufficient funding,
2 notwithstanding Title 35-A, section 116, subsection 4, the commission may provide
3 funding from the Public Utilities Commission Regulatory Fund in accordance with this
4 paragraph.

5 D. The office shall apply for available federal funds to fund the program, including,
6 but not limited to, funds from the United States Environmental Protection Agency's
7 Greenhouse Gas Reduction Fund under 42 United States Code, Section 7434. Nothing
8 in this paragraph limits other uses of federal funds received by the office consistent
9 with applicable federal requirements.

10 E. Except as provided in paragraph C, ratepayer funds may not be used to implement
11 the program or to provide funding under the program to distributed solar facilities or
12 energy storage systems.

13 **Sec. 2. 35-A MRSA §3209-A, sub-§9** is enacted to read:

14 **9. Applicability to projects between one megawatt and 2 megawatts.** A distributed
15 generation resource with a nameplate capacity of at least one megawatt and not more than
16 2 megawatts may be used for net energy billing under this section only if the requirements
17 of paragraph A are met.

18 A. On or before December 31, 2024, the proposed distributed generation resource must
19 reach commercial operation by the date specified in the net energy billing agreement
20 or by the date specified with an allowable modification to that agreement.

21 An entity proposing the development of a distributed generation resource that does not
22 meet the requirement of this subsection may petition the commission for a good-cause
23 exemption due to external delays outside of the entity's control, which the commission may
24 grant if it finds that without the external delays the entity could reasonably have been
25 expected to meet the requirement.

26 **Sec. 3. 35-A MRSA §3209-B, sub-§7**, as enacted by PL 2021, c. 390, §2, is
27 amended to read:

28 **7. Applicability.** The applicability of this section is limited by the requirements of
29 section 3209-A, subsection 7 and subsection 9.

30 **Sec. 4. 35-A MRSA §3209-B, sub-§8** is enacted to read:

31 **8. Limitation.** After December 31, 2023, a distributed generation resource may be
32 used for net energy billing under this section only if the distributed generation resource is
33 collocated with all of the distributed generation resource's net energy billing customers and
34 those customers are subscribed to 100% of the facility's output under this section. This
35 limitation does not apply to a distributed generation resource with a net energy billing
36 agreement that was executed on or before December 31, 2023. An amendment, revision or
37 reissuance of an agreement under this subsection that occurs after December 31, 2023 may
38 not be interpreted to affect the date on which the agreement was initially executed.

39 **Sec. 5. 35-A MRSA §3209-C** is enacted to read:

40 **§3209-C. Net energy billing cost recovery**

1 The commission shall ensure that benefits of distributed generation under net energy
2 billing are reported and net energy billing costs are allocated in accordance with this
3 section.

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Benefits of distributed generation under net energy billing" means all benefits
7 determined by the commission to be reasonably attributable to distributed generation
8 projects under section 3209-A and 3209-B, including but not limited to:

9 (1) Avoided energy and capacity costs. In determining avoided energy and
10 capacity costs, the commission shall use reasonable estimates of energy and
11 capacity market prices and account for transmission and distribution line losses.
12 The commission may determine different avoided costs for different time periods,
13 including, but not limited to, peak and off-peak periods and summer and winter
14 periods;

15 (2) Avoided transmission and distribution costs. In determining avoided
16 transmission and distribution costs, the commission shall use estimates of the
17 marginal transmission and distribution costs and may determine different avoided
18 costs for different time periods;

19 (3) Avoided fossil fuel costs. The commission shall determine avoided fossil fuel
20 costs based on estimated reductions in oil, gas or other fossil fuel use and estimated
21 market prices for these fuels;

22 (4) Avoided transmission and distribution line losses;

23 (5) Demand reduction induced price effects;

24 (6) Transmission and distribution plant extensions or upgrades funded by net
25 energy billing customers; and

26 (7) Any other benefits identified by the commission.

27 B. "Net energy billing" means net energy billing arrangements under section 3209-A
28 or 3209-B.

29 C. "Net energy billing costs" means all legitimate and verifiable costs incurred by a
30 transmission and distribution utility directly attributable to net energy billing. "Net
31 energy billing costs" does not include any costs incurred by a project sponsor as defined
32 in section 3209-A, subsection 1, paragraph D, a net energy billing customer or any
33 other entity, as determined by the commission by rule.

34 **2. Determination of costs and benefits.** The commission annually shall determine the
35 net energy billing costs and benefits of distributed generation under net energy billing for
36 the previous year.

37 A. When determining the benefits of distributed generation under net energy billing,
38 the commission shall use any available regional avoided energy supply cost study that
39 the commission finds to be applicable to the determination and has been developed
40 through a transparent process, with input from state agencies, public advocates and
41 utilities or energy efficiency administrators from at least 3 other states in New England.
42 When relevant information specific to this State is not provided in the regional study,

1 the commission may use the regional information in the regional study or information
2 from other sources supported by evidence in the commission's record.

3 B. The commission shall allocate to each investor-owned transmission and distribution
4 utility its pro rata share of net energy billing costs. If the commission finds that a benefit
5 of distributed generation under net energy billing provides a monetized net financial
6 benefit to an investor-owned transmission and distribution utility that the commission
7 does not otherwise account for when setting rates for the utility, the net financial benefit
8 must be applied to offset the net energy billing costs allocated under this paragraph.
9 The allocation must be based on each utility's total retail kilowatt-hour energy sales to
10 ratepayers that pay net energy billing costs. The commission may determine the means
11 to be used for the allocation required under this subsection, and those means may
12 include the direct transfer of funds between transmission and distribution utilities.

13 **3. Reporting of costs and benefits.** The commission shall submit an annual report no
14 later than March 31st to the joint standing committee of the Legislature having jurisdiction
15 over utilities matters describing net energy billing costs and benefits of distributed
16 generation under net energy billing determined by the commission under subsection 2. The
17 report must include, but is not limited to, costs authorized to be collected by transmission
18 and distribution utilities in rates and benefits directly received by ratepayers. The
19 commission shall distinguish costs and benefits that are monetized from costs and benefits
20 that are not monetized. If costs or benefits are monetized, the commission shall specify the
21 entities to which the monetized value accrues, which may include, but are not limited to,
22 electricity customers, electricity supply providers and transmission and distribution
23 utilities.

24 **4. Rules.** The commission shall adopt rules necessary to implement this section. Rules
25 adopted by the commission under this subsection are routine technical rules as defined in
26 Title 5, chapter 375, subchapter 2-A.

27 **Sec. 6. 35-A MRSA §3209-D** is enacted to read:

28 **§3209-D. Distributed generation procurement**

29 The commission may direct an investor-owned transmission and distribution utility to
30 enter into one or more contracts for energy or renewable energy credits from distributed
31 generation resources in accordance with this section. The commission may not require a
32 distributed generation resource to contract for the sale of energy or renewable energy
33 credits under this section.

34 **1. Definition.** As used in this section, the following term has the following meaning.

35 A. "Distributed generation resource" means an electric generating facility that uses a
36 renewable fuel or technology under section 3210, subsection 2, paragraph B-3, is
37 located in the service territory of a transmission and distribution utility in the State and:

38 (1) Has met or is reasonably likely to meet the requirements of section 3209-A,
39 subsection 7, paragraph E, as determined by the commission; or

40 (2) Has a nameplate capacity of at least one megawatt and not more than 2
41 megawatts and:

1 (a) Is a member of a cluster study conducted by the transmission and
2 distribution utility with which the distributed generation resource is seeking to
3 interconnect; or

4 (b) Is likely to receive required transmission approval from the New England
5 independent system operator on or before April 30, 2024.

6 **2. Competitive solicitations and initial procurement.** The commission may conduct
7 one or more competitive solicitations in order to select distributed generation resources for
8 contracts under this subsection.

9 A. No later than January 31, 2024, the commission shall determine whether to conduct
10 a competitive solicitation pursuant to this subsection.

11 B. If the commission conducts a competitive solicitation under paragraph A and
12 determines that an initial procurement of energy or renewable energy credits is in the
13 public interest, the commission shall select distributed generation resources for
14 contracts under this section.

15 **3. Additional contracting authority.** After conducting one or more competitive
16 solicitations under subsection 2, the commission may direct an investor-owned
17 transmission and distribution utility to enter into one or more additional contracts for
18 energy or renewable energy credits from distributed generation resources if the commission
19 finds that such contracts are in the public interest.

20 A. A contract for energy or renewable energy credits from a distributed generation
21 resource under this subsection may not establish a price for such energy or renewable
22 energy credits that is greater than the highest price established in the procurements
23 under subsection 2.

24 **4. Contract terms.** A contract entered into pursuant to this section must be for a term
25 of no more than 20 years unless the commission finds a contract for a longer term to be in
26 the public interest.

27 **5. Net energy billing agreement termination.** A distributed generation resource that
28 is awarded a contract under this section is ineligible for net energy billing under section
29 3209-A or section 3209-B and the commission shall require all net energy billing
30 arrangements or agreements be terminated as a condition of awarding a contract under this
31 section.

32 **6. Report.** The commission shall include in its biennial report required by section
33 3210-G, subsection 3 information regarding the status of contracts for energy or renewable
34 energy credits from distributed generation resources pursuant to this section, including, but
35 not limited to, the number of distributed generation resources that have been awarded
36 contracts, the total capacity of those resources and the estimated ratepayer savings as a
37 result of those contracts.

38 **Sec. 7. 35-A MRS §3209-E** is enacted to read:

39 **§3209-E. Net energy billing cost management**

40 **1. Definitions.** As used in this section, the following terms have the following
41 meanings.

1 A. "Distributed generation resource" has the same meaning as in section 3209-D,
2 subsection 1, paragraph A.

3 B. "Net energy billing cost" means a cost borne by ratepayers that is determined by the
4 commission to be reasonably attributable to distributed generation projects
5 participating in net energy billing arrangements under section 3209-A and section
6 3209-B.

7 C. "Opt-in program" means a program to reduce net energy billing costs in which a
8 distributed generation resource may elect to participate.

9 **2. Opt-in programs.** The commission may develop and implement one or more opt-in
10 programs in accordance with this section.

11 A. The commission shall conduct one or more proceedings to examine and evaluate
12 opt-in program designs, including, but not limited to, designs that include long-term
13 financial mechanisms and buy-down arrangements. In conducting an examination and
14 evaluation in accordance with this paragraph, the commission shall consult with the
15 Finance Authority of Maine and give preference to designs that enable the continued
16 development and operation of distributed generation resources.

17 B. After examining and evaluating opt-in programs under paragraph A, if the
18 commission finds the implementation of an opt-in program to be in the public interest,
19 the commission shall establish and implement the opt-in program by rule.

20 C. The commission may not require a distributed generation resource to participate in
21 an opt-in program established in accordance with this section.

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

25 **Sec. 8. 35-A MRSA §3210-G, sub-§3,** as enacted by PL 2019, c. 477, §2, is
26 amended to read:

27 **3. Report.** No later than March 31, 2023 and biennially thereafter, the commission
28 shall submit a report regarding the status of contracts for Class IA resources under this
29 section and the status of contracts for energy or renewable energy credits from distributed
30 generation resources under section 3209-D to the joint standing committee of the
31 Legislature having jurisdiction over utilities and energy matters. The report must include,
32 but is not limited to, a description of Class IA resources participating in competitive
33 solicitations, information about the resources selected for contracts and the selection
34 process, the benefits and costs of the contracts and recommendations about how to further
35 stimulate investment in Class IA resources or achieve ratepayer benefits from Class IA
36 resources. The report may include information about benefits and costs of the contracts to
37 the State's economy, environmental quality or electricity consumers over both the short and
38 long terms. Any analysis of the benefits or costs of the contracts must be based on a forecast
39 of all avoided costs resulting from the contracts that is transparent and balanced over the
40 long term.

41 **Sec. 9. Interconnection of energy storage.** In developing rules governing the
42 interconnection of renewable resources and energy storage pursuant to the Maine Revised
43 Statutes, Title 35-A, section 3474, subsection 3, the Public Utilities Commission shall

1 consider whether modification of an interconnection application for the sole purpose of
 2 adding an energy storage system should materially impact the position of the project in an
 3 interconnection queue.

4 **Sec. 10. Cost management report.** By March 31, 2024, the Public Utilities
 5 Commission shall submit a report to the Joint Standing Committee on Energy, Utilities and
 6 Technology regarding the proceedings and any actions taken under the Maine Revised
 7 Statutes, Title 35-A, section 3209-E.

8 **Sec. 11. Distributed Solar and Energy Storage Program design.** In
 9 developing the Distributed Solar and Energy Storage Program under the Maine Revised
 10 Statutes, Title 2, section 9, subsection 6-A, the Governor's Energy Office shall ensure that
 11 the program is designed to address the recommendations contained in the Final Report of
 12 the Distributed Generation Stakeholder Group dated January 6, 2023 and submitted by the
 13 office to the Joint Standing Committee on Energy, Utilities and Technology pursuant to
 14 Public Law 2021, chapter 390, section 4.

15 **Sec. 12. Appropriations and allocations.** The following appropriations and
 16 allocations are made.

17 **EXECUTIVE DEPARTMENT**

18 **Distributed Solar and Energy Storage Program N470**

19 Initiative: Provides allocations to establish the program.

20 OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
21 All Other	\$500	\$500
22		
23 OTHER SPECIAL REVENUE FUNDS TOTAL	\$500	\$500

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25 **EXECUTIVE DEPARTMENT**

26 DEPARTMENT TOTALS	2023-24	2024-25
27		
28 OTHER SPECIAL REVENUE FUNDS	\$500	\$500
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30 DEPARTMENT TOTAL - ALL FUNDS	\$500	\$500

31 **PUBLIC UTILITIES COMMISSION**

32 **Public Utilities - Administrative Division 0184**

33 Initiative: Provides allocations for expenditures related to contracted services.

34 OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
35 All Other	\$0	\$252,553
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37 OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$252,553

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39 **PUBLIC UTILITIES COMMISSION**

40 DEPARTMENT TOTALS	2023-24	2024-25
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1	OTHER SPECIAL REVENUE FUNDS	\$0	\$252,553
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3	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$252,553
4			
5	SECTION TOTALS	2023-24	2024-25
6			
7	OTHER SPECIAL REVENUE FUNDS	\$500	\$253,053
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9	SECTION TOTAL - ALL FUNDS	\$500	\$253,053

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

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SUMMARY

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This amendment replaces the bill and does the following:

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1. Establishes the Distributed Solar and Energy Storage Program to obtain and provide federal funding to foster the continued growth of cost-effective distributed solar facilities and energy storage systems in the State;

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2. Limits participation in the kilowatt-hour credit and tariff rate net energy billing programs for distributed generation resources with a nameplate capacity greater than or equal to one megawatt and less than or equal to 2 megawatts to those resources that, on or before December 31, 2024, reach commercial operation by the date specified in the net energy billing agreement or by the date specified with an allowable modification to that agreement;

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3. After December 31, 2023, limits participation in the tariff rate net energy billing program to distributed generation resources that are collocated with all of the distributed generation resource's net energy billing customers and those customers are subscribed to 100% of the facility's output. The limitation does not apply to a distributed generation resource with a net energy billing agreement that was executed on or before December 31, 2023;

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4. Requires the Public Utilities Commission to annually determine the net energy billing costs and benefits of distributed generation under net energy billing programs for the previous year and to allocate to each investor-owned transmission and distribution utility its pro rata share of net energy billing costs. The allocation must be based on each utility's total retail kilowatt-hour energy sales to ratepayers that pay net energy billing costs;

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5. Establishes parameters for a competitive solicitation and procurement to be conducted by the commission to procure energy or renewable energy credits from distributed generation resources that have met or are reasonably likely to meet the net energy billing eligibility criteria as determined by the commission or, for those resources that have a nameplate capacity of at least one megawatt and not more than 2 megawatts, are a member of a cluster study conducted by a transmission and distribution utility or are likely to receive required transmission approval from the New England independent system operator on or before April 30, 2024. If the commission determines that a procurement of energy or renewable energy credits is in the public interest, the commission must select

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COMMITTEE AMENDMENT

1 distributed generation resources for contracts. Distributed generation resources that are
2 awarded contracts as a result of the competitive solicitation may not participate in net
3 energy billing and must terminate any net energy billing arrangements or agreements; and

4 6. Directs the commission to conduct one or more proceedings to examine and evaluate
5 designs for programs to reduce net energy billing costs in which a distributed generation
6 resource may elect to participate, including, but not limited to, designs that include long-
7 term financial mechanisms and buy-down arrangements. If the commission finds the
8 implementation of a program to be in the public interest, the commission must establish
9 and implement the program. By March 31, 2024, the commission must provide a report of
10 its activities regarding these programs to the Joint Standing Committee on Energy, Utilities
11 and Technology.

12 **FISCAL NOTE REQUIRED**

13 **(See attached)**